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# RURAL WOMEN'S ACCESS TO AGRICULTURAL LAND IN SETTLEMENT SCHEMES IN ZAMBIA: LAW, PRACTICE AND SOCIO-ECONOMIC CONSTRAINTS

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## I. Introduction

This paper examines the access of rural women to agricultural land in government-supervised settlement schemes in Zambia.<sup>1</sup> It considers the law and practice relating to the acquisition of agricultural land and the socio-economic constraints that undermine women's rights in agricultural land. The paper, therefore, views access to land broadly as including both the formal legal and technical possession of title to land, as well as the opportunity to develop and manage it.<sup>2</sup> The study also argues that any

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1. The paper is based on a study of women's access to agricultural land in Zambia conducted by the two authors and Mr. Alfred Chanda. The study, commissioned by the Commissioner of Lands, was funded by the Swedish International Development Agency (SIDA) through the Agricultural Sector Support Project (ASSP). It was reported under the title: *Women's Access to Agricultural Land in Zambia* by the three researchers mentioned above, 1988. The Department of Lands, Lusaka. References in the present paper to the "study", "research" or "findings" are a reference to the research reported under the above title.

We wish to thank Mr. Alfred Chanda, lecturer in the School of Law, University of Zambia, for his contribution in the research upon which this paper is based. As well, we wish to thank SIDA who funded the research project, and Professor Bonnie Keller for her assistance in initiating the project and for her encouragement for us to undertake the research project. We would also like to thank all of the individuals acknowledged in our research report for their cooperation. Last, but not the least, we wish to thank Ms. Margaret Musopelo for typing this paper.

2. It should be explained that in investigating women's access to agricultural land our study assumed that all land designated for farming purposes was good. That is, the study did not take into account other important aspects relating to access to land — i.e. *quantitative* aspect (how big an area/farm one was allocated for cultivation), or the *qualitative* aspect (whether or not the land allocated was fertile, strategically located in relation to social and physical infrastructure, and whether or not it could be used for multiple agricultural activities).

meaningful substantive rights of women to agricultural land have to be free from any practices prejudicial to ownership by, and allocation of land to, women. Indeed, this is the internationally-accepted perspective on women's rights to land, including agricultural land.<sup>3</sup>

Since 1966, Zambia has placed much emphasis on agricultural and rural development as a means of diversifying the economy away from copper mining, the largest employer of labour and the largest foreign exchange earner. In addition, agriculture has been projected to play a key role in the country's import-substitution policy, through an increased production of raw materials for manufacturing industries.<sup>4</sup>

In Zambia, women constitute a large majority of small-scale farmers. The government, which also pursues a policy of integrating women into development, has increasingly recognised women's role in agricultural development.<sup>5</sup>

The question of women's access to agricultural land is, therefore, vital to both the integration of women in agriculture and the economic development of the country as a whole.

The paper is divided into four sections. The first examines women's role in agriculture and government's policy with particular reference to agricultural settlement schemes. The second section considers the position of women in existing systems of land tenure and the machinery for allocation of land in settlement schemes. The practical and socio-economic constraints on women's access to agricultural land are discussed in the third section. The fourth part concludes with a brief evaluation of the extent to which access of women to agricultural land in Zambia is consistent with the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), and also considers recommendations to make women's rights more effective.

## **II. Women's Role in Agricultural Development**

The Zambian government's increasing recognition of women's role in development is reflected in the fact that the Fourth National Development Plan (1989-1993) now has a Chapter on Women in Development covering all aspects of development, including agriculture. Moreover, women's clubs, which in the past stressed domestic arts, are now encouraged to

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3. See the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), particularly articles 2(f), 13(b) and 14(2)(g).

4. Transitional Development Plan, 1966-70; First National Development Plan, 1972-1976.

5. See Fourth National Development Plan, 1989-1991, Chapter XXV.

provide women with productive skills to improve their situation. To ensure the effective integration of women into development processes, a Women's Unit was created in 1983 at the National Commission for Development Planning (NCDP). The impact of this Unit has, however, still to be assessed.

