

SWANSEA UNIVERSITY

School of Humanities and Social Sciences

**Analysing Contemporary Land Tenure and the Impact of
Land Reforms on Rural Peoples 'Livelihoods in
Customary Land: A Case of Zambia**

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ABSTRACT

This thesis delves into the state of contemporary customary land tenure security in Zambia, where the security of land tenure among rural smallholders or households plays a pivotal role in enhancing agricultural productivity. Notably, the land is steadily transitioning out of the customary system in Zambia, driven by both domestic and foreign actors acquiring large-scale holdings for export-oriented agriculture. The 1995 Land Act, which promoted land privatisation and formalisation, has expedited the commodification of customary land. This has given rise to informal and covert land markets characterised by corrupt transactions, effectively placing land out of reach for the impoverished and vulnerable rural population. This situation persists, even though land laws in Zambia explicitly prohibit the sale of customary land. Additionally, shifting political and socio-economic conditions are facilitating a move from communal to private property, predominantly leasehold regimes. The consequences of recent legal reforms on the structure of agrarian society remain to be fully comprehended. This thesis undertakes a comprehensive review of the transformation of customary tenure systems, shedding light on their repercussions for rural Zambians. It underscores the concept of the 'tragedy of the commons,' offering an alternative perspective alongside private ownership and government control.

This thesis essentially aims to furnish evidence from a case study, scrutinising the prevailing legal framework and institutions governing customary land tenure and tenure security in Zambia, with a specific focus on the Chembe and Monze regions. This case study elucidates how land conflicts compromise land tenure security and impact the livelihoods of rural communities dependent on land-related activities. The research findings unequivocally reveal that land conflicts and tenure insecurity in Zambia stem from inherent deficiencies within land governance systems. These include a flawed legal and institutional framework and sub-optimal land allocation procedures. The repercussions of these issues extend to include loss of life and property damage. Consequently, this study posits a novel framework designed to enhance and safeguard land rights, improve land governance, and lay the groundwork for the implementation of such a framework in Zambia and other African nations. Profound insights into the land governance system and practices are imperative for devising equitable and effective solutions.

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DEFINITIONS OR ABBREVIATIONS

ABBREVIATIONS

AU	African Union
CSO:	Central Statistical Office
CSO	Civil Society Organisation
DFID	UK Government Department for International Development
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FIG	International Federation of Surveyors
GDP	Gross Domestic Product
GRZ	Government Republic of Zambia
IAPRI	Indaba Agricultural Policy Research Institute
IFAD	International Fund for Agricultural Development
IAD	Institutional Analysis Development Approach
IIED	International Institute for Environment and Development
LSLAs	Large Scale Land Acquisitions
MLNR:	Ministry of Lands and Natural Resources
MDGS	Millennium Development Goals
MMD:	Movement for Multi-party Democracy
NGO	Non-Governmental Organisation
SDGs	Sustainable Development Goals
SLA	Sustainable Livelihood Approach
SSA	Sub-Saharan Africa
OECD	Organisation for Economic Co-Operation and Development
USAID	United States Agency for International Development
UN	United Nations
UNIP:	United Nations Independence Party
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
ZLA	Zambia Land Alliance

CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

Zambia possesses a dual land tenure system, based on two concepts: statutory land managed by the government and customary rural land overseen by over 270 chiefs, who hold traditional leadership positions. Astonishingly, more than 70% of Zambia's rural and peri-urban land lacks formal Lands and Deeds registration records (Tembo and Sommerville. n.d). The responsibility of managing, administering, and maintaining records for statutory land falls under the Ministry of Lands and Natural Resources (MLNR), through its Land Management section. However, the government does not grant a specific title to customary landowners due to the absence of formal registration or recording outside the official records (Mandhu, 2015). Customary land, primarily located in rural areas, lacks a registration and titling system. This deficiency in registering and titling customary land has resulted in security problems and disputes between customary landholders and statutory titleholders. The current land administration system predominantly covers statutory land, which is controlled by legislation and institutional frameworks, and is primarily found in urban areas. Consequently, customary rural land areas suffer from the lack of registration and formal titling systems.

The present registration and land administration systems only pertain to statutory tenure and do not encompass customary areas (Mandhu, 2016). Customary tenure's origin and norms lie in customs and traditions. While statutory tenure is covered by the existing registration and land administration systems, customary areas have not been included (Mandhu, 2016). Customary tenure is governed by customs, and in cases where the state has passed legislation on the subject, the community's use is reinforced by the law (Hansungule, 2001: 24). Under customary tenure in Zambia, the right to own land arises from being a legal resident in a specific location and being part of the community where the tribe dwells (Hansungule, 2001). In the Land Act of 1995, only sections 7 and 8 recognise and allow for converting customary to statutory tenure. These sections are the sole statutory interventions related to the customary

tenure of rural lands. However, the Act does not specify the nature of Zambia's customary tenure or how customary rights can be obtained, exercised, documented, and registered. The thesis observed that chiefs and village headpersons were the only ones who kept the land registers which are considered to provide safety nets for marginalised people against privatisation and commodification (Schoneveld & Mwangi, 2013). The study results showed that in both traditional areas, leaders used registers to collect information on who was eligible and, the visibility of land rights to those outside or within the community (Umar & Nyanga 2022). While customary tenure acknowledges private, individual land rights, the legislation does not adequately recognise them (MLNR, 2017). Consequently, the majority of rural residents and smallholder farmers live on land that is informally managed, which could negatively impact their livelihoods. Thus, there is a need to investigate land tenure issues for smallholder agriculture and its implications for policy response.

Regarding Zambia's legal system and legislative framework, it remains unclear whether the rights accumulated during customary tenure cease to exist after converting the land to statutory tenure or continue to hold validity. Therefore, customary land necessitates land tenure reform, which involves changing the institutions, laws, and rules that govern the right to access, own, occupy, govern, transfer, exchange, or inherit rural land. Land tenure is considered an institution that regulates connections between people and land, and tenure reform represents the process of altering the institutional rules (formal relations) between people and the land, including the administration of these rights and obligations (Bayer, 2021:52). The underlying premise is that proper land administration will enhance the quality of life and livelihood resilience for rural people, particularly in agriculture (Chigbu, 2017).

This research primarily explores the impact of customary rural land tenure systems and their governance on smallholder farmers in Zambia, and how potential reforms could enhance their position concerning the aforementioned issues. This introductory chapter outlines the agenda of the thesis. Accordingly, the following sections provide background information, the statement of the problem, and research questions. The chapter concludes with an introduction to the structure of this research.

1.2 UNDERSTANDING THE CONTEXT: BACKGROUND INFORMATION ON LAND TENURE AND GOVERNANCE IN ZAMBIA

In Zambia, the past two decades have seen significant activity in land reforms, national policy formulation, and the enactment of new land laws. The land issue in Zambia is complex and unique, influenced by regional, historical, economic, social, political, and cultural factors (Cousins & Claassens, 2008:221). Both Monze Chiefdom in Southern Province and Chembe Chiefdom in Luapula Province, like many other regions in the country, predominantly have land controlled by indigenous institutions under rural customary land tenure arrangements. However, state land administration institutions also operate alongside these indigenous community-based customary land tenure institutions in both chiefdoms. The coexistence of these two systems has become a major concern in Zambia. The system is complex, and questions arise about whether land administration practices in the country align with the principles of good governance, which is increasingly recognised as crucial for sustainable development. Land tenure is a complex issue that can hinder agricultural investment, especially for climate-resilient and sustainable practices that require consistency and long-term commitment. Nonetheless, progress is being made in Zambia.

Formal and informal rules, structures, processes, and institutions are involved in land governance, enabling access, utilisation, control, transfer, and resolution of land-related conflicts. Land governance encompasses issues such as land tenure, land systems, agricultural reforms, and land administration (Amanor, 2012). The lack of clarity regarding tenure rights to land and natural resources is a major obstacle to development. It leads to inappropriate land use and management practices and ineffective rural land governance. Additionally, the lack of legal security can limit new forms of enterprise, such as community forests involving partnerships with outsiders (Adam et al., 2000). Due to discriminatory customary practices and weak formal land regulations, residents in Zambia do not always follow local intervention institutions or routes to address issues with tenure insecurity. This lack of adherence to the law or custom hinders the resolution of insecurity of land rights and tenure. Deficiencies in the institutional and legal framework and the lack of documentation of customary land tenure systems lead to recurring disputes in changing society (Zevenbergen et al., 2021:59).

Zambia's land mass is 752,000 square kilometres, with the majority categorised as customary land, estimated to comprise over 90% of the land mass (GRZ, 2017). Official statistics, although outdated due to a lack of land audits since the 1940s, state that approximately 94% of land in Zambia falls under customary tenure, while 6% is state land under leasehold tenure (GRZ, 2002). In Zambia, leasehold is the highest form of tenure with rights represented by a certificate of title the only proof of ownership (Chitonge et al., 2017). The majority of these titles are found in Urban areas and a few pockets of state land in the rural areas leaving a greater part of the land mass, estimated between 54%- 50% (Honing & Mulenga, 2015; Sitko et al, 2015). It was reaffirmed that 94% (Zulu 1993; Roth,1995; Adams, 2003; Tembo et al., 2018), are under customary tenure. This lack of clear documentation and regulations on land use and alienation leaves rural people marginalised and outside the protection of the law. Property rights in these areas are mostly unwritten and controlled by regional customs and culture. Traditional authorities are often considered custodians of customary land, despite the President being vested with custody of all land in Zambia. However, customary land governance faces several administrative obstacles (see Adams, 2003; Brown, 2005; Honig and Mulenga, 2015; Stiko et al., 2015). The Land Act of 1995, which aimed to address land governance issues and facilitate investments in rural regions, recognised the rights under traditional land governance systems. Section 7 allowed for the continuance and recognition of customary tenure, while Section 8 allowed for the conversion of such tenure to a 99-year leasehold tenure (Land Act, 1995). This conversion has enabled the local elite to acquire large portions of customary rural land through clandestine land markets, leading to the commodification of land, which disadvantages the rural poor. The elites operate at multiple social or scalar levels, including national, regional, and local, often collaborating in different ways while pursuing their specific goals (Burr et al., 2023:6). Notably, the changes being made in the governance of customary land. It is important to examine these changes and the effect on the livelihoods of smallholders, and best practices to improve tenure security, guard against rural land acquisition, and land grabs, and develop well-functioning land markets (World Bank, 2013:18). In principle, Zambia's land tenure security is achieved by extending greater legal recognition to informal or customary land (Lawry, 2014:10).

Customary or rural land acquisition and land grab issues are at the core of discourse in Zambia. Fertile land increasingly falls mainly into the hands of local elites or a few international private investors. Farmers with rudimentary means, rural smallholder farmers, and pastoralists are the actors most affected by large-scale land acquisitions. Fertile land is becoming increasingly scarce, and public authorities show little determination to implement safeguards to regulate this situation. Zambia is still lagging in addressing these challenges, prompting the examination of land tenure systems and their administration and governance in this context. The situation has led to increasingly contentious land politics in Zambia, with investors, the government as an organization or actor, and chiefs being concurrently blamed for injustices in land allocation. These conflicts over land arise due to inadequate transparency and the lack of available data on land status. Additionally, traditional leaders lack the capacity and willingness to convert the land. The land question in Zambia is linked to the colonial era of land administration, resulting in a dual land tenure system comprising statutory and customary land.

In Zambia, it is easier for investors to obtain leasehold titles to customary land. Once an investor acquires a leasehold title to customary land, the land returns to the state after the lease expires, and it is governed by statute. This conversion process results in the erosion of customary land and the rights of rural communities that heavily rely on it for their livelihoods, becoming a burden on them (Brown, 2005). As a result, this thesis incorporates a rights-based approach to establish the significance of converting customary land into state land and to explore the reasons behind such conversions. While increasing investment in Zambia is desirable, policymakers need to carefully examine the repercussions of such investment. Recognising people's rights to land and livelihoods is necessary, and when displacement is determined to be in the national interest, mechanisms should be in place to protect land rights and address displacement (Chu et al., 2015:1). However, programs aimed at enhancing land-based livelihoods for rural people remain one of the few viable policy options available to the government for sustainable development.

Researchers suggest that comparing the statutory recognition of informal land rights to customary tenure arrangements provides opportunities to analyse the effects of statutory recognition on investment and productivity. The World Bank's impact

tends to overlook mechanisms that could explain the link between tenure recognition, productivity, and other related factors (Lawry et al., 2014:70). Additionally, tenure security and livelihoods are closely correlated to land, making land essential for rural people and smallholder farmers. While tenure recognition seems to improve land productivity and the material welfare of those with registered land access, there is no clear understanding of the dynamics regarding overall land access resulting from such policies.

Pressure on rural land resources is attributed to human population growth, technological change, and economic shifts, including new market opportunities, which may contribute to the breakdown of communal-property mechanisms for exclusion. The role of population growth is especially controversial. Communal-property regimes also fail to provide an exclusion for other reasons, often associated with resource appropriation by political groups or land reform that disrupts existing communal management systems (Jodha, 1987). These challenges are also associated with the social and political characteristics of resource users and their relation to the broader political system, affecting the ability of local groups to organise and manage communal property (Ostrom, 1988). The quantitative evidence base has limited insights into the consequences of land tenure policies for social outcomes such as displacement, conflict, or gender equality. There is a dearth of evidence on the types of tenure interventions that have improved gender equality in land management decisions and land-based livelihoods (Lawry et al., 2014:71). Surprisingly, 59 years after independence, rural communities in Zambia still struggle with food security and livelihoods. The growing population and increasing urbanisation have intensified pressure and competing demands for land, resulting in the most affected being poor rural people who face displacement due to unrecognised land rights (Chu et al., 2015:1). Displacements occurs on both statutory and customary land.

As a result, displacements occur in customary land areas when the land converts to statutory leasehold land, allocated to investors by traditional leaders, local authorities, and the national government. Simultaneously, displacements on statutory leasehold land take place when settlers' encroach or invade on forest reserves or not utilised statutory land, with or without knowledge, and settle there for years. Such illegal settlements or encroachments lead to unclear boundaries between customary

and statutory land, as records of land ownership are outdated, with no land audit conducted since the 1940s. The lack of clarity regarding land ownership leaves rural communities powerless when outsiders, whether government or private investors, claim the land they reside on and depend on for their livelihoods (Chu et al., 2015:2). Consequently, the need for proper, long-standing theoretical and legal land and institutional frameworks cannot be underestimated. Customary and statutory leasehold land arrangements play a crucial role in defining Zambian land tenure features. It is essential to clarify that 'communal' and 'customary' are not necessarily synonymous terms. Though often used interchangeably, it is possible to have communal tenure systems that support poor people's livelihood strategies without being based on customary law or dependent on traditional institutions for administration (Cousins & Claassens, 2008:110).

Essentially, questioning society's role becomes beneficial in bridging the divide between land tenure systems based on the imported concept of absolute private ownership and those based on more complex indigenous frameworks of nested individual and group rights (Adam & Turner, 2004:6). Without this consideration, indigenous land rights systems cannot be adequately explained:

By focusing on whether or not 'customary' social systems recognise the institution of ownership, and if they do, whether it is "absolute" or "corporate," and who in society is the repository of that ownership—the person, the chief, the family, the clan, the lineage, or the "tribe"— (Okoth-Ogendo, 1989:7).