Empirical research during the 1970s and 1980s indicates that women in Zambia play a key role in agricultural production.<sup>6</sup> In this regard, women provide between sixty and eighty percent of the labour required for production for both subsistence and the exchange market. Apart from participating in almost all agricultural activities (i.e., planting, weeding, harvesting, etc.), women are also responsible for food processing at the household level as well as for the collection of water and firewood. Studies of time budgets in many parts of Zambia also indicate that women spend more hours than men in agricultural activities.<sup>7</sup>

The central role women play in providing labour for agricultural production is confirmed by the tendency for the incidence of polygamy to increase with the increase in commercial farming.<sup>8</sup>

However, despite the key role women play in agricultural production, they remain the poorest section of the rural population in Zambia.<sup>9</sup> In general, women have not benefitted equally with men from important national agricultural projects and programmes.<sup>10</sup> This is explained, at least in part, by the continued official and general assumption that the predominant type of family pattern in Zambia is one where the household is headed by a man. Men, especially heads of households, have been the targets of almost all development efforts by both colonial and post-colonial governments. Therefore, agricultural education, training and extension services and other necessary factors of production have involved male heads. The location of training facilities away from home, the content of the training, and the requirement that students remain in residence, have made it difficult for women to participate effectively. Moreover, even agricultural projects that involve teaching farmers within their village environment, such as the "train and visit" system of the extension service introduced by the World Bank in the early 1980s, have largely excluded women farmers.<sup>11</sup>

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6. ZARD, 1985; Geisler et al, 1985; Chilivumbo & Kanyangwa, 1985.

7. Mwamwaja & Kuenzi-Nke, 1986.

8. Mabeza 1977; Mbulo, 1980.

9. Mwamwaja & Kuenzi-Nke, 1986.

10. Keller 1984.

11. Munachonga, 1988.

The adverse effect on women of the way agricultural development projects have been implemented may be illustrated by considering a special category of women, i.e., female heads of households. Available statistics show that over twenty-five percent of all households in Zambia are headed by women, with the highest concentrations found in the Eastern, Luapula, Northern, and Western provinces.<sup>12</sup> The problem facing such households is that not only do female heads suffer from lack of adequate labour in their fields (which reduces their chances of producing surplus crops for sale), but they also experience special problems in obtaining agricultural services in a society where emphasis is on the male role in agricultural development.<sup>13</sup>

Furthermore, the commercialization of agriculture has itself resulted in the increased workload of rural women because they work in the cash-crop fields (under the control of husbands) and also in the food-crop fields. The increased amount of land under cultivation has intended to increase the number of hours women spend in agricultural activities, without necessarily increasing their access to income from the sale of crops.<sup>14</sup>

The foregoing discussion has highlighted women's lack of access to agricultural services and modern technologies for their role in agricultural development. However, this is only one aspect of their problem. Productivity in this sector of the economy is also partly dependent on access to and control over agricultural land, which women lack in practice. This is considered in Section III below. But first it is necessary to discuss state policy, particularly with regard to settlement schemes and their nature.

### **III. Government Policy in Relation to Settlement Schemes**

As indicated above, government policy has, since 1966, placed particular emphasis on encouraging small-scale agricultural production units, as well as on the increased participation by Zambians in the commercial production of maize, the staple food crop for the country. It is believed that increased agricultural production by Zambians will raise the standard of living of the masses, and also narrow the income gap between town and country. As a measure toward this goal, the government introduced government-supervised Village Settlement Schemes and Individual Farm Unit Settlement Schemes, both of which are rural-based. Village Settlement

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12. Safilios-Rothschild, 1985:9-10.

13. Geisler et al., 1985.

14. Munteмба 1982.

Schemes provide settler members with individual plots for growing crops, and with communal livestock grazing areas. However, settlers in these schemes are not given any legal title to their plots.

This study focuses upon the Individual Farming Unit Settlement Schemes as the more potentially productive of the two schemes. They are governed by statutory tenure as opposed to the customary law tenure that governs the Village Schemes. These schemes thus ensure their settlers a more secure interest in their farms than do the Village Schemes. Individual Farming Unit Schemes are also supposed to be better supervised and serviced by government and its related organs than are Village Settlement Schemes.<sup>15</sup>

The Individual Farming Unit Schemes have three main objectives. First, they attempt to give settlers an opportunity to settle permanently in the agricultural areas of the various provinces. This is also aimed at facilitating the intensification of agricultural extension services and provision of social services in the settlements.

Secondly, in some provinces where the population pressures have increased, the schemes are intended to enable already permanently settled family farmers to acquire more suitable farming units for production of crops and livestock.

Thirdly, they enable farmers to obtain leasehold titles to their land holdings, and to apply for loans from lending institutions on the security of their farms.

The land in the schemes under consideration is, in most cases, held on renewable fourteen-year leases, with a small rental payable to the government annually. The lease covenants require that the tenants practice improved methods of crop and animal husbandry. Failure to abide by the conditions and covenants of the lease may lead to repossession of the farm by the state.

#### **IV. The position of Women in Land Tenure and the Machinery for Allocation of Land in Settlement Schemes**

The law and procedure relating to acquisition and allocation of land in Zambia is substantially gender-neutral; men and women can, in terms of the letter of the law and procedure, apply and be considered for allocation of land on equal terms. This is better understood when consid-

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15. See generally, the kind of services provided in the serviced schemes in Himonga et al., 1988:35-67.

ered in light of the system of "land tenure" (i.e., the system of rules under which persons exercise and enjoy rights of land) operative in Zambia, and the machinery for allocation of land.

Zambia has a dual land tenure system,<sup>16</sup> which may be designated as "statutory tenure" and "customary tenure." The law applicable to land under statutory tenure is the general received law<sup>17</sup> as opposed to customary law. The land in the country is divided into Stateland, Reserves and Trustland. The first category is governed by statutory tenure while the other two categories are generally governed by customary tenure. However, in exceptional cases the President of the Republic may make grants and dispositions of land in the latter two categories which are consequently converted into Stateland, governed by statutory tenure. This is how Individual Farming Unit Schemes which are ordinarily located in Reserves and Trustland are converted into Stateland. Acquisition of land in all three categories is open to anyone, except that foreigners' rights to acquisition of land are restricted. The procedures for acquisition and allocation of land, of course, differ between statutory tenure and customary tenure land. As indicated above, our concern in the present paper is only with the acquisition of land governed by statutory tenure within which the Individual Farming Unit Schemes fall.

Rights in Stateland are obtained and enjoyed by grant of leases of up to one hundred years' duration, from the President of the Republic. The lease may be renewed for a like period in appropriate circumstances. However, the President's powers to administer the land in the country<sup>18</sup> have been delegated to the Commissioner of Lands. He is empowered to make grants or dispositions of land, subject to the directions of the Minister responsible for land matters.<sup>19</sup>

As far as the procedure for allocation of Stateland is concerned,<sup>20</sup> the District Council in which the land for allocation is situated is required to

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16. Recognised by various laws, including the Zambia (State Land and Reserves) Orders, 1928-1964, The Zambia (Trust Land) Orders, 1947-1964, and The Zambia (Gwembe District) Orders, 1954-1964.

17. This includes the English land law as it was on 17th August, 1911 subject to the provisions of the orders in Council and to any other law (see English Law Extent of Application) Act, Cap 4 of the Laws of Zambia), and legislation passed by both the Northern Rhodesian (i.e. the former colonial state to Zambia) and the Zambian legislatures.

18. As outlined in the various orders in Council and the Land (Conversion of Titles) Act, 1975.

19. See Statutory Instrument No. 7, 1964; Gazette Notice No. 1345, 1975.

20. This is contained in Circular No. 1 of 1985 issued by the Ministry of Lands and Natural Resources.

advertise it in the national press. Prospective tenants must apply to the Council for an allocation. Recommendations of the successful applicants are made by the Council to the Commissioner of Lands, who invariably accepts them in the absence of exceptional circumstances. This procedure, like the land tenure systems, in theory allows no room for discrimination between men and women in their acquisition of land. Yet very few women actually apply for, or are allocated, agricultural land in Zambia. This is evident from the table of nine Individual Farming Unit Schemes surveyed below.

Table: Number of Male and Female Farmers in Settlement Surveyed

Settlement	Male	Female	Joint	Total
Chitina*	45	4	—	49
Big Concession*	68	2	—	70
Lubombo*	63	2	—	65
Lukulu North*	74	—	—	74
Lusaka	101	9	5	115
Milombwe*	117	1	—	118
Mumba	53	5	—	58
Mungwi	144	6	—	150
Ngwezi	128	2	—	130
Totals:	793	31	5	829
Per cent:	95.7	3.7	0.6	100.0

\*New settlement schemes<sup>21</sup>

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21. Himonga et al., 1988:76.



This situation is attributed to the administrative practices relating to the acquisition and allocation of land as well as to socio-economic constraints which create obstacles to women's access to agricultural land, discussed *infra*.

## **V. Administrative Practices and Social and Economic Constraints**

This section considers the influence of such factors as administrative practices, attitudes, cultural norms, socio-economic status, and gender on women's access to agricultural land in Zambia. It will be seen that such influences combine with and reinforce each other in a complex fashion, so as to undermine women's effective access to agricultural land. This occurs despite the fact that women are, as already pointed out, the main agricultural producers.