According to Okoth-Ogendo, 'empirical evidence now depicts that whether regarded as "law" or not, indigenous norms and structures, particularly in respect of land relations, continue to operate as sets of social and cultural facts which provide an environment for the operation of state law' (Okoth-Ogendo 2002:10). Moreover, the land tenure system is interlinked with the governance process in Zambia, and minority groups have found it difficult to access land and have their land rights recognised by the state (Bruce et al., 1996). The significant challenge faced by people in rural areas, as a vulnerable social class, is that they risk land alienation and loss of entitlements in the context of political and economic liberalisation (Razavi, 2003).

As a result, this thesis examines 'the position of individuals in respect of land resources controlled by communities to which they belong', which has similarly been under scrutiny. The claim here is that since indigenous land tenure is 'communal', individuals lack exclusive rights to the resources they occupy or use. This has facilitated 'the tragedy of the commons', a discourse that has raged among property economists for centuries (Hardin, 1968; Demsetz, 1967). However, more sophisticated analyses depict that this lacks a basis in empirical reality (Bromley & Cernia, 1989). The concept of the commons should consider property rights in terms of bundles of rights rather than a single right, including access, withdrawal, management, exclusion, and alienation, as explained in detail in this thesis. This thesis illustrates rural constituents who have undergone an overhaul of land laws, which is far from addressing the real concerns and may practically worsen the situation of the rural poor's livelihoods by reducing the security of tenure and consolidating the privatisation of land. In Zambia, land is a critical resource for the poor and marginalised as they depend on agriculture for their livelihoods. It is a source of identity and a primary resource for sustainable development. Thus, the value of land in Zambia is highly rated and can lift people out of poverty.

In rural communities, land rights originate from membership of a localised kinship/residential group that, in turn, is part of a political unit, usually a chiefdom (Beinart, 2001:19-20). One key aspect of traditional tenure is that all community members have free land access. Even junior family members have their fields to cultivate, obtained from the family, though they do not have the right to dispose of the land. Generally, there are similarities in the structure of rights in customary areas, though, as noted above, there are still variations between the various tribes in the extent and practice of these rights. Three types of fundamental rights are recognised in customary land: individual ownership, concurrent interests, and communal interests (Mvunga, 1980).

A major concern in contemporary land initiatives has been to gain a better understanding of the dynamics of customary land management and to create innovative techniques for mapping out customary holdings cheaply and extensively with the participation of rural communities. This involves institutional innovations that enable customary land arrangements to be harmonised and integrated into state

management systems and enable rural producers to claim stable property rights. When these rights are formally recognised, respected, and enforced through, for example, a state-issued certificate of land use, individuals living under a customary governance system come to an agreement with outsiders regarding the use of land and resources under terms and conditions that local people find beneficial (Boudreaux, 2019: 308).

In Zambia and several other countries, the state, through the legislative framework, has recognised customary land tenure and the administrative role of traditional authorities (Wily, 2001). However, the same state, by promoting the conversion of customary land into statutory leasehold tenure, is gradually undermining the rights of many poor rural communities (Chitonge, 2019). There is a lacuna on whether the rights acquired under customary tenure are extinguished as soon as the piece is converted or continues to exist (Mandhu et al., 2021:235). As a result, many rural people experience problems, anxieties, and tensions concerning the security of land rights. Tenure reform addresses the breakdown in formal land administration and creates greater certainty over the legal status of land rights, while also recognising the many local variations in the definition of rights and duties (Cousins & Claassens, 2008:118).

Amid debates, it is evident that the poorest people are frequently affected when rent-seeking, corruption and a lack of accountability and transparency dominate land governance processes. These challenges pose significant threats to people's assets and sources of livelihood, especially in the context of land. In fact, serious land tenure challenges occur where land governance systems are weak and ineffective (Chitonge & Harvey 2021). Furthermore, during the World Bank's annual Land and Poverty Conference in 2013, the Bank issued an official statement in response to a civil society campaign calling for a freeze on agricultural investments involving large land deals. The statement, titled "Access to Land is Critical for the Poor," starts with a crisis narrative to highlight the urgency of increased investment and the central role of commercial firms:

By 2050, the World will have two billion more people to feed. To do that, global agriculture production must increase by 70 per cent. That calls for substantial new investment in agriculture — in smallholders and large farms — for both the public and private sectors. But investment alone will not be

enough Unless crop yields are raised, many people will remain angry, under-nourished, and unable to seize opportunities to improve lives (World Bank, 2013).

This statement acknowledged the risks associated with large-scale land acquisitions and identified weak governance systems as a significant challenge. It can be seen as a form of crisis narrative in itself. The World Bank, as a progressive ally, re-emphasised the following:

There is a lack of usable land, and there are too many cases of speculators and dishonest investors taking advantage of smallholder farmers, herders, and other individuals who lack the capacity to defend their rights. This is particularly true in countries, such as Zambia, with weak land governance systems The World Bank Group shares these concerns about the risks associated with large-scale land acquisition (World Bank 2013).

With much of the world's population lacking secure land and property rights, land is at the heart of development challenges. Full private property rights, in a freehold system, are often argued as an ideal form of ownership, as a results in increased incentives for the holder and subsequently increases the security of tenure, investment and transactions (World Bank, 1975; de Soto, 2000, Deininger, 2003). According to German (2022: 63-65), eliminating poverty, addressing climate change, increasing resilience, reducing fragility, and tackling inequality for rural people all depend on having secure land rights.

While many farmers enjoy secure tenure, those with land governed by customary law typically have insecure tenure. This undermines rural development in communities where customary law is prevalent and hampers effective land governance due to the non-recognition of customary systems by statutory leasehold laws (Bruce & Migot-Adholla, 1994; McAuslan, 2003; Okoth-Ogendo, 2000; Platteau, 1996; De Soto, 2000; Berry, 1997; Demsetz, 1967). For instance, in many rural populations that exist on marginal lands, collective powers are increasingly exerted to address the land question through organised strategies such as land occupations and other forms of resistance.

In development discourse, the concept of sustaining larger populations necessitates investments in land that cultivators are more likely to make if land rights are secured (Deininger, 2003). The argument is that land reform must address good land governance and empower marginalised groups, such as women, disabled people, older people, and the rural poor. Land tenure reform is seen as an instrument for progress, as well as an offensive weapon against agrarian land underdevelopment. Manji (2006) argues that land reforms are intended to promote land titling and land markets to encourage investment and boost agricultural productivity. Moreover, the claim is that land policy needs to adapt to, and not just replace, existing land governance practices, where the state provides legal and administrative support for land resources (Whitehead & Tsikata, 2003). It is suggested that social norms are a key impediment to equity in land-related matters:

In many communities, gender disparities concerning land. . . are linked to the assumption that men, as heads of households, control and manage land-implicitly reflecting ideas that women are unable to manage. . . land efficiently, that the productive resources specified to women are "lost to another family" in the event of a marriage, divorce or (male) death, and that men will facilitate for women's financial security challenging these discriminatory ideas is critical (United Nations 2013:2).

Renowned legal scholar Liz Alden Wily highlighted that virtually every inch of the African continent is owned under indigenous/customary norms, used per custom, and any unutilised or unsettled land is typically the common property of identifiable communities within whose territorial domains these assets fall (Alden Wily 2010:4). While this crisis narrative is essential for what it highlights, it is equally powerful in what it foretells. The World Bank, many multilateral agencies, and bilateral 'land donors' align with this perspective, directing their focus accordingly. Tenure security and respect for land rights have been pursued through various initiatives like the 'Principles for Responsible Agriculture Investment,' despite their provisional, voluntary, and contested nature. These principles have formed the basis for subsequent rule-making projects aimed at normalising land loss and state-backed titling of transferrable rights, both individual and collective (FAO et al. 2010; World Bank 2010). Responsible investment entails respecting gender equality, age, and non-

discrimination, and requires reliable, coherent, and transparent laws and regulations (FAO, 2014:4). However, Zambia has faced challenges in formulating policies that promote tenure security for its complex land tenure systems. Insecurity exists for both formalised statutory and informal customary land tenure arrangements. The thesis examines the analysis of Zambia's two prominent land tenure systems: the statutory system (formal) and the customary system (informal). It highlights that land governance for both these tenure systems is weak, leading to prevalent land tenure insecurity. Often, this insecurity arises due to a lack of congruence between de jure (legal) and de facto (practical) rights. This disparity in land tenure, existing between the legal framework, the rules on the ground, and the land rights as perceived by the legislature or state (Robinson et al., 2014), becomes a source of conflict, confusion, and disputes. Similarly, land tenure insecurity persists when socially accepted local-level land governance rules and procedures lack formal or statutory recognition (Lawry et al., 2014; Payne et al., 2015). Often, the source of tenure insecurity stems from the lack of congruence between de jure and de facto rights, creating conflicts, confusion, and disputes. Formal recognition of customary land rights in Zambia law is lacking due to the absence of registration, leading to overlapping or conflicted claims, particularly under development pressures. A critical analysis of local land rights and tenure interventions is essential to understand their effectiveness in relation to addressing land rights and tenure security for farming (Zevenbergen et al., 2021:51).

Policymakers and think tanks often believe that formalisation and regularisation are the keys to reducing perverse incentives for overexploitation and achieving sustainability. However, scholars challenge this fixation with institutional form, emphasising the functionality of institutions and the aggregate perceptions about common agreements rather than solely formal aspects (Sjaastad and Cousins, 2009; Goyal et al., 2022). To improve tenure security and enhance the livelihood of smallholders in Zambia, an approach is needed that promotes local initiatives and action. This study suggests going beyond conventional models of formalisation and individualisation. Innovation is essential to identify and address the context-specific threats, concerns, and aspirations of rural communities (German, 2022:156). The thesis highlights the significance of addressing key normative gaps, linking tenure security to sustainable development, durable solutions, and agricultural development

while demonstrating the efficacy of various scalable tools and models that facilitate safeguards of tenure and land dispute resolution in diverse contexts.

Land rights are of paramount importance as they represent a critical economic and social asset for approximately 2.5 billion people worldwide. Among them, the rural poor and smallholder farmers manage or rely on small and subsistence farms to provide for themselves and their families (FAO, 2018). Smallholder farmers, defined as those working on farms of less than 2 hectares of land, play a significant role in global food production, contributing to the welfare of people, communities, and nations (IFAD, 2023). Securing rights to their households ensures privacy, while secure rights to their fields protect and potentially improve their livelihoods. In Zambia, the majority of the population consists of subsistence farmers, with small, medium, and large-scale farmers making up the three main groups.

Primarily, small-scale farmers in Zambia are subsistence producers of staple foods, occasionally having marketable surpluses such as maize, sorghum, rice, millet, and cassava (USAID, 2017:7). This study specifically focuses on smallholders, who are the majority of rural people in the study areas and Zambia as a whole. It is widely recognised that more secure land rights provide enhanced incentives for the world's smallholder farmers to invest in labour and capital to improve productivity and expand economic opportunities. Additionally, with tradable rights, farmers can transition from rural to urban areas in search of different economic and social prospects, and rural property rights can serve as a basis for livelihood opportunities for the urban poor (Boudreaux, 2019:308).

Given this background, community-owned customary land in Zambia is rapidly dwindling as it is lost to commercial enterprises (Choudhury et al., 2022). To address this situation, governance is crucial, involving a regime of laws, rules, judicial decisions, and administrative practices that guide the provision of publicly supported goods and services (Lynn et al., 2001:7-8). Governance is about determined norms and rules designed to regulate individual and group behaviour (Ostrom, 1990:136), suggesting that it also relates to group decision-making processes to facilitate governance as a concept applied to individuals and groups (Lima, 2021:2). This study seeks to revive the connections between land tenure, the poverty paradox related to

land, and the relationship between agricultural livelihoods and land management to assess rural people's access to land (Mandhu et al., 2012:6).

Within this context, the study examines Zambia's land tenure systems and land governance, encompassing aspects like the recognition of customary land rights, promoting transparency and accountability in land administration, and addressing issues of corruption that undermine effective land institutions, creating conflicts between the state, Chieftainship, and local people. The thesis thoroughly investigates land governance concepts, including rights, security, gender equality, and equity, in the context of Zambia's customary rural land. Furthermore, this case study aims to contribute to a better understanding of the opportunities and challenges associated with land tenure systems and rural land governance in Zambia. The analysis of policy debates on land provides a basis for justifying and integrating land into broader strategies and implementing specific land policies that foster growth in a way that benefits poor people.

1.3 STATEMENT OF THE PROBLEM

Unlike other forms of property, land holds a significance that few other possessions enjoy. It sustains one's livelihood, determines one's status, and provides a profound sense of belonging and identity within a community. Moreover, land serves the fundamental human interests of controlling vital resources, contributing socially, and fostering a sense of self-provision (Green, 2019: 155).

Zambia has a dual land tenure system consisting of statutory leasehold and customary tenure, a duality that dates back to colonial times and continues to persist. The majority of Zambia's rural population, mostly impoverished, relies on customary land rather than statutory land. For them, land is their primary, and often sole, source of livelihood and income, cultivated mainly for subsistence purposes. Since gaining independence, Zambia's land tenure system has evolved in response to political, social, economic, cultural, and population changes. However, customary land is gradually diminishing due to domestic and foreign interests seeking greater access to large-scale land holdings for export agriculture. Additionally, customary land tenure has transitioned from a communal to a private property leasehold regime. The understanding of land rights is influenced by culturally specific concepts and idioms,

as well as the nature and extent of these rights, the identity of individuals or communities in which they are vested, and the available recourse when security cannot be fully assured (Cousins & Claassens, 2008: 106).

Poor land and resource management practices further degrade the limited resource base, leading to the erosion of land entitlements for the poor. Despite the 1995 Land Act, which explicitly recognises customary tenure, it provides inadequate protection for customary landholders and does not safeguard customary rights. Instead, it facilitates the conversion of customary land into statutory leasehold tenure without any provision for the reversal of statutory land back to customary land. The land laws governing customary tenure do not promote the security of customary land tenure, as examined in this thesis, along with other concepts such as rights, security, gender, and equality. In an African Union report by the Specialised Committee on Agriculture, Rural Development, Water, and Environment, it is noted that land governance plays a key role in achieving Agenda 2063, particularly concerning goals related to quality of life and well-being (AU 2017). It can be maintained that:

'Weak governance leads to weak tenure systems, often depriving individuals and communities of essential rights and access to land and other natural assets and contributing to poor land and resource management practices, which further degrades the limited resource base' (USAID 2015).

It has been recognised that there are possible solutions to the challenge, which include establishing formal customary land areas. These would be entities where local communities are recognised as being subject to the authority of chiefs, and there should be a system in place to manage these areas and land adequately and appropriately. Developing a policy that promotes customary tenure security and addresses the persistent challenge of weak administrative and institutional capacities is necessary. This means providing more explicit legal and social recognition and respect for customary land rights holders, or rural people, and their right to use, access, control, own, and transfer land and other natural resources. This can be achieved by enhancing innovations that ensure inclusive land tenure security, sustainable livelihoods, and development.

1.4 RESEARCH QUESTIONS

This study addresses the following research questions:

1. How do rural land tenure systems and their governance impact smallholder farmers in Zambia, and how could potential reforms enhance their position?
2. In what ways are smallholder farmers influenced by the current land tenure system and its administration?
3. Which aspects of land tenure and its governance need to be reformed to positively impact rural communities, particularly smallholder farmers?

1.5 CHAPTER OUTLINE

1.5.1 Chapter 1: Introduction and Background

In Chapter 1, the background information and contextual framework of this research are provided. It introduces the core elements of the study, formulating research questions, establishing aims and objectives, and justifying the pursuit of this quest. This chapter comprehensively outlines the research agenda and underscores the significance of studying land tenure and customary rural land governance. As land gains value in Zambia, the complexity of customary land rights has given rise to social conflicts, land speculation, and land grabbing by local elites, all of which have emerged as major concerns for governance.

1.5.2 Chapter 2: Literature on Land Tenure Reform Debates in Selected SSA Countries

Chapter 2 acquaints readers with the fundamental concepts underpinning this research. The literature review introduces key terms such as commons, land tenure systems, Institutional Development Approach (IAD), and polycentric governance, elucidating their roles within the context of interlinked land governance. This chapter stems from the ongoing discourse highlighted in Chapter 1, exploring whether customary African rural tenure should be reformed or transitioned into a statutory, individualised leasehold land tenure system – commonly known as a 'titled' system – as a prerequisite

for bolstering land governance and agricultural livelihood development. The chapter underscores that despite variations in land tenure systems across Sub-Saharan Africa, they all assert the capacity to uphold 'legitimate' land rights, yet there remains no consensus on the definition of 'legitimate' land rights. The chapter delves into diverse approaches for comprehending land tenure and governance, examining human-rights-based and market-based perspectives and their implications for land and property rights interpretations.

1.5.3 Chapter 3: Theoretical and Conceptual Framework

Chapter 3 articulates the theoretical and conceptual framework of this research, employing the Institutional Development Approach (IAD) and integrating the context-specific Polycentric Approach on Zambia's land governance actors and systems, especially concerning customary rural land. The IAD Framework uses two approaches, namely Commons and Polycentric. The commons perspective asserts that 'the issues of how best to govern natural resources used by many individuals in common are no more settled in academia than in politics. Some scholarly articles about the 'tragedy of the commons' recommend that "the state" controls most natural resources to prevent their destruction; others recommend that privatising those resources will resolve the problem. What one can observe in the world, however, is that neither the state nor the market is uniformly successful or effective in enabling individuals to sustain long-term, productive use of natural resource system(s). Further, communities of individuals have relied on institutions resembling neither the state nor the market to govern some resource systems with reasonable degrees of success over long periods (Ostrom, 1990: 1).

Drawing from Ostrom's perspective, the IAD framework identifies broader institutional regularities sustained over time and absent in failed systems (Ostrom, 2010: 647). The 'design principles' are used to characterise these regularities. The chapter delves into the eight principles in depth. Furthermore, it explores the role of polycentric governance in facilitating nuanced analyses of changes, emphasising the influence of actors at various levels on land access, thereby rendering access a more contingent process. Polycentric governance is a core pillar of institutional analysis. The chapter underscores the pivotal role of national policies and laws within a polycentric system, functioning as central points and establishing overarching rules

for actors engaged in land governance at different levels. Elinor Ostrom's governing metaphor of commons is applied to analyse customary rural land governance. The analysis of rural and customary land is conducted within the institutional and legal framework, anchored within a human rights perspective.

1.5.4 Chapter 4: Methodology

Chapter 4 furnishes a comprehensive introduction to the methodology and techniques utilised in this research. It encompasses a desk study and on-site visits conducted to dissect the abstract concept of land tenure and governance within rural Zambian land. The chapter organises content into distinct thematic divisions, encompassing research paradigms and schools of thought, research methods, research design, the study's population, sampling procedures, data collection methodologies, data analysis strategies, validation, and reliability of data collection instrument(s), ethical considerations, and a summary.

1.5.5 Chapter 5: Land Tenure Reform in Zambia: Land Tenure Systems and Land Governance Perspective

In Chapter 5, the focus is on how legislation and governmental policies have shaped the land tenure system in Zambia. This segment offers a comprehensive narrative regarding land tenure, the landscape of land, and governance structures, all while delving into the implications these hold for rural livelihoods. Serving as a foundation for subsequent chapters, this section establishes a basis for the detailed case studies to be presented in Chapters Six and Seven, which draw empirical data from Monze and Chembe chiefdoms, selected as representative examples from Zambia.

1.5.6 Chapter 6: Field Results and Scaling the Research to the National Level

Chapter 6 shifts the discussion towards the outcomes derived from fieldwork and endeavours to expand the scope of the research to encompass a national perspective. Within this chapter, the emphasis is placed on leveraging the gathered findings to reinforce the discourse on Land Governance and the Status of Customary Land Tenure. An exploration of conflicts, the security of tenure, and the impact on the livelihoods of smallholder farmers through Agricultural Development in Zambia is

presented. Additionally, the section reveals the empirical evidence stemming from the field studies, spotlighting existing conflicts related to customary land, insecurity around land tenure, and the overall governance landscape in Zambia. To analyse rural land livelihood within the study areas, concepts of Sustainable Livelihood are incorporated.

1.5.7 Chapter 7: Findings and Analysis: Land Tenure and Agriculture - Reassessing its Role in Poverty Reduction

The seventh chapter is dedicated to the exposition of revelations drawn from primary data collected during field visits to Monze and Chembe Chiefdoms, in addition to insights garnered at the national level in Lusaka, Zambia. With a firm empirical foundation, this segment delves into the outcomes of field studies, centring the discourse on land tenure and agriculture. Furthermore, it involves a re-evaluation of enhanced agriculture as a potential rural livelihood and its role within the broader framework of the Poverty Reduction Strategy. Within this chapter, a comprehensive exploration unfolds, encompassing aspects such as land use, access, and the establishment of secure land ownership in Zambia. The connection between tenure security and the development of rural agriculture is underscored.

1.5.8 Chapter 8: Summary and Conclusions

The concluding chapter, Chapter 8, takes the lead in synthesising the research's overarching conclusions. This segment reiterates the academic contribution inherent in this study and offers a succinct summary of its findings. Additionally, it embraces the role of discussing pivotal elements such as land tenure, the security of customary land tenure, and the resultant implications for the agricultural development of smallholder farmers within rural contexts. It further delves into the facets of land management and presents recommendations for the enhancement of Zambia's land governance. In light of the comprehensive exploration undertaken, this chapter concludes by suggesting potential avenues for future research in this domain.

CHAPTER 2: LITERATURE REVIEW

2.1 INTRODUCTION

This literature review critically examines the discourse surrounding land tenure reform in sub-Saharan Africa, SSA, evaluates existing empirical data, scrutinises the current debate on market-based or market-oriented models, assesses the effectiveness of land markets, and explores the link between secure land tenure and higher productivity. Moreover, this chapter proposes directions for future research in this area. The central premise of this chapter is that customary land rights frequently suffer from ambiguity, congestion, and illegibility (Beinart, 2021:41). Traditional land tenure systems can offer broad access to property along with a certain level of security, but they need to adhere to legal regulations to ensure sustainable use and complete survival. Structured into two parts, the first titled 'Debates and Controversies on Land Tenure Reforms in selected SSA Countries' delves into analysing effective land governance. The second part, titled 'Comparative Overviews of Land Reform in selected SSA Countries', concentrates on land struggles and challenges surrounding land tenure, which helps to establish the existence of productive land use, equitable and sustainability. Throughout both sections, pertinent literature on land tenure related to the study's scope is systematically examined. In discussions surrounding the African land tenure policy, two primary schools of thought have historically prevailed. The first asserts that customary land tenure should be preserved and coexist alongside statutory tenure. Conversely, another perspective argues that customary land tenure is inefficient and should be replaced (Hull et al., 2019:7).

In SSA, land tenure policy reform tends to gravitate towards or exist somewhere between these two positions, although it is often challenging to definitively categorise a country's policy stance (Chitonge, 2021:4). Despite its imperfections, customary tenure is believed to possess advantages that, if entirely eradicated, could jeopardise livelihoods, social cohesion, stability, cultural identities, and result in unequal access to land (Peters 2004; AU/AfDB/ECA 2010). This viewpoint finds resonance in the African context, including Zambia. Although concrete evidence supporting alternatives is limited, solutions involving individualisation and formalisation of customary land rights have shown promise in

promoting increased investment in land, secure tenure rights, and heightened productivity (Migot-Adholla et al., 1991; Smith 2004). Similarly, concerns about the adverse impact of investment-oriented policies on the impoverished population lack substantial justification. This enables an examination of the merits of redistributing existing land assets versus creating new assets as a strategy for poverty reduction (Deininger et al., 1998: 261). The overarching goal of this chapter is to investigate and elucidate the governance and protection mechanisms governing land tenure, land access rights, land utilisation, and land ownership, while also evaluating their implications for rural communities, particularly the economically disadvantaged.

2.2 LAND TENURE REFORMS DEBATES/CONTROVERSY IN SELECTED SSA COUNTRIES

The perspective emphasises that effective land tenure reform policy necessitates the recognition and clarification of indigenous tenure systems. This entails acknowledging the rights of individuals under customary tenure (Shipton & Goheen 1992; Meinzen-Dick & Mwangi, 2008). In general terms, land tenure encompasses a collection of historically evolved formal and informal rules, institutions, rights, obligations, and authorities governing the utilisation, cultivation, and appropriation of natural resources within a land area (Segupta, 2020). Refer to Table 2.1 below for an overview of tenure types and the distribution of urban/rural populations in selected SSA countries (World Bank, 2018).

Country	Tenure Types	Population Distribution
Botswana	State Land (24%) Tribal Customary Land (73%) Freehold Tenure (3%)	Urban 27% — Rural 73%
Malawi	State Land (19%) Customary Tenure (69%) Freehold Tenure (12%)	Urban 17% — Rural 83%
Namibia	State Land (23%) Customary Tenure (35%) Freehold Tenure (42%)	Urban 51% — Rural 49%
Zambia	Statutory Tenure (20%) Customary Tenure (80%) Leasehold rights from the State	Urban 44% — Rural 56%

Table 2.1, Adapted overview of Tenure Types and Urban/Rural Population
Distribution (Bayer 2021)

Providing an entirely accurate overview is challenging due to the diverse sources and different timeframes from which the data in Table 2.1 is derived. Despite the scarcity of comprehensive data, the table sufficiently offers a broad perspective on the prevalence of major tenure types rather than an exact audit. The lack of easily accessible and reliable tenure holdings data is instructive in its own right (Bayer, 2021: 62). Nevertheless, the information advocates for a combination of customary norms and statutory regulations in land administration to adapt customary tenure to swiftly changing realities. This underscores that land reform often hinges on the notion that customary land is adaptable and can effectively respond to shifting circumstances (Migot-Adholla et al.,1991).

Rural populations across SSA and the world have endured a history of socio-economic, political, and cultural control and oppression by ruling elites, often justified as social transformation and modernisation (Scott, 1998). Instead of a complete replacement, enhanced management of customary tenure is required, as tenure relations can flexibly adapt to change. This underscores the belief that customary land tenure should function as a 'living law'—distinct from official customary law—rendering it dynamic and responsive to ground-level challenges (Cousins, 1999). This ideological stance aligns strategically with the evolutionary theory of rights, which posits that as agricultural commercialisation increases, customary land rights naturally evolve towards more individualised, formalised rights. Several African countries, Zambia included, have already undergone land law reforms that safeguard customary rights while concurrently establishing avenues for tenure security for investors (World Bank, 2013: 41).

Demsetz's "*Towards a Theory of Property Rights*" (1967) was one of the pioneering works to investigate the emergence of property rights. According to this perspective, property rights essentially emerge in response to evolving socioeconomic contexts, necessitating well-defined property rights to reduce transaction costs. An influential aspect of this school of thought is that new property rights emerge in response to the desire of interacting individuals to adjust to new benefit-cost scenarios. This viewpoint suggests that policy should provide an environment where existing

rights can organically evolve into formal, individualised land rights (Demsetz, 1967: 348). The argument stands that securing property rights and removing restrictions on land markets have the potential to simultaneously enhance efficiency and equity. However, there are notable risks of elite appropriation of vast land areas leading to inefficient and inequitable outcomes (Holden et al., 2013: 114; Holden & Otsuka, 2014). The premise is that private property rights are preferable to communal resource exploitation and are vital for both economic and environmental betterment. Collective ownership can lead to environmental degradation, often referred to as the "tragedy of the commons" (Noronha, 1985: 218). The essence of the "Tragedy of the Commons" argument is that:

We should not observe sustainable management of common -property resources and exclusion of some uses or users, under regimes other than private or state property. It should be noted that exclusion is feasible, if not always successful, under private, state and communal -property regimes; Furthermore, private or state ownership is not always sufficient to provide exclusion (Baden & Noonan, 1988:83).

No compelling economic justification has emerged for replacing customary land law with state-guaranteed titles. Fundamentally, studies on the 'grand modern fact' reaffirm the need to re-evaluate customary systems and acknowledge their capacity for change, flexibility, and their potential to coexist with restrained state-backed formal systems of individual titling (Bruce et al., 1994).

Aligned with the evolutionary theory of land rights, the adaptation theory emphasises that there is no necessity to replace or conserve indigenous land rights. Instead, the situation on the ground dictates an adjustment to land rights regimes. However, there is limited empirical information available regarding how tenure relations evolved during the 20th century, making it challenging to demonstrate past practices (Delius, 2008: 233). It is suggested that 'if and when... the efficiency gains from allowing sales increase, groups can move towards gradual individualisation and sales to the outsider at their own pace' (Deininger et al., 2014: 78). This view underscores the shift towards formalised individual ownership of land is inevitable and can unfold gradually without extensive state intervention (Chitonge, 2021: 7). Nonetheless, according to Peters, Africa tends to prefer statutory leasehold over

customary land tenure. There exists a prevalent distrust of customary land tenure, often viewed as antiquated and in need of modernisation through titling (Peters, 2004). Consequently, policymakers in Africa perceive customary land as something that has been gradually phased out. However, most have not advocated for the complete replacement of customary land tenure for various reasons. One of these reasons is the practical challenge associated with implementing a fully-fledged land titling programme. The policy documents crafted in the 1990s seemingly carried an underlying assumption that indigenous tenure forms would naturally vanish as development spreads into rural and peri-urban areas, eventually leading to the replacement of customary land with modern landholding forms. Nevertheless, this envisioned scenario has yet to materialise. The Land Policy Division (LPD), responsible for formulating land policy, affirms that registered titling is not a necessary precondition for agricultural investment and growth (World Bank, 2001). In addition, the prominent academician of land law and development, Ambreena Manji, stated:

In global land policy since the 1990s, law reform has been the preferred means of addressing contentious land issues; bilateral and multilateral donors have encouraged the rule of law, administrative justice, formalisation of tenure, promotion of individual title, encouragement of land markets and technical solutions. But the expense of substantive land reform still less has it resulted in justice in the land domain” (Manji, 2021: 273).