### ***A. Administrative Practices Relating to Acquisition and Allocation Procedures***

The first problem concerns the role of the ruling party, the UNIP, within the machinery responsible for allocation of land. In the case of Zambia, the Party, which is regarded as supreme over all other social institutions in the country,<sup>22</sup> considers itself to be a custodian of the country's culture. In its involvement in the allocation of agricultural land,<sup>23</sup> the Party sometimes emphasizes cultural issues which are prejudicial to women farmers. For example, some party officials consider it to be against Zambian culture to allocate agricultural land to women of marriageable age who have no children to support. Thus applications for land by this category of women are, in some cases, screened at lower levels of officialdom; they do not reach higher levels for consideration on their merits.

Second, the absence of women in the local party and state decision-making machinery concerned with the allocation of land, officially denies adequate or meaningful representation to women's interests. There were, of course, instances in our findings where the presence of women in certain relevant offices frustrated other women's involvement in agricultural development. The extent to which the presence of women on decision-making bodies will effectively alter the situation in favour of female

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22. See Ollawa, 1979.

23. See Mwape (1981) on the structure of District Councils involving UNIP.

farmers will, therefore, depend largely on the degree of sensitivity to women's issues on the part of both male and female decision-makers at all levels. Thus the presence of women on decision-making bodies is necessary but not sufficient.

Third, bureaucratic delays in processing applications for land in some districts of the country<sup>24</sup> affect women more adversely than men. This is mainly because women's other domestic responsibilities make it difficult to follow their applications up as thoroughly as men do. Moreover, the complexities of bureaucratic organisation and procedures relating to land acquisition and allocation are not likely to be well understood by women, who constitute the majority of the illiterate population of Zambia. The women's position is aggravated by the fact that there are no programmes in the country for educating potential farmers about acquiring agricultural land.

Lastly, although the procedure for land allocation requires the advertisement of land available for allocation in national newspapers, some district councils do not actually make such advertisements. This means that only persons who are in contact with the various councils or with council employees involved in land allocation, get the necessary information and thus the opportunity to apply for land. This, of course, excludes the majority of women, who generally operate outside the formal employment sector.

### *B. Socio-economic Constraints*

Our findings indicate that marriage is among the key cultural constraints on women's access to land. On the one hand, married women are themselves afraid that their marriages might break down if they acquire land of their own. On the other hand, for two main reasons, there seems to be a strong resistance from the men to the idea of wives owning their own plots. First, men indicated that they needed their wives and children for farm labour. The importance of women's labour in settlements is also reflected in the high incidence of polygamy in some areas and by the fact that additional wives tend to be taken after acquiring a farm. Second, men in settlements do not favour the idea of women becoming economically independent, for example, through their farming activities. Such women would never get married, as men would be unwilling to marry them.

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24. Himonga et al., 1988:60.

Kinship and succession systems also represented constraints on women's access to land before the change in the law of succession introduced in 1989.<sup>25</sup> Under the customary law of intestate succession and the practices which had developed around that law before 1989, the surviving spouses as well as their children were denied any rights to inherit from their deceased spouses and parents, respectively. Instead, the estates were inherited by the deceased spouses' extended families.<sup>26</sup> Accordingly, men and women in settlement schemes were not enthusiastic about the idea of joint tenancies between husbands and wives over their farms. By their nature, joint tenancies would entitle the surviving spouse to title to the farm. However, men, on the one hand, were against joint tenancies because they were of the view that the farms should be inherited by the deceased spouse's extended family, according to customary law.<sup>27</sup> Women, on the other hand, opposed joint tenancies because they feared that the deceased husband's relatives would, in any case, take the farm, as a result of which they would completely lose out. The disadvantaged partners in this situation were the wives since, generally, women's economic positions have been undermined by the emerging system of individual wealth.

However, the change in the law of succession, referred to above, now gives substantial inheritance rights to surviving spouses and children of the deceased spouses or parents, respectively. This should, therefore, minimize the fears shared by some men and women in relation to joint tenancies in the schemes. However, future research is necessary to determine the impact of the new law of succession on this aspect of the subject, and on women's access to land in agricultural settlement schemes generally.

Another identifiable social constraint is related to sex-role stereotyping. Rural women in some areas feel inferior to men and consider the issue of applying for land as being men's reserve. Most women are, therefore, content to stay on their husbands' farms. In most cases, only women bringing up children on their own (i.e., unmarried, widowed or divorced) apply for land. In a few cases, married women who are encouraged by their husbands to acquire land also apply for it.

The last social constraint relates to the relatively small number of female agricultural extension workers servicing the settlement schemes.

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25. See Intestate Succession Act, No. 5, of 1989.

26. Himonga, 1989.

27. Before the Law of Succession was changed by legislation in 1989, there were conflicting judicial authorities about whether customary succession law applied to land held under statutory tenure. The view held by commentators was that customary law applied. See Himonga, 1985:139-141.