Land markets on their own do not lead to a redistribution of land to improve equity and efficiency: impoverished farmers lack the financial resources to acquire land, and market distortions invariably drive the price of land well above its productive value (Deininger, 1996; Quan, 2000: 7).

Illustratively, access to justice is a fundamental principle of the rule of law in Zambia. Land conflicts and disputes fall within the purview of customary and traditional institutions that address such issues arising from the customary land tenure system, governed by the customs of a given community. Additionally, these conflicts are also addressed through the courts of law, characterised by delays in delivering justice, high costs, and often inaccessibility to the poor and vulnerable individuals

who cannot afford legal representation. The efficiency argument posits that formalising customary land holding is based on the premise that formal rights to land enhance tenure security, thereby incentivising investment and responsible land use. Another argument advanced to support land rights formalisation is that it enables the rights holder to use land as collateral to access credit. Consequently, secure land ownership 'can enhance the sustainability of resource use, prevent environmental degradation, and promote the overall efficiency of land use' (Deininger & Binswanger 1999: 250). Likewise, between 1975 and 2001, the World Bank progressively focused on the notion that tenure security fosters productivity and growth in the agricultural sector. They reaffirmed three key principles: the desirability of owner-operated family farms, the need for land markets to transfer land to more productive users, and the pursuit of equitable land distribution to foster agricultural growth. In terms of policy implications, recent evidence led to two new lessons: (1) land titling is not always the optimal solution, and (2) equity concerns regarding land market liberalisation were often misdirected, with the removal of barriers in land markets being a higher priority (Deininger & Binswanger, 1999). Another World Bank publication (Van Den Brink et al., 2006) highlighted two consensus principles drawn from economic literature: (1) property rights need not always confer full ownership and be individual; they can and should be individual, common, or public, contingent on circumstances, and (2) secure property rights are crucial for sustainable development. The Bank clearly stated that 'secure and unambiguous property rights allow markets to transfer land to more productive uses and users' (World Bank, 2007: 17). From 2004 to 2009, the World Bank financed 34 land titling and registration projects, amounting to US\$1 billion, compared to 3 projects in 1990–1994 (Boone, 2017a, b: 4). This underscores the significance attached to the topic of land tenure and rural livelihoods. Conceptually aligned with the thesis are the following key points: Many SSA countries, including Zambia, link tenure security, investment, and productivity to their impact on poverty reduction during economic development. Therefore, this thesis delves into and provides insights into land tenure reforms in selected SSA countries, aiming to establish current evidence, scrutinise market-based reforms, explore land-redistribution approaches connecting tenure security to enhanced productivity, and delineate existing arguments and directions for future research. It contends that heightened tenure security contributes to economic growth by (1) encouraging long-term land-related investment through assurance that investment returns will not be

confiscated, (2) facilitating secure and transferable land rights, allowing for factor mobility and efficiency gains via reallocating land to more efficient users through land markets, and (3) increasing access to formal credit by using land as collateral (AFDB, 2016: 9). Holden also subscribes to the hypothesis that tenure reform in the form of enhanced tenure security for specific landowners generates efficiency, investment incentives, and sustainability, ultimately transferring land and/or land access to the rural poor (Holden et al. 2013).

Given that the majority of the population, predominantly rural, resides at a distance from the entities responsible for implementing formal reform institutions, accessing land management services proves challenging. Even in countries such as Botswana, Namibia, and Zambia, where services are relatively more accessible, organisations often fail to address the needs and preferences of significant segments of the population. Additionally, information, even when technically available, frequently remains undisclosed and challenging to procure (Bayer, 2021: 67). It is noteworthy that long-standing studies on Africa indicate that customary tenure systems appeared to provide sufficient tenure security for farmers to invest in land, albeit without the automatic rights of disposal due to the absence of formal title. This implies a lack of both theoretical and empirical substantiation for such a move (Bruce, 1993). In this context, incorporating a polycentric governance approach helps to differentiate between governance, as a process, and government, as an entity. This approach highlights the significant roles non-governmental actors—private, voluntary, and community-based—play in governance. Furthermore, it demonstrates how SSA and Zambia specifically scrutinise key strategies for regulating rural property and production. It encompasses aspects like recognising rights through statutory reforms, restoring rights following dispossession or displacement, redistributing rights in the face of substantial inequality, and/or registering rights in response to demand (Meinzen-Dick et al., 2008: 6). Despite the potentially protective nature of registering land parcels for individual land rights (Agarwal, 2003), not all individuals enjoy equitable land rights under customary law *Beyond Technocratic Debate: The Significance and Transience of Political Incentives in the Malawi Farm Input Subsidy Programme (FISP)* (2014) revealed that in Malawi, women and other vulnerable groups disproportionately suffer from unlawful land appropriation and community displacement (Chinsinga et al. 2014). A growing global literature

questions whether customary land formalisation genuinely safeguards land rights for all (see Platteau, 1996; Lipton, 2009; Boone, 2007; Fitzpatrick, 2006). This thesis seizes the existing opportunity to advance knowledge, building on the World Bank Report, which underscored the link between land tenure security and poverty reduction (World Bank report 2020: 8). This prompted the government to enhance the legal, institutional, and technical framework for property rights administration in Nicaragua, commencing with rural areas, where the majority of the country's poor reside.

However, other studies illustrate SSA's perspective that the direct benefits of land registration have predominantly accrued to local and national elites. Consequently, the introduction of formal tenure systems had minimal impact on traditional or customary land allocation practices. During the 1950s and 1970s, Kenya embarked on comprehensive land registration to stimulate economic growth. This effort facilitated the transformation of customary land tenure into private land ownership, intending to enhance land tenure security and foster a thriving individual land market. This market exhibited distributive efficiency and allowed landowners to leverage their land for investment by using it as collateral (Bruce, 2009: 3). Consequently, it is suggested that this titling weakened the position of the poor, leading to land insecurity for secondary claimants, especially women, and contributing to heightened confusion and disputes (Quan, 1997: 5). Ambreena Manji confirmed this viewpoint:

‘Kenya’s problems with land defy easy description: they remain complex and multi-faceted and include massive and worsening inequalities in access to land, a propensity to land grabbing and continuing conflicts over who is and who is not entitled to occupy land. Efforts to address these problems have, since before independence, been erratic at best’ (Manji, 2021: 267).

This aligns with my analysis of customary land in Zambia. Despite Kenya predominantly pursuing privatisation, customary land still holds a degree of legal protection (Beinart, 2021: 28). To address the issue of unequal land access, the state initiated land reform programmes aimed at redistributing land among Kenyan citizens based on registration and market principles. However, considerable time has elapsed

since the latest reform, making it imperative to analyse the impact of decades of land reform on land distribution (Narh et al., 2016: 6-7). While land registration has enhanced the flexibility of land markets, it has also demonstrated the mobility of people and structural changes. Consequently, secure land rental markets have facilitated the transition of farmers from agriculture to other sectors as they begin leasing out land and reaping returns (Byamugisha, 2013: 9).

Historically, although a significant portion of land in SSA and Zambia is under customary land tenure, it has been undergoing gradual transformation (Wily 2011; Berry 2017). This evolution and changes in land rights within SSA primarily stem from governmental interventions, whether colonial or postcolonial. Such interventions are not always conducive to efficiency or equity, whereas market forces tend to circumvent any restrictions leading to inefficiency. Consequently, land has become a highly contentious issue. Thus, it is crucial to examine the status of land and ascertain whether customary land rights are insecure. However, tenure security should not be reduced to holding a piece of paper; instead, it encompasses a range of issues necessitating effective land resource governance. Some case studies from various African countries demonstrate that weak land governance systems result in insecure land rights (Ubink & Quan 2008; Deininger & Feder 2009). Notably, historical land tenure reforms pursued in SSA and Zambia since the 1960s can be classified into two categories: 1) classic land reforms aiming to address initial unequal land distribution by achieving a more egalitarian distribution, and 2) new wave land reforms altering tenure relations (Lipton, 2009). The classic land reform aimed to distribute land to the landless, while the new wave aimed to enhance land tenure security. The African Union Commission advocated land distribution to the landless poor as a means to stimulate broad-based economic growth. Reforms were implemented in countries such as Namibia, Malawi, South Africa, and Zambia. These reforms aimed to rectify historical land ownership inequalities, regressive land use policies, and align with legal land frameworks to strengthen land rights, enhance productivity, and ensure livelihoods. Achieving this required diverse tenure reforms to facilitate economic opportunities and livelihood security for all land users, offering land access to vulnerable groups, and implementing land redistribution programmes for the rural poor (AUC, 2011: 31). There has been an increasing recognition of traditional changes in land governance and reasons for change has been related to perceived threats of

confiscation and loss of rural tenure rights (Holden & Otsuka, 2014). To attempt to comprehend this paradox, Chu et al (2015) hypothesised that customary tenure arrangements could provide sufficient tenure security, even without formalisation, such that land reforms alone would not push up agricultural productivity any further.

Tenure rights are usually associated with tenancy reforms, with little alteration to existing land distribution (Adams & Howell, 2001; Lipton, 2009). However, during the 1970s and 1980s, a consensus emerged about formalising property rights by issuing documentary title deeds. The literature reviewed, such as Green & Norberg (2018), Jain et al. (2018) Munshifwa et al.(2020) also showed that documentation of rights is a response by traditional authorities to a number of land pressures. The ultimate effect is that traditional authorities have started re-thinking how best to administer land so that the interests of their people are protected. The idea was that formalisation would remove customary land rights from the realm of informal lineage land ownership, thus rendering land rights fully legal, formal, and individual; ‘precisely measuring claim boundaries, recording claims in a formal, state-administered land record system’ (Atwood, 1990: 659). Yet, Satge and Sommerville contend that the 2019 World Bank study offers a different perspective, suggesting that less than 10% of households possess a title, while 13% hold an informal or incomplete title, and 55% of those without a title aspire to acquire one and are willing to pay (Satge & Sommerville, 2022: 10). Additionally, the researchers found that 45% of those without titles "have no interest in formal documents." This suggests that customary land management arrangements effectively meet the needs of the majority and exhibit flexibility unmatched by formal deeds registry systems (Ali, D.A.K. Deininger, D. H. M. Hilhorst, F. Kakungu and Y. Yi, 2019). In essence, the historical legacy is defined by colonial rule, which established separate and discriminatory land tenure systems and administrative structures. This entrenched unequal land ownership, granted the colonial population disproportionate access to preferred agricultural lands. Consequently, the local population often found themselves relegated to marginal and unsustainable land holdings through various customary systems, further fragmenting land administration. This legacy of tenure fragmentation and inequality has proven remarkably persistent, continuing well beyond achieving independence. This inequity has persisted in the rights of historically disadvantaged individuals, including the urban and rural poor, despite tenure reform, redistribution,

and restitution programmes. The diverse history of tenure development and land dispossession in SSA/Southern Africa offers new avenues for understanding the colonial and post-colonial land reform trajectories of the countries in the region. Despite this diversity, SSA/Southern African countries have strived to varying extents to assert their sovereignty over land and natural resources (AUC-UNECA-AfDB Consortium 2010). Land reforms in the region can be categorised as either tenure or administrative reforms addressing tenure duality and informality, common to most countries, as discussed in this thesis, in the region. This applies to both urban and rural areas where customary tenure and statutory land holdings, including agricultural land, are unevenly distributed among the populace. The second significant reform initiative revolves around redistribution and restitution in countries that experienced minority rule. To varying degrees, countries such as Zambia, Malawi, and Namibia have adopted diverse land reform strategies to counter historical inequities regarding land rights. In particular, Malawi, Zambia, and Namibia have embarked on redistributive reform alongside administrative and tenure reforms (Bayer, 2021: 48). Hence, the central query pertains to how land tenure and land governance reforms impact rural individuals and smallholder farmers in Zambia. Furthermore, Daniel Bromley conducted a literature review on titling back in 2008 and deemed it 'the wrong prescription for the wrong malady' (Bromley 2008). He concludes that the impetus for formalisation stems from flawed inductive reasoning based on the discredited Washington Consensus, which asserts that "rich countries have formalised tenure; therefore, formalisation of tenure will help make you rich." Empirical research contradicts the notion that formalised tenure significantly stimulates agricultural investment and establishes a robust connection between "more secure" tenure and heightened productivity. Instead, formalisation erodes existing social networks and arrangements that offer security, with little guarantee of favourable outcomes (Bromley 2008: 20).

This pervasive failure of formalisation to enhance customary rights or livelihoods underscores the necessity for a critical analysis of the knowledge and truth framework in which they are advanced. This concern has been addressed in this thesis. Consequently, the earlier consensus on this matter has evolved into a more nuanced perspective. Some policy analysts (Lawry et al., 2017) no longer automatically assume that formalisation universally augments tenure security in the region, leading to

collateralised lending – the so-called 'Africa effect'. In instances where local landholders already perceived customary systems as offering high tenure security before formalisation, the measurable impact of tenure formalisation on tenure security is minimal (Lawry et al., 2017). Two principles emerge in land tenure policy within the context of growth and poverty reduction:

1. Tenure Security: Preserving livelihoods, ensuring social stability, and promoting sustainable land use hinge on the security of property rights, whether via titling or customary use. The ability to enforce these rights, either locally or nationally, is crucial.
2. Land Access and Transferability of Rights: Facilitating transferable land rights allows the landless to access land through sales and rental markets, or via public transfers, thereby encouraging investment (World Bank, 2020: 1).

These assumptions prompt empirical research inquiries: Does formal property ownership – a title deed or a state-issued lease – lead to higher security? This warrants analysis since certain title deeds may be valueless, generating confusion rather than security (Bruce & Migot-Adholla, 1993). Poor constitutional laws can disrupt good governance, resulting in displacement, land grabs, and conflicts, thus affirming a central argument in this thesis. Establishing secure and formalised rights entails significant political, legal, and social reform. Informally agreed upon and enforced property rights can indeed be highly secure. It is worth clarifying that secure property rights do not equate to full private ownership under specific economic conditions; property rights tend to become more individualised and formalised (Van den Brink et al., 2006). This shift is mirrored in land policy documents across most African countries, where emphasis since the early 2000s has shifted towards acknowledging diverse methods of securing tenure, as seen in the implementations in Mozambique, Botswana, and Namibia (Kaarhus & Dodeyne, 2015). In SSA, including Zambia, land reform followed the 'new wave' pattern, with land titling as a central component. Land titling involves establishing private property tenure rights, granting holders exclusive and inalienable entitlement to land (DeSoto, 1989). Similarly, land title entails a regime ensuring secure and clear property rights via formal title registration, enforced by the state concerning ownership and possession (Sengupta, 2020). Private ownership implies that the community acknowledges an owner's exclusive rights to

the land, excluding others from exercising the same. Developing countries mostly lack mapped and registered private land. Urban areas tend to have better mapping and registration than rural ones. Globally, only 24% of rural areas are mapped, including 46% in urban areas, and a similar percentage is registered – around 22%. SSA, however, has the lowest proportion of mapped land in the world – just 14% (Byamugisha & Dubosse, 2023: 2). Private property rights' establishment has been theorised as an evolutionary response to increasing land values as the population grows. Demsetz argues that individual land titles foster efficient and vibrant land markets (Demsetz, 1967). The capacity to freely alienate land and use it as collateral for credit is simpler and communal property rights are deemed less desirable. Communal ownership implies that all community members can exercise the right. This thesis concurs and posits that 'access in land' inquiries spotlight instances where influential individuals effectively limit others' access, even for those with property. Therefore, the analysis must question land appropriation, accumulation, transfer, and distribution. It must scrutinise dynamic social, political, and economic relationships to discern resource beneficiaries and those excluded (Narh et al., 2016).

Historical studies debunk the idea that communal ownership is merely an archaic holdover, showcasing that rural villagers are well-acquainted with the benefits of both private and communal tenure systems. They carefully align types of land tenure with specific land uses (Netting 1976: 140). This thesis supports attributing land-use patterns to the differences between communal and individual land tenure, associating each with particular types of land use. Communal tenure promotes general access and optimal production of certain resources while encouraging the entire community to protect these resources (Netting, 1976: 140). Consequently, the literature on the 'classic' redistributive land reform remains relevant for some impoverished agrarian SSA economies marked by skewed land distribution, rising landlessness, and unemployment. Secure access to sufficient land significantly boosts livelihoods in such contexts. Moreover, 'classic' redistributive models address shifts in individual or household perceptions of land tenure security, influenced by policy intervention, encroachment or expropriation experiences, and information about others' exposure to similar situations. Identifying time-varying measures of tenure security is vital for better understanding its impact on food security while accounting for unobservable individual or household factors (Thiesenhusen, 1995).

Recent attention has centred on analysing and establishing land tenure security in SSA, moving beyond mere land parcel registration to encompass policy, administrative, and regulatory actions. These include sensitisation, awareness, and education campaigns; engagement of opinion leaders, including cultural and religious figures; training of field staff; boundary surveying, mapping, and digitisation; and registering and distributing land rights documents (Byamugisha & Dubosse, 2023). Furthermore, academic discourse on SSA underscores that evaluating the effectiveness of these land reforms demands a deeper analysis, extending beyond generalisations about the necessity and impact of questions to scrutinise state authority nature and interventions enhancing rural production (Holden & Ghebru, 2016: 22). How countries define property rights, whether private, public, state-held, or permit citizen property ownership, like private ownership and leaseholds, and how they defend these rights through the rule of law or administrative procedures, significantly shapes globalisation processes, national economic growth, and democratic society development. Property rights play a critical role in economic growth, nation-building, governance, and political stability (Bruce, 2009).

2.3 COMPARATIVE OVERVIEWS OF LAND REFORM IN SELECTED SSA COUNTRIES

Before the 1990s, the majority of African countries, Zambia included, refrained from interfering with customary land administration and made minimal changes to both institutional frameworks and traditional practices. The shift began in the 1990s when pressure from donors and development agencies propelled the land tenure reform agenda. In response, numerous African nations, including Zambia, embarked on drafting land policies and amending existing land laws. This era, known as the 1990s, stands out as a period of land policy reform in independent Africa (Cousins & Claassens, 2008: 225).

Land tenure reforms marked a fundamental transformation of the land tenure system. Across SSA and Zambia, land holdings have remained significantly skewed between the affluent and the impoverished, with discriminatory land tenure systems reflecting colonial-era and post-independence land and agricultural policies. Moyo posited that within SSA countries, Zambia included, the land issue manifests through contradictory trends involving irrational land use patterns. This encompasses over-

utilisation in communal lands and under-utilisation in commercial farming areas (Moyo, 2000). Although evidence indicates resilience and sophistication in many traditional land use practices, the resource rights of rural populations often receive variable and limited legal protection. This includes jurisdictions where legislation or even constitutions formally acknowledge such rights. For instance, many land laws condition protection on demonstrating "productive use," wherein skewed productivity notions undermine the resource claims of shifting cultivators and pastoralists (Cotula, 2019). The analysis of land reforms varies from one country to another, yet these reforms are frequently prompted by social, political, economic, and ideological factors. These encompass the need for equitable land distribution, enhanced land productivity to address food supply requirements, poverty alleviation, garnering rural support, promoting environmental sustainability, and bolstering political and social stability. External pressures, including donor influence, have also driven land reforms in African countries, including Zambia, since 1990 (Chitonge, 2021: 9).

During the 1990s, both the Tanzanian and Zambian governments faced pressure to enact land legislation that adhered to conditions outlined in donor-led structural adjustment packages or broader reforms. The focal point of land policy became integral to Zambia's structural adjustment programme under the guidance of the World Bank, forming the present legal framework for land governance in the country (Palmer, 2000). While most countries initiated land policy reforms over two decades ago, some, like Zambia, are still in the process of formulating such policies. This is unsurprising given the contentious nature of land reform. In SSA and Zambia, land reform has constituted a significant process that has been rapidly unfolding on ever-shifting terrain. Land reform is a prolonged endeavour aimed at enhancing agricultural production. To be effective, land use options within reform programmes must consider not only social and economic viability but also environmental sustainability. Unfortunately, the environmental dimension of land reform is often inadequately conceptualised, despite being crucial to sustainable land use. Various indications point to the challenge faced by land reforms, which is to redistribute land and reform tenure rights to ensure both productivity and the ecological sustainability of rural economies, since secure land and resource rights are central to the substantial and effective roles that local communities play in conserving ecosystems and habitats around the world (Khama & Seleka, 2016: 26; Larson & Springer, 2016: 13). This

form of land reform typically arises in contexts with tenure risks, such as insecure property rights, encroachment, land grabbing by private entities, and state-driven expropriation and redistribution of land (Holden & Ghebru, 2016: 21). Evidence on communal land holding holds allure for several reasons. The possession of land can significantly determine an individual's productive capacity and ability to invest, especially within agrarian economies where land stands as a pivotal asset in many of these nations (Byamugisha, 2014: 2).

Within SSA and Zambia, customary land law emerges from traditions, governed by local rules, and often exists in unwritten form. Despite these debates on what constitutes customary tenure, one of its major distinguishing characteristics is that rights on this land are mostly unwritten and fluid (Cotula et al, 2007; Akuffo, 2009; Wily, 2011). Nonetheless, it plays a substantial role in the allocation and defence of land rights. Additionally, customary tenure systems and rural communities still wield a prominent role within the new land reform policy. This dynamic demands that the state possesses incentives to respond (Platteau, 1996). Several studies have aimed to elucidate that customary laws concerning land ownership and inheritance have been assimilated into formal legal systems, with applicable and reasonably understood rules. Despite the de facto importance of customary rules in shaping local property relations, these rules are ambiguously recognised within formal land law globally. Often, holders of customary rights and formal title holders find themselves in conflict over the same land. This competition consequently impacts agriculture and local livelihoods. Notably, evidence suggests that incidents of land disputes and land grabbing by more influential parties increase as the potential benefits from land rise (Baron, 1978; Feeny, 1982).

The land reforms observed in SSA and Zambia involved the nationalisation of land, considering it a crucial component of their independence. Several nations vested land rights in the state or the president. Nationalisation of land empowered the state with greater authority over traditionally chief-administered land. This approach also facilitated land appropriation for developmental purposes, with the belief that the state was best equipped to manage and facilitate equitable land distribution (Quan, 2000: 9). Land owned by the state is equivalent to nationalised land. From the 1960s to the 1980s, land reform diminished or failed, as the inequalities in land ownership and

landlessness persisted at an unacceptable level. Literature on asset distribution has seldom been applied in studies. During the 1990s and 2000s, numerous SSA countries shifted their focus on land reforms towards individualisation of tenure (Ali et al., 2014: 1). As previously discussed in this chapter, this shift marked a departure for many SSA countries, including Zambia. Zambia had previously pursued rigorous nationalisation to rectify colonial and post-independence disparities in land ownership and regressive land-use policies. Zambia and Tanzania vested land in the state, disregarding a 1967 Land Commission recommendation to recognise the individualization of tenure and to release lands under customary tenure for development (Noronha, 1985: 122).

In SSA and Zambia, there has been a gradual shift towards individual land ownership. Even in cases of existing communal ownership, cultivation and possession have predominantly been carried out by individual households, leading to an increasing array of land rights held within households. The practice of land sales and mortgaging by individuals is prevalent in various areas, even when such transactions lack legal recognition. Contemporary discussions on land reforms advocate for the recognition of individual land rights in a manner that guarantees adequate security. What is necessitated is a meticulous analysis of the benefits (Feder & Noronha, 1987). While some studies do exist, many of them lack national representativeness and suffer from geographical limitations. These limitations provide strong grounds for exercising caution when attempting to generalise their findings. Ideally, studies employing randomised treatments across different contexts can illuminate the underlying mechanisms of change resulting from treatments related to land accessibility or tenure security, and how they translate into effects such as improved rural livelihoods and food security (Ghebru, 2016: 21).

In the decades following the independence of numerous SSA countries, including Zambia, a notable transformation took place in land reforms - moving from nationalisation towards privatisation (Toulmin, 2000: 33). Indeed, land privatisation emerged as the primary objective of land reform in countries such as Tanzania, Mozambique, Malawi, Zambia, Botswana, and Namibia. These efforts were driven by economic adjustment policies enforced by the IMF and World Bank, aiming to allow market forces to dictate the efficient allocation and utilisation of land (Izumi, 1999:

9). The land policies championed between 1969 and the early 1980s were all premised on the notion that customary systems failed to provide the necessary security to ensure agricultural investment and productive land use (Bassett, 1993: 11). The absence of clearly defined and enforceable property rights was believed to impede agricultural investment. The argument posited that communal tenure unduly privileges group rights over individual rights, resulting in tenure insecurity for individual land users. This, in turn, acts as a disincentive for the investments crucial for increasing land productivity and efficiency, which forms the bedrock for agricultural development and broader social progress.

Despite land reform persisting as a primary policy objective and an area of interdisciplinary research (Peters, 2009: 1322), certain research has exposed escalating competition over land, novel forms of land transfers, contentions of identity or autochthony in land disputes, the convergence of land competition with legitimate authority, escalating social inequality, and the commodification of land within the context of land reform considerations. The emerging era of 'land question' solutions has revolved around property rights reform, aimed at transforming rural land into commodities within state-sanctioned, legally formal land markets. Simultaneously, efforts have been made to establish commercial rural credit markets that facilitate the mobilisation of land value for investment and production. In contrast, land distribution is comparatively more straightforward to attain. Nonetheless, it should be noted that aggregate measurements of land distribution often fail to account for land improvements and seldom accurately encompass land held under communal tenure arrangements, such as those prevalent in SSA where population density remains relatively low - and where land typically holds scarcity value (Deininger et al., 1998). Irrespective of the chosen approach to land redistribution, improved land markets could contribute to enhancing the effectiveness, speed, and cost-efficiency of the land reform process (Van den Brink, 2006: 43).

By the 1990s, land policies in SSA, including Zambia, emerged as a development priority to address poverty reduction. This shift towards prioritising poverty alleviation in development policies paradoxically reignited past debates regarding the necessity and advisability of formalising land tenure, the respective roles of the state, market, and community in land reform, and the place of land tenure reform

and sound land governance within the broader development processes. This reiterates why:

the thesis revealed continued and widespread mounting competition and conflict over land and the proliferation of transfers of land; this, in turn, revealed the individualisation of claims, 'informal formalisation, 'and the increasing commodification of land. The analysis of these research results led to different assessments of the potential for land reforms to reduce poverty and promote economic development (Peters, 2009: 1317-19).

These measures informed policy recommendations regarding the significance of land ownership within the national development programme for poverty reduction, as well as policy suggestions on enhancing land governance (Pitoro, 2016). Concerning Zambia, the prevailing view suggests that the Ministry of Lands and Natural Resources poorly manages hard copy files, resulting in subpar data management. This, in turn, leads to the mismanagement of land in rural areas, leading to land depletion, overexploitation, degradation, and ultimately, destruction. During this era, the trend in land reform leaned towards the privatisation of state-owned land. This often entailed the issuance of individual titles and facilitated 'shades' of formalisation and security of customary tenure, emerging from the mere registration of rights to dispensations that acknowledged customary tenure as property. This pattern can be observed in the land reform efforts of countries such as South Africa, Tanzania, and Zambia. Notably, between 1990 and 2017, 32 new land laws were enacted across SSA, focusing on reforming rights related to customary lands and transitioning them to state-owned land. For instance, the 1995 Land Act in Zambia, Mozambique's 1997 Land Law, DUAT, Tanzania's 2004 Land Use Planning Act, and Kenya's 2016 Community Land Act (Byamugisha, 2014: 4-17).

These land reforms have often extended state authority into domains where it had previously exerted limited influence, yielding positive tangible outcomes (Chimhowu, 2019: 899-900). For example, the evaluation of Rwanda confirmed the positive impact of land registration programs on investment and productivity (Byamugisha, 2014: 4-17). Wily's analysis of 47 African countries illustrated that in 30 of these nations, such land reforms resulted in better protection of rights through formalisation (Wily, 2017). However, these land reforms tended to underscore the benefits of land ownership privatisation while largely sidestepping discussions around

land governance. In SSA countries, including South Africa and Zambia, legal authority over customary lands is vested in the head of state, who then delegates this authority to tribal chiefs. Subsequently, these chiefs further delegate legal authority over lands to self-governing units, which can be individuals or collectives. It is widely acknowledged that formal recognition of an individual's right to occupy and utilise a piece of land can contribute to improved welfare conditions. Simultaneously, these countries continue to recognise customary tenure by integrating and standardising their practices within statutory law. The experience of these countries in scaling up land rights offers valuable lessons for other SSA nations striving to secure people's land rights. The pivotal factor in securing land rights on a larger scale lies in political commitment, achieved through adaptable legal and spatial frameworks tailored to land registration's purpose. The reformation of the socialist economic system significantly facilitated securing land rights by redeveloping the legal framework to address a multitude of reforms aimed at establishing a market-based mixed economy (Byamugisha, 2014: 4-17).

The concept of individualisation denotes a reduction in community controls over land use and distribution, thereby elevating the rights of individual landholders/farmers (Bruce, 1986:52). This objective aligns with the current Sustainable Development Goals, SDGs. Nonetheless, the transition from communal to individualised, privatised, or market-driven land tenure systems has generated questions. This issue constitutes an increasingly significant aspect of the discourse on sustainable development in SSA (Quisumbing et al., 1999; Stein & Cunningham, 2015; ADB: 7).

In the context of the SDGs, significant efforts have been made to recognise the association between formalisation and tenure security. Progress in both these aspects is inherently tied to the achievement of the first SDG: 'eradicating poverty in all its forms, everywhere' (United Nations, 2015). Land formalisation involves the process of regulatory acknowledgement of various forms of tenure. Tenure security, on the other hand, is a conditional state, hinging more on how it is implemented and the presence of effective rights, be they de facto or de jure, that society will uphold (Diop et al., 2021: 228). It is also acknowledged that reforms should extend towards marginalised individuals, groups, or vulnerable populations, focusing on access,

ownership, and control of land and other forms of property (AFDB, 2016: 8). Notably, the trend towards private land ownership in SSA does not necessarily equate to transforming communal land into individual property. Critics argue that privatisation processes exacerbate the challenges faced by marginalised groups in accessing and controlling land and resources, thereby hindering their full benefit. Women and rural communities constitute the largest groups affected by these issues, as they face difficulties deriving benefits from the shift towards privatised land tenure systems. Rural poverty remains pervasive in both land-rich and land-scarce SSA countries, including Zambia. The unequal access and distribution of land ownership and cultivation rights remain fundamental characteristics of many impoverished countries in SSA, where a substantial portion of the population resides in rural areas, reliant on agriculture for their livelihoods. Furthermore, factors such as population growth, concentration, land degradation, and the emergence of land markets in densely populated nations have driven land reforms aimed at fostering more effective and sustainable land management (Deininger et al., 2013: 2-308). There are arguments that these challenges, among others, underscore the necessity for governments in SSA and Zambia to facilitate land tenure reform, to ensure the advantages of land rights and tenure security. This involves facilitating smooth land transfers, mitigating risks of appropriation, and establishing a functional land market to foster land-based investments (Otsuka et al., 2009; Lawry et al., 2014). Furthermore, sustainable rural land policies must be carefully tailored to prevent exacerbating inequality and poverty (Mufune, 1995: 38). In practice, the concept of access to land implies the ability of an individual to utilise the land. Access rights do not inherently encompass ownership or possession. Land control refers to an individual's authority over a specific parcel of land and the benefits derived from it. This right is founded on recognised possession, whether customary or formal, temporary or permanent (Lastarria-Cornhiel, 1997: 1317-19).

Another illustration is how certain groups, particularly women, interact with land differently, often possessing secondary rights to communal property resources (IIED, 1999). Women, who constitute the primary subsistence producers, are often excluded from land ownership due to customary laws and constitute a significant portion of the rural poor (Byamugisha, 2013: 2). The sustainability and poverty alleviation of these small-scale local producers necessitate focused attention (IIED,

1999). As a result, this thesis scrutinises alternative livelihood strategies for women, youth, and displaced populations. Nonetheless, it is contended that within SSA countries, including Zambia, the customary institution is under strain, and where rules and norms governing land have eroded, tenure security, facilitated by formalisation, does make a difference (Rasselle et al., 2002). Within such a context, formalisation permits individuals to invest, as they recognise the guarantee of usage rights. It is also proposed that titling enhances investment (Jayne et al., 2016 work on Zambia). While the recognition of customary rights as property does alter the nature and form of investment under customary tenure, this influence is more pronounced in areas where customary tenure norms have eroded (Deininger & Jin, 2006).

Modest gains have been attributed to the existing context, particularly that prevalent secure customary land tenure before formalisation; formalisation mainly amplifies weaker productivity. The operational environment has been inadequate to foster a robust response in terms of investment and productivity. Overall, these prevalent socio-economic assessments indicate that the documentation of land rights significantly benefits investment and productivity, but the context and complementary factors remain influential (Byamugisha, 2021: 1). Moreover, the prevailing social inequality tied to 'landlessness' points to poor land governance and the definitions and administration of land rights as the underlying causes. It is possible to correlate disparities in land ownership and landlessness in SSA and Zambia. A region endowed with abundant agricultural land and natural resources still largely grapples with poverty and struggles to translate its growth into poverty reduction. A noticeable disjunction exists between abundant land and development, as the countries with the highest poverty rates exhibit the greatest productivity disparities (Deininger et al., 2011; African Development Bank, 2020: 208).

Since the 1980s, both SSA countries and Zambia have piloted innovative approaches to land tenure systems, indirectly aiming to improve land governance by empowering marginalised groups and fostering economic growth. Many countries have either instituted legislation or initiated projects to address communal land rights and gender equality as cornerstones of sound land administration (Byamugisha, 2013: 2). Framing governance through the lens of gender equality entails recognising the common assumption that governance is inherently gender-neutral. Bridging this governance

gap requires evaluating measures to promote gender equality supported by adequate funding and systematically monitoring advancements in reducing gender discrimination. In principle, new governance models should offer women multiple avenues for engaging in policymaking (Lima, 2021: 9). From the 1990s onward, numerous land policies have proliferated across SSA countries such as Tanzania, South Africa, Malawi, and Mozambique, forming a representative sample. These policies emerged within the context of the 'new' approaches championed in development discourse to situate land reforms within broader 'good governance' initiatives intended to bolster the growth of the market economy in SSA (Toulmin & Quan, 2000). For instance, a 2011 World Bank report titled "Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits" highlighted the escalating trend of foreign investment in farmland.

Can it yield Sustainable and Equitable Benefits as a centrepiece to this transition? acknowledging the polarisation, highlighting opportunities presented by the new wave of investment, and centring tenure security and land governance as the crucial elements on which these opportunities rested: When done right, larger-scale farming can provide opportunities for poor countries with large agricultural sectors and ample endowments of land. To make the most of these opportunities, however, countries will need to better secure local land rights and improve governance. (Deininger et al., 2011: xv).

Simultaneously, this shift facilitated the perspective of land governance as the new focal point for policymakers, centring on the establishment of 'land administration systems' that delineate land control and access. These systems represent formal governance structures that define and enforce property rights. They respond to concerns arising from population growth, increased land investment, rapid urbanisation, and the pursuit of enhanced land productivity. The process of instituting these systems often involves restructuring or reorganising land rights and relationships among individuals (Manji, 2006).

Restructuring customary tenure can provide tenure security that attracts both local and international investors. This renders 'land' more accessible and predictable to local investors and better aligned with the dynamics of economic globalisation (Sara & Zevenbergen, 2019). Nonetheless, contractually safeguarded titles stand as a pivotal institution for capitalist growth, enabling markets to leverage their investment

value (Deininger & Binswanger 1999; World Bank 2003). Market forces facilitated the redistribution of state lands, with the state also providing credits to individuals and farmer's cooperatives, thereby fostering private property ownership (Adam, 2000: 1). Previous empirical studies have illustrated that market-driven land redistribution can contribute to economic development and poverty reduction. This can lead to the establishment of larger, more efficient farms, rendering credit more affordable and hastening returns on investment (Byamugisha, 2014: 4). The prevailing consensus is that customary land practices do not naturally evolve into private property arrangements nor sufficiently safeguard the land rights of marginalised community members (Fitzpatrick, 2006; Demsetz, 1967). Thus, this form of administrative-level land reform strives to liberalise land tenure and stimulate the creation of land markets. Additionally, the appropriate structuring of property rights is regarded as pivotal in establishing and sustaining socially just, equitable, and legitimate land practices, as well as facilitating land investment (Narh et al., 2016: 2-4). Moreover, land reform through land legislation—particularly the establishment of land administration systems—is explicitly intended to directly redistribute land ownership. As such, theorists suggest that this should encompass securing tenure rights for individual and public lands, redistributing land possession to include the impoverished majority, enhancing land governance, and promoting transparency. These systems also serve as pathways for accessing land as a means to escape poverty. The literature, including works like de Janvry & Sadoulet, 2001, contends that there is substantial evidence that improving access to land effectively aids rural households in generating higher incomes. Expanded access to land for the poor can contribute to reductions in food insecurity, poverty, and inequality. It is noteworthy that the most economically disadvantaged in agrarian economies are often those without land or with limited land access (Holden & Ghebru, 2016: 27). Increased land access mitigates these challenges by enabling the poor to engage in agricultural production (Simtowe et al., 2013: 106), making it a crucial determinant of household welfare in economies where off-farm employment opportunities are scarce. Consequently, land distribution can function as a policy instrument within a land administration system in such economies, enhancing or altering the distribution of welfare by facilitating land transfers. Much of the land in SSA is legally designated as 'state land,' even when it has long been occupied by local communities. This often leads to conflicts when the land is transferred to investors without first assessing or compensating existing use rights (Holden Stein et al., 2013:

20). New legal provisions emerged in the 1990s to counter corruption and mismanagement in such land transfers, ensuring community benefits. Notably, a recent study in 61 countries by FAO and Transparency International underscores the increased susceptibility to corruption in land administration due to weak governance (World Bank, 2013: 47- 48). Qualitative research generally supports the argument that tenure insecurity discourages investment; the incentive diminishes when future benefits are uncertain (Maxwell & Wiebe, 1999; Deininger & Feder, 1998). Consequently, offering investment incentives and facilitating the transition of land from one use to another, optimising its utility, is pivotal for land tenure change. This is particularly critical as it can drive efficient land use and serve as a barrier to achieving optimal resource utilisation.

Irrespective of the degree of formality or informality characterising the transactions, concerns have persisted regarding the effectiveness of legal safeguards for individuals exercising customary rights on land designated for alienation (Sitko, & Chamberlin, 2015). Those holding land rights are obligated to be consulted and provide consent for any proposed land conversion that affects their rights. Governments have emerged as significant participants in the global land grab phenomenon, often perceiving their role more as facilitators of land deals rather than as principal parties in such transactions (Cotula, 2019). Moreover, the media has highlighted instances of land grabs in Zambia, where substantial land areas are being made available to investors for transfer to the public domain in the guise of promoting investment for economic development and poverty alleviation (German et al., 2011: 29). There is compelling evidence indicating that the conversion procedures enabled by the Zambian Land Act of 1995 have provided certain Chiefs with opportunities to collaborate with corrupt local council members and government officials in converting customary land for personal financial gain. The prevailing view is that corruption in land planning and allocation is widespread (Mushinge, 2020). Furthermore, there is an imperative for readily accessible and comprehensive information concerning property rights. Such information should be widely disseminated cost-effectively. This should facilitate the low-cost registration of transfers among private parties, encompassing pertinent contractual specifics. Additionally, as highlighted by Satge and Sommerville:

Since the promulgation of the 1995 Land Act, which enabled land to be converted to state leasehold, a substantial but unknown parcel or portion of customary land has been gradually converted to statutory (state) tenure both by individuals and the state, according to one study referencing the relative parcel or proportions of state and customary land at independence, the state land comprised 4.5 million ha or 6% of the landmass, while customary (traditional) land accounted for the remainder (93.9%), this was made of reserve land which is amounting to 27,2 million ha, or 36.2% of the total, and Trust land amounting to 43,3 million ha or 57.7% of the total (Satge & Sommerville, 2022; see also Tembo et al., 2018; Adam, 2003: 5).

This situation gives rise to other issues that are tackled by land administration systems. Addressing land tenure insecurity and registering customary land rights necessitates an intensified evaluation of implementation experiences, as well as the generation and assimilation of lessons that can aid in effectively addressing these challenges (Byamugisha, 2020: 18). The creation of a new demand entails clarifying the relationship between statutory law, customary land rights, and investor rights.

Merely 10% of rural land in SSA is registered and officially acknowledged by governments (RRI, 2018). The remainder is undocumented, managed informally, and susceptible to land-grabbing and expropriation without proper compensation, particularly affecting women and rural communities (Byamugisha et al., 2013: 2). Several influential studies have revealed that despite endeavours to enhance land governance, land grabs have resulted in investors acquiring millions of hectares. Poor governance has led to violations of the principles of responsible agro-investment and has resulted in the dispossession of local communities (Deininger et al., 2011; Cotula et al., 2009). Additionally, population growth intensifies pressure on land access and can precipitate conflicts (Uganda & Lakwo, 2014: 116). Notable studies have provided empirical confirmation that effective land management is crucial for conflict mitigation in such scenarios. Countries like Malawi and Tanzania, often with backing from prominent development partners like the World Bank, have also executed land reforms and agrarian development initiatives. These programmes have aimed to support poverty reduction and economic growth policies and address disparities in land access stemming from the colonial era. Nonetheless, rapidly growing economies and tumultuous political trajectories have eroded these gains and constrained equitable land access. Their current land reforms pivot towards addressing these weaknesses by

focusing on the potential of rural populations to transform agriculture (Narh et al., 2016: 2).

Taking all this evidence into consideration, it appears that SSA's experience with market-based reform has highlighted altered production relations, thereby necessitating an adjusted structure of land ownership. Agricultural land has transitioned to larger land holdings or ownership as a means of achieving greater equity and a more productive mode of land use. In Zambia, a considerable number of individuals who capitalised on national titling programmes were urban professionals seeking to invest in rural land (Chitongo et al., 2017). It is important to note, however, that an improved land policy framework is suggested to consist of at least three options for land acquisition: compulsory acquisition, market-assisted or community-driven land acquisition, and negotiated transfer. All these methods necessitate the subdivision of smaller land parcels. Contemporary land reform in SSA is inclined towards market-based models, yet few rigorous impact studies of such market-assisted land redistributive reforms exist. This analysis implies that this model holds the potential to resolve some of the tenure reform controversies (Binswanger et al., 2009), and underscores that criticisms of state-led land reform are unfounded when it comes to financing market-based land reform. The analysis acknowledges the underlying social and economic factors of land issues, including the impacts of colonialism on land laws and "disadvantaged rural people."

The studies presented thus far offer evidence that the reforms introduced in the respective SSA and Southern African countries represent a genuine effort to address and implement much-needed reforms that offer tenure security to both urban and rural impoverished populations. Customary tenure and authority prevail in all countries in the region and have proven to be remarkably enduring. Freehold tenure dominates in South Africa, Namibia, and, to a lesser extent, Botswana. State landholding holds significant importance across all countries and significantly impacts land reform efforts and land ownership patterns (Bayer, 2021: 61). Importantly, both SSA countries and Zambia possess agrarian land resources that are pivotal to community livelihoods and state economic development. Hence, conventional theories of individual land ownership, titling, and registration presuppose an active role of the State in substituting indigenous land tenure with individualised land tenure (Falloux,

1987; Izumi, 1999: 10). Some studies (Toulmin et al 2002; Adams 2003; Cousins et al.,2005; Chimhowu & Woodhouse, 2006; Bromley,2008; Lawry et al.,2014) argue that rights do not necessarily need to be fully private and titled to achieve these benefits hence the increasing support and interest for customary rights in Zambia. In the context of SSA and Zambia, a pragmatic approach to agrarian land reform is essential. Such an approach should not merely perceive customary land as a problem but should acknowledge it as part of the solution. An illustration of this contextual approach can be seen in Malawi's 1999 land commission report, which elucidated the impact of shifting land policies on social structure. The commission discerned that existing policies and legislation were conflicting and lacked the inter-sectoral linkages necessary for the land sector to effectively contribute to economic development (Government of Malawi, 1999a: 129). The foundation for this situation was Malawi's Land Act of 1965, which established a comprehensive legal framework for land use and tenure and redefined colonial land ownership as public, private, and customary. Furthermore, they deduced that poor access to land, improper land use, and insecurity were primary constraints hindering the efficient utilisation of land (Government of Malawi, 1999a: 134). The absence of regulations governing the governance and security of customary land tenure has led to the underutilisation of such lands, impeding social and economic development. This issue is mirrored in Zambia, where only 14% of agricultural land is effectively utilised (Statge & Sommerville, 2022). Additionally, prior land reform efforts in Malawi failed to achieve the economic and social credibility needed to stimulate the anticipated market responses in land markets aimed at fostering national development. Driven by the assumption that customary land was inherently insecure, the post-Independence government sought to privatise customary land by introducing some form of freehold tenure to promote agricultural growth. Acts such as the Customary Land Development Act and the Local Boards Act were enacted for this purpose (Fanrpan, 2006). Consequently, the commission led to the creation of 'a comprehensive land law with immense economic and social significance' (NLP,2002: 8). These new laws established a robust institutional framework for democratising land management, introduced protocols to safeguard land tenure rights, land-based investments, and developmental oversight across all levels (NLP, 2002: 8).

The evidence assessed here suggests the need for a deeper analysis of approaches aimed at alleviating rural agricultural poverty while enhancing equitable, sustainable land governance in SSA. Consequently, an examination of customary land tenure practices or concerns underscores the importance of acknowledging these practices within statutory land frameworks (Odhiambo, 2006: 17). In conclusion, there appears to be substantial evidence indicating that the major shifts in land policy since the 1990s have centred on formalising customary land as a means to stimulate economic development. Equally, literature is now aware of the fact that customary land administration structures are changing in most of Sub-Saharan Africa. The relevance of land governance is largely dependent on the local institutions, even without direct state interaction. Contemporary land policies accentuate the significance of effective land governance. To comprehensively appreciate the legitimacy of land rights associated with market-based global standards addressing responsible land investment, these land rights must possess de jure legal recognition by the government. This argument is coherent with the thesis that global standards gain traction in safeguarding local land rights during investment in land tenure regimes where these rights are at least de jure recognised and are incorporated into the country's formal legal structure. Nonetheless, it is typical for land rights to be recognised in principle within a country's legal framework, yet they may still exist in a 'compromised' and uncontested state, leading to a lack of practical recognition by the government (Dieterle, 2021: 585). Protecting legitimate land rights in unclear, ambiguous, and legally excluded claims is challenging as communities fight to protect customary land rights that are often unrecognised. To further integrate this understanding from literature reviewed, titled '*Land Tenure Security and Sustainable Development: An Urgent need to Expand the Breadth and Depth of Studies on Land Tenure Security Impacts*' (2022), which reaffirm that there is need to evaluate how policies aiming to strengthen tenure security may lead to strengthened uneven distributional impacts across contexts and different groups of people, women, and traditional local communities and these groups may have less political and economic power to engage in processes that secure their land right; with the understanding that policy implementation is needed because land tenure security policies can be complex' (Masuda et al., 2022: 318). This research prioritises valuable contributions to advance the analysis of the Zambian case intellectually and in practice.

CHAPTER 3: THEORETICAL AND CONCEPTUAL FRAMEWORK

3.1 INTRODUCTION

This chapter provides a comprehensive overview of the intricacies surrounding 'commons' or customary land tenure, land administration systems, and land governance, as well as the interplay of state and non-state actors responsible for rural land administration in Zambia. The thesis adopts the Institutional Analysis and Development (IAD) theoretical framework composed in 1990, which has undergone refinements over time, encompassing the commons and polycentric governance approaches. The chapter explores the IAD theoretical framework, offers an insight into Elinor Ostrom's Polycentric Theory, expounds on the key assumptions of Polycentric Governance Theory (Local Action), and deliberates on the constraints of the Polycentric Governance Approach, visits the IAD framework. Also, the chapter scrutinises *The Commons and Customary Land and Law: Rethinking the Orthodoxies* by providing a clear understanding of customary land tenure and its dynamics. The chapter culminates with, encapsulating the concluding thoughts of the theoretical and conceptual approach.

3.1.1 Theoretical and Conceptual Approach

This section employs a blend of theoretical and empirical insights about the commons and the customary law perspective. It delves into the landscape of land rights in a social context, acknowledging the evolving nature of land systems. Central to this exploration is the concept of the commons, as well as pertinent notions such as land tenure, customary governance, collective tenure, decision-making dynamics, and instances of conflict within the commons. The term 'commons' encapsulates areas considered collectively owned by the community. Among indigenous peoples and certain communities, the practice of communal ownership of all lands is common, particularly in contexts like hunter-gatherer societies or those engaged in transhumance, and seasonal livestock migration. Nevertheless, some communities

might not apply communal land use across the board. In such cases, distinct family units may possess specific segments of the land, while the community itself might differentiate between lands allocated for permanent residence and agriculture, and those retained as shared communal property – commonly referred to as commons or common property. Areas designated for grazing, wildlife, forests, woodlands, lakes, and streams within the community's land domain are often preserved as collective commons, granting all members usage rights. Moreover, the concept of common property entails resources shared without a sole decision-maker. This concept is further divided into two categories: open access, where exclusion is impractical, and group access, in which a limited number of community members can exclude outsiders but not each other (Heller, 2020: 66).

In her work *Governing the Commons* (Ostrom 1990) and numerous other publications, Ostrom draws upon global examples to illustrate how resource-dependent local communities can collaboratively establish, uphold, modify, and enforce rules governing resource usage. This collaboration allows for the sustainable management of resources over extended periods. These rules typically outline resource extraction quotas, timing, and contributions for maintaining essential infrastructure. Resource users collectively assume the role of stewards, converting common resources into shared property (McGinnis et al., 2019: 51). This context contributes to the identification of institutional dynamism within customary areas, shedding light on emerging patterns of land commodification and associated institutional transformations. In essence, this chapter sets the stage for comprehending the nuanced dimensions of customary land governance, engaging with the interplay of both established and evolving institutional frameworks. Through a lens of theoretical frameworks and practical insights, a deeper understanding of the dynamic landscape of rural land administration in Zambia comes to the fore.

Customary tenure refers to community-based property ownership and management structures deeply rooted in local customs and traditions, often with origins dating back several centuries. Customary law encompasses the rules observed by a community. While the term 'customary' might not be used consistently, it's essential to note that many countries reference customary tenure and customary law in their constitutions. Customary governance entails communities deciding on the

allocation of rights within their area and upholding these rights through community-based mechanisms. These mechanisms can be traditional, such as vesting land authority in chief or council of elders, or modern, like an elected land committee, village council, or community assembly, sometimes integrated into the norms of an official community-level local government (Bruce, 1998). These communities adhere to land rules shared by ethnic groups or tribes, which often vary in size, identity, internal equity, and land use practices. These communities might divide land rights and maintain similar practices across regions and continents. However, rules relating to community lands, especially in African contexts, share several similarities:

- 1) They have strong connections to specific areas or territories, considering these domains under their ownership and control based on custom.
- 2) They establish and apply rules and mechanisms for distributing and governing land rights, which evolve along with the mechanisms; e.g., transitioning from autocratic chiefs to committees.
- 3) The system is characterised by collective tenure and decision-making. Typically, part or all of the community land is commonly owned by community members, to which rights are distributed.

Sometimes, community lands are entirely subdivided into family lands, over which the community exercises authority, determining how family rights are recognised, held, used, and transferred (Wily et al., 2016: 2). This framework utilises a standardised set of research questions applicable across diverse contexts. It effectively concludes the significance and interactions of various factors that impact the management of natural resources, such as land, derives information from structured case studies, employs established theories and models to describe common scenarios, tests theories, and employs statistical methods to identify regularities across cases (Ostrom, 2007: 1581-82). This framework is underpinned by concepts facilitating commons analysis and systematically enables documentation of findings.

In analysing a complex governance system where multiple users collectively decide on the use and management of a shared resource, a framework is needed to identify factors affecting members' willingness to contribute over extended periods, potentially spanning generations. This is a complex task, considering contextual

factors like demographic shifts, economic challenges, and political upheavals. In the model presented in this study, the commons governance regime is divided into three components: resources, users, and institutions. This division is justified by De Moor's assertion that commons are governance regimes where a group collectively holds property and decides on resource usage, ensuring reciprocity and benefits for all members (2019: 324). Continuous practice, results in the formation of a common-pool institution, crucial for developing and adapting rules to changing environments. A collective of entitled users participates in utilising benefits and designing the institution to regulate access, management, and governance.

Prominent advocates of the IAD framework view Ostrom's analysis of common property as pivotal for sustainable commons management (Ostrom, 1990; McGinnis, 2017). The IAD framework, which extrapolates from simplified models to predict outcomes, is employed in this thesis to encompass land tenure, management, and governance. It includes polycentricity, denoting several decision-making centres, each with varying degrees of autonomy. Polycentricity signifies a complex style of governance that goes beyond the presence of multiple actors, as in the IAD framework. Additionally, the IAD Framework encapsulates collective efforts within the intellectual community to comprehend how institutions function and change over time. It categorises explanatory factors and variables, placing them within a foundational structure of logical relationships. It serves to simplify the analysis of institutions in their full complexity across time (McGinn, 2011: 169-75). However, even a sophisticated theoretical framework can be metaphorical: it prompts the examination of specific aspects of a question while overlooking others, posing a risk of reification. Reification occurs when a theoretical concept is mistaken for an object during research. The term 'commons,' for instance, can be reified. While informally used to refer to public goods, common-pool resources, or areas with uncertain rights, analytical precision demands specificity. Property rights can be nuanced and subtle, cautioning against overly formal and crude interpretations. This thesis thoroughly employs theories to examine land tenure systems, land access, use, ownership, rights to land, and Zambia's discourse on customary land governance. As current government systems are often not designed for resource system governance but for other purposes, recognising and collectively considering various types of tenure

recognised by national or local legal systems constitutes a land tenure system (Schluter et al., 2019: 175).

The IAD framework harmoniously aligns with a particular perspective of governance driven by multiple decision centres. Each centre possesses limited authority, often overlapping with other decision centres, necessitating interaction to achieve shared goals. Decision centres typically oversee a few action scenarios, with interrelated centres influencing the conditions of operation for each other (McGinnis, 2019). In an ideal-typical polycentric governance system, diverse public and private authorities interact in intricate, evolving ways. Out of seemingly uncoordinated mutual adjustments emerges a resilient social ordering that sustains capacities for self-governance (Cole & McGinnis, 2015). As rules and policies concerning substantive resource utilisation, especially in public lands, vary and continue evolving, governance regimes adapt not only to formal rules but also enforcement. Notably, rule changes can occur even during periods of legal stability. Access rules vary by specific resources (Huber, 2019: 140). Polycentrism, within this context, signifies a social system housing multiple decision-making centres or governing units, each operating under a set of rules. Polycentric governance theory explores the effectiveness of bottom-to-top land governance versus international, regional, and national approaches. Yet, it's essential to recognise that organisations like international, national, and local NGOs often perceive themselves as representing local populations, despite their roles often being multifaceted and representing diverse interests. Civil society actors, both international and domestic NGOs, defy simple categorisation, belonging to a web of complex interactions within public, private, and nonprofit sectors. The functional and legal spheres of these organisations overlap, enhancing information exchange among decision centres (Marshall, 2008; Ostrom, 1999). Additionally, civil society organisations and community-based groups, though not formally allocated governmental roles, play pivotal parts in the polycentric governance system (McGinnis & Ostrom, 2011: 15). The polycentric governance structure and decision-making centres transcend formal governmental bodies. However, not every organisation or individual concerned with governance constitutes a decision-making centre; only those with 'considerable independence to establish norms and rules within a specific domain' hold this distinction (Ostrom, 1999: 552).

Civil society organisations, including NGOs, are not considered separate, independent entities within this analytical approach. Instead, they act as intermediaries collaborating with local populations, investors, or states (Burr et al., 2023:8). Similarly, they analyse access to sufficient agricultural or rural land. To underscore the state's role in facilitating local-level collective action without supplanting it, Ostrom introduced the concept of polycentric governance to land and natural resource management studies (2010b: 555). This allows for analyses acknowledging complexity when various actors impact access. Moreover, it's crucial to note that rapid shifts in common user numbers can unexpectedly trigger a 'tragedy of the commons' in previously unsuspected areas. Several factors influence common users, including population size, technology, wealth levels, and market demand. While self-evident, these factors strain common resources as they rise (Daniels 2007: 536). Hardin's introduction of the commons' idea – envisioning open pastures for all – added to the confusion, as pastures aren't necessarily communal, with some being private. This analytical approach doesn't isolate civil society organisations like NGOs; they're intermediaries collaborating with local populations, investors, or states (Burr et al., 2023; 78). Furthermore, complexities arise when analysing access to key resources, like land, 'owned' by various actors in distinct property regimes: the state, local government, chiefs, and customs (Edelman et al., 2018; Peluso & Lund, 2011). For instance, Civil Society Organisations are dissatisfied with Zambia's 2021 land policy, deeming it deficient in protecting customary landholders or rural dwellers. This omission disregards two decades of advocacy by chiefs, CSOs, local communities, and stakeholders for tenure security recognition in land policy development (Zambia National Land Alliance, 2021). This underscores the need for policy responses to consider local contexts and overarching macro and sectoral conditions within tenure systems.

3.2 ELINOR OSTROM'S POLYCENTRIC THEORY

Ostrom outlines three pivotal conditions for comprehending a polycentric framework (1972). Firstly, it demands the freedom to enter and exit any governance structure; a new one's creation should not be hindered by the existing structure. Secondly, a system of rules must underpin the polycentric arrangement. Lastly, provisions for revising and reformulating guidelines regulating the polycentric system must exist (Polanyi,

2013). In a polycentric system, governing units must possess the motivation and ability to self-organise, self-implement, and change the guidelines. This necessitates procedural rules for altering existing rules and cognitive awareness of guideline effects in specific contexts. Situations demanding novel responses can prompt rule alterations (Ostrom, 2010). This conceptual framework also facilitates the analysis of the effects of land tenure and policy (Frank, 2009: 1331), as these aspects are intertwined with livelihoods and empowerment.

Ostrom defines a polycentric system as one where multiple decision-making units have relative independence and authority to enforce, determine, and alter relationships within the system (2010). In this arrangement, no single entity holds ultimate control; each unit wields considerable authority within its domain. Nonetheless, all units are guided by an overarching rule. Similarly, Ostrom in "*The organisation of government in metropolitan areas: a theoretical inquiry*" (Ostrom et al. 1961) views the existence of diverse decision-making units as a practical embodiment of polycentrism, operating under an overarching rule system (Aligica & Tarko, 2012). It is important to note that various systems can resemble polycentricity but lack a system of rules. The work acknowledges that understanding polycentricity's conditions and meanings requires considering its historical evolution (Ostrom et al. 1961). Polycentricity requires a complex interplay of decision-making centres, guided by both necessary and supplementary conditions. The alignment between rules and incentives, autonomous decision-making layers, and internal/external rule design all contribute to polycentric systems. Furthermore, attributes such as the multiplicity of decision-making centres and an overarching rule system shape these systems (van Zeben et al., 2019: 43). Ostrom's polycentric systems are intricate, multi-layered entities evolving in response to individuals' and communities' needs. Sustaining such systems demands substantial effort from participants and the institutions they form (McGinnis et al., 2019: 39). Hence, individual self-governance is a fundamental prerequisite for polycentricity, reflecting the capacity for collective action and fostering a complex governance institution (McGinnis et al, 2019: 39). Distinctive features like multiple decision-making centres and overarching rule systems, along with necessary and non-necessary conditions, compose polycentric systems. Non-necessary conditions encompass internal/external rule design and collective choice through consensus. This alternative analytical approach differentiates between

'attributes' and 'institutional essentials', clarifying the conditions that sustain self-generating polycentricity (Ostrom, 1972: 246). While, polycentricity encourages local users to devise their own roles for resources governance, with a system of institutions that allows users to align or coordinate system in wide (Baldwin et al, 2016:16). Expanding Ostrom's foundational work enables broader empirical applications of polycentric theory. However, further research is essential to fully grasp governance in new, particularly larger, polycentric systems (van Zeben, 2019: 47).

Following principles of self-governance, the significance of smaller societal units and the perils of excessive centralisation are underscored, considering their potential to erode people's capacity for self-determination (De Tocqueville, 1835 and 1840). Ostrom contends that individuals' role in democracy hinges on responsibility, resilience, ownership, and learning. She asserts that the future belongs to those who forge covenants based on mutual trust rooted in self-governance principles. They harness conflict processes to illuminate information, explore alternatives, foster innovation, and expand inquiry horizons, unlocking new prospects for human development (Ostrom, 1994: 272). However, Ostrom's perspective on polycentricity through self-governance shouldn't be misconstrued as hostile to governmental action (Va Zaben, 2019: 40). Alexis de Tocqueville's observation of an unseen mechanism of social order in America's democracy was no historical coincidence. For Vincent Ostrom, structuring America's constitution could be seen as a polycentric experiment, where federalism serves as a tool to operationalise and comprehend an aspect of this system. Research should address topics like (i) exploring the relationship between various degrees of polycentricity and ecological and social outcomes; (ii) determining the necessary level and quality of autonomy for well-functioning polycentric governance systems across contexts; and (iii) devising mechanisms to enhance decision-makers accountability in such systems. However, it's important to recognise that polycentric governance systems can't provide a comprehensive solution to natural resource governance. Elinor Ostrom stressed that there are no magic solutions, similar to other governance forms. Therefore, both academia and policy should develop nuanced, context-specific ideas instead of relying solely on generalisations about the theoretical advantages of polycentric governance for natural resources when addressing customary land and land governance in Zambia. Given the potential of polycentric systems for group action and innovative problem-solving, they could

enhance social and ecological outcomes in various situations. Given these possibilities and the challenges of natural resource governance, commons scholars must focus on deepening understanding, especially concerning elements tied to improved performance (Carlisle et al., 2018: 948).

The subsequent discussion on the toolkit and approaches to addressing a common governance regime necessitates more specific definitional inquiries. Firstly, which resources and subsidiary units are relevant, encompassing both intangible and tangible aspects and their individual or societal nature? How do these resources interrelate? What is the baseline characterisation of resources in each context, and how does relevant legal regulation alter them? Secondly, what are the community or communities' boundaries and constitutions that oversee resource access and use? How is membership acquired? It could be informal, formal, or a blend of both. How is membership and participation regulated? Who oversees these boundaries, and how? (Madison et al., 2020: 82).

FUNDAMENTAL ASSUMPTIONS OF POLYCENTRIC GOVERNANCE THEORY

The central tenet of polycentrism lies in its promotion of local initiatives and actions. The term 'local' pertains to entities beneath the national level. In this study, the term local frequently denotes units beneath the national government level, encompassing cities, communities, non-state actors, and others. Local self-organisation forms the bedrock of governance efforts and processes. The polycentric theory operates on several assumptions about local activity, with its roots tracing back to Polanyi's 1951 work. Polanyi emphasised the role of trial and error in systems like science and law, highlighting the futility and undesirability of imposing morality or achieving justice through a central authority. Instead, he advocated for involving multiple actors in these processes. Notably, polycentric arrangements operate at both individual and collective unit levels. Within such a system, each unit's behaviour is influenced by choices and responses to other actors, leading to constant behavioural adaptations.

Ostrom underscored that self-organising agencies of diverse sizes can achieve common goods, allowing actors to make decisions based on their preferences (McGinnis and Ostrom, 2012). Thus, there is no ideal distribution level for common

goods. Polycentric theorists aim to acknowledge interactions and relationships among units in a non-hierarchical pattern, rather than attempting to eliminate overlap by consolidating governing units into a central one (Dorsch & Flachslund, 2017). The core premise includes the idea that individual actors should have the freedom to resolve issues within their domain (Ostrom, 2010: 5). Another crucial notion in polycentric literature is self-organisation. Instead of centralised systems, it empowers actors to devise their own rules and specialised domains. National or international regimes that impose rules often fail to consider the context for poor policies and institutions (Acemoglu & Robinson, 2012: 447- 454). Consequently, no single actor or group dominates policy establishment. Each participant can establish rules within their domain (Ostrom, 2009). Reference is made to various local actors who are motivated to act at their level. This includes individuals opting to cycle to work instead of driving, resulting in better health. Installing solar panels reduces heating and energy costs, and numerous household activities yield improved outcomes over time (Ostrom, 2009: 35).

Rather than solely focusing on a global regime, scholars should centre on actors and explore how each governing unit organises itself within its domain. The central assumption regarding the establishment of polycentric land or natural resource governance is local action, urging academics and practitioners to consider the role of states with an open mind (Hoffmann, 2011). Scholars and practitioners must grasp the landscape of land governance to identify governing units and their connections. Instead of assuming dominance by a single actor, researchers should seek to understand the limits and connections among these units (Tarko, 2016). Moreover, understanding customary land management dynamics is pivotal for harmonising and integrating land arrangements and ensuring stable property rights for rural farmers. Property rights, whether *de jure* or *de facto*, align the owner's interest with resource sustainability. Despite this, there is limited scholarship on this subject, leading to a lack of commons-based research on contemporary public land management concerns. While these IAD frameworks have long been associated with common problems, their applications extend further (Huber, 2019: 138). This study links and conceptualises rural areas or customary land, which offers short-term relief to households facing livelihood crises and enhances assets and incomes for poor households. However, sustained institutional support is crucial for translating initial land security into

sustainable incomes and secure livelihoods. Accessing natural capital, primarily land in this case, is part of a broader quest for livelihood development. Complementing capital, such as financial, economic, and human capital, along with effective support policies and institutions, is equally vital (Hulme & Chimhowu, 2006: 746). Land tenure security is interwoven with sustainable livelihoods. The Sustainable Livelihood Approach (SLA), part of the Agenda 2030 for Sustainable Development and the UN Sustainable Development Goals, calls for all countries, developed and developing, to examine how land tenure and governance discourses impact rural people and smallholder livelihoods, e.g., agricultural land access, use, and utilisation in Zambia. Historically in SSA and Zambia, an interplay exists between statutory laws regulating tenure systems and customary tenures regulated by societal customs and norms, a contentious focus (Mandhu et al., 2021: 3). Likewise, it addresses extensive legal and institutional reforms and evidence of local landholding families' empowerment in significant land investments by local elites and foreign investors in Zambia's rural customary land areas, leading to 'silent privatisation' of land and displacements of rural populations. Manji explains how these reforms are intended to promote land titling and land markets to stimulate investments and enhance agricultural productivity (Manji, 2006). The livelihood perspective significantly influences policy and advocacy regarding land reform, as well as the framing of policies by international development organisations. This approach aims to reduce the vulnerability of impoverished rural populations by harnessing land resources. This framework strongly aligns land with the mainstream development agenda, evolving from the Millennium Development Goals (DFID, 2007) to the current Sustainable Development Goals (SDGs). Political scientists face intriguing challenges in conceptualising a theory that encompasses all efforts to comprehend the institutional underpinnings of governance, specifically in terms of linking philosophical principles and normative values to the pragmatic challenges of implementing them in real-world political institutions. These are the defining characteristics of the polycentric political system (Ostrom, 1990: 225). A polycentric political system comprises numerous independent, self-governing units that consider other participants through processes like contestation, collaboration, conflict, and conflict resolution. For instance, it addresses issues related to access to critical natural resources such as land, which are often 'owned' by a diverse array of entities under various property regimes: the state, local government, chiefs, and customs (Edelman et al., 2018; Peluso and Lund, 2011).

Governance from a polycentric standpoint seeks to establish an adaptable system of diverse, self-organising governance units across different domains that interact with one another (McGinnis, 2019).

3.3 LIMITATIONS OF THE POLYCENTRIC GOVERNANCE APPROACH

The polycentric governance approach is not without limitations. According to polycentric theorists, while one of the primary advantages of the polycentric governance strategy is its potential to reduce if not eliminate, the core issue of free-riding, which has long hampered satisfaction with global-scale mitigation efforts, challenges persist. For instance, although the strategy can prevent a policy stalemate by presuming co-benefits in strategic interactions, generating fresh motivations for mitigation, testing, and learning, it is foreseeable that certain actors may still engage in free-riding by refraining from action within their domain and benefiting from the efforts of others. The polycentric approach has broadened the pool of contributors who can offer policy solutions across various levels. However, resistance from certain actors, persisting free-riding incentives, and potential leakage repercussions are likely to persist (Dorsch & Flachslan, 2017). Secondly, gauging the advantages and drawbacks of an evolving polycentric approach in comparison to the yardstick set by a top-down approach is not straightforward. Furthermore, assessing the gains from polycentric actions can prove challenging. Given that polycentric governance implies that access to land needs to be examined as a series of more contingent processes, including evaluating the benefits of enhanced customary or rural tenure security, particularly concerning registration in rural areas, yields a limited spectrum of observable and measurable impacts. These anticipated benefits encompass (a) an increase in farmers' demand for agricultural enhancements, stemming from heightened parcel confidence over the long term; (b) amplified provision of formal credit through the establishment of tradable collaterals, leading to augmented yield or income (Byamugisha & Dubosse, 2023: 12). However, when considering the transfer and spillover effects, the cumulative outcome of the approach is undoubtedly extensive, even though pinning down the precise extent of impact remains a challenging, if not impossible, task to quantify. In practice, however, the processes of polycentric governance are complex because in order to accomplish all the necessary tasks, it involves the participation not only of public officials to perform in their

official capacity but also professional associations, non-profit organisations, community leaders, and individuals.

3.4 REVISITING THE IAD FRAMEWORKS TO ORGANISE DIAGNOSTIC AND PRESCRIPTIVE INQUIRY

The IAD framework expands upon the metaphorical case of the '*tragedy of the commons*', as famously expounded upon (Hardin, 1968). This case highlighted how unregulated grazing and cattle raising by herdsman on open commons could lead to the depletion of natural resources. The inherent logic suggests that each herdsman would aim to expand their herd and grazing without limit in a world that is limited. This pursuit would ultimately lead to the deterioration of resources, going against the collective aspiration for societal progress while valuing individual freedoms. Hardin's conclusion spurred discussions about potential solutions, often revolving around regulation or privatisation. While privatisation may address wasteful overuse, it can inadvertently foster its problems, such as market paralysis due to excessive ownership. Achieving functional private property involves a delicate balance between overuse and underuse (Heller, 2020: 65).

This thesis, however, diverges from Hardin's conclusion, aligning more with Elinor Ostrom and other commons scholars. Contrary to the notion that common-pool property rights guarantee a free and equal society, the commons often operate successfully due to the presence of well-defined boundaries. Well-managed commons typically require external constraints. While enclosure is often seen as the end of the commons, in reality, commons frequently struggle to be sustained without some form of enclosure. To ensure sustainable commons, usufruct rules are frequently instituted. Those with rights to the commons agree upon limits to prevent overuse, aiming to strike a balance between use and preservation (Ostrom, 1995; 2008). This framework structures empirical inquiry, enabling meaningful comparisons between cases while avoiding unjustified assumptions about cases, theories, or models. It offers a comprehensive approach to identifying elements necessary for institutional analysis and understanding their interrelations (Frischmann, 2014: 16).

In the 1980s, Elinor Ostrom shifted her focus to studying commons to gain insights into how people establish and sustain self-governance amidst evolving social

and physical contexts. Her formulation of eight institutional design principles, correlated with effective institutions for conserving common-pool resources, stands out as one of her key contributions to commons theory (Ostrom, 1990). These principles, applicable to larger and more intricate common-pool resource systems, suggest that governance activities linked with resilient institutions "are organised in multiple layers of nested enterprises" (Ostrom, 1990: 101). These principles offer a comprehensive set of variables needed to analyse diverse institutional arrangements. The elements within the framework guide analysts in formulating relevant questions for analysis. The development and application of theories enable analysts to pinpoint framework elements pertinent to specific questions and establish essential working assumptions. Theories narrow the focus to specific aspects of the framework, providing essential assumptions for diagnosing issues, explaining their origins, and proposing solutions. Multiple theories can align with any given framework (Ostrom, 1995: 1). Essentially, Ostrom's eight practical principles for achieving institutional robustness in common-pool resource settings, governing the commons and preserving its efficacy in land resource governance, can serve as valuable tools for sustainable resource management, perhaps best described as good practices. In these pivotal action situations analysed in these case studies, the principles of appropriation, provision, rulemaking, monitoring, and sanctioning are at play. Their significance is underscored by experimental research on Common-Pool Resources (Ostrom et al., 1994; McGinnis, 2019: 56). These principles identify characteristics of common-pool resource management systems that regularly correlate with their long-term sustainability. However, I posit that not all eight principles are bound to materialise in every scenario, but there remains the potential for their application in achieving sustainable governance (Ostrom, 1990). Fundamentally, in "*Governing the Commons*," Ostrom outlines the factors underpinning successful group property management, refuting tragic outcomes (1990, 1-28). The term 'commons' can be categorised into common property and resources with communal or individual ownership (Wily, 2011). Generally, Common Property Resources (CPR) are resources managed either by the state or communities through customary collective management. CPR theory underscores the need for property regimes to involve resource users actively, with the state functioning as a facilitator and coordinator (Elinor Ostrom & Edella Schalgler, 1990). For instance, Zambia's forests, wetlands, fisheries, grasslands, and wildlife are protected on customary land. Furthermore, it is

important to note that there is no single common property resource; instead, resources are managed under common property arrangements. Such resources managed as common property are termed as common property resources here, encompassing resources subject to individual or group use but not individual ownership, managed under a framework of community or group management (Bromley, 1992). However, Ostrom suggested that:

Social scientists analysis of CPR problems tend to have the perverse effect of supporting increased centralisation of political authority. First, the individuals using CPR are viewed as if they capable of short-term maximisation, but not for long-term reflection about joint strategies to improve joint outcomes. Second, these individuals are viewed as if they in a trap and cannot get out without external authority imposing a solution. Third, the institutions that individuals may have established are ignored or rejected as inefficient, without examining how these institutions may help them acquire information, reduce monitoring and enforcement costs, and equitably allocate appropriation rights and provision duties. Fourth, the solutions presented for the government to impose are themselves based on models of idealised markets or idealised states (Ostrom, 1990:216).

Therefore, in practice, the management of CPR becomes a complex issue. A challenge arises from the coexistence of various tenure systems within common property regimes. In several customary tenure systems in Africa, for example, arable plots function as private property during the rainy season, transforming into common property after the growing season to serve as grazing areas for community livestock (Shackleton et al., 1998a: 7). However, the pursuit of poverty reduction and enhanced land management has inadvertently led to overuse, degradation, and unsustainable resource exploitation, undermining traditional