Considering the prevailing cultural setup in Zambia in terms of a restricted social interaction between people of opposite sexes, women may have problems approaching and/or working with male agricultural extension workers, or vice versa. The need for women to have access to modern agricultural knowledge and skills cannot be over-emphasized. For example, the inability to practice sound land management and animal husbandry — as a result of the lack of the relevant know-how and skills — can lead to a repossession of the land by the state. This leads to the discussion of the final constraint that deprives women of the ability to develop agricultural land in the economic sphere.

This is the lack of the capital and implements necessary for women to start and develop their own farms. The study revealed that married women in practice need the consent of their husbands to obtain loans. As already pointed out, this consent is not readily granted by husbands. The problem of the lack of implements is aggravated by the inability of women to handle the basic implements used by emergent farmers — oxen, for example. Moreover, the little available machinery for land clearing is very expensive and, therefore, out of reach for most of the women.

This section has shown how administrative practices, social and cultural systems of values, and gender relations have undermined women's access to and control over agricultural land and other important factors of production, that is, modern technologies, labour, capital and extension services. The way in which these factors affect the position of women in relation to access to land under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979) is discussed in the conclusion below.

## VI. Conclusion

The United Nations Convention on the Elimination of All Forms of Discrimination Against Women was ratified by Zambia in 1985. In its key general provision<sup>28</sup> the Convention obligates state parties "to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." More specifically on rural women's access to land, the Convention requires states parties to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and

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28. Article 2(f).

benefit from rural development, and in particular, ensure to such women the right to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes.<sup>29</sup>

Under the Convention, women's right to agricultural credit is expanded by the provision mandating the removal of discrimination against women in other areas of economic and social life, and the granting of women the right to "bank loans, mortgages and other forms of financial credit."<sup>30</sup>

The discussion in this paper has not considered the position of women in agricultural settlement schemes governed by customary law, which may add their own dimensions of discrimination against women.<sup>31</sup> But from a consideration of the more potentially productive Individual Farming Unit Schemes governed by statutory tenure, it is clear that the applicable general law and official procedures for acquisition and allocation of land do not discriminate against women. They are, therefore, substantially consistent with the provisions of the Convention.

The reasons for the disadvantaged position of women in access to agricultural land lie in the administrative practices relating to the allocation of land and in the social and economic spheres. This paper has identified a number of factors in this respect, including high rates of illiteracy among women, negative attitudes of officials, the subordination of women within marriage, kinship and succession systems, and the lack of economic power of women, which makes it difficult for them to develop farms.

Therefore, the solution to the problem of rural women's access to agricultural land in Zambia does not lie in the letter of the law and official policy. Rather, much more must be done outside these regimes in order to increase women's actual access to agricultural land. A number of recommendations may be suggested for this purpose.

First, there is a great need for the education of officials concerned with the allocation of land and administration of agricultural land policies, as well as of the women themselves. It would be necessary in this respect to educate officials to adopt correct and official procedures of allocating land and to ensure that women and men are treated equally in this process in practice, not just in law. Education is also necessary for the purposes of sensitising officials to the problems facing women in the agricultural sector. And, finally, officials need to be educated concerning the role of

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29. Article 14(2)(g).

30. Article 12.

31. See, for brief discussion, Himonga et al. 1988:30-32.

women and their importance in agricultural development, not only as sources of labour, but also as owners of land.

The education of women is necessary to eliminate their illiteracy and to increase their perception both of their potential in agricultural development and of the opportunities available to them in this regard.

Second, positive discrimination may be necessary to create special loan facilities for women, with emphasis on flexible conditions for repayment and soft loans. This would minimize the problem of women's lack of capital to start and develop their own farms.

Third, there is a need to consider the issue of appropriate technology to reduce women's inability to handle the existing, commonly used farm implements, such as oxen. This, however, requires more research to determine the appropriate rural agricultural technology in the context of Zambian conditions.

Fourth, the government should consider increasing the number of female agricultural extension workers. In this connection, home economists, who apparently seem to be under-utilised in their present occupations, could be retrained as agricultural extension workers to augment the present number of agricultural extension workers in the settlement schemes.

Finally, all should be made aware of the necessity for male and female agricultural producers and extension workers to break the traditional barriers, such as those against unrelated men and women working together.

Clearly, any meaningful involvement of women in agricultural development in Zambia requires government and interested non-governmental organizations seriously to address the constraints on women's access to agricultural land identified in this paper.

### **Postscript**

In October of 1991 (after the submission of the manuscript of this article) the political system and government of Zambia were changed. Only time will tell what effect this will have on the position of women discussed in this article.

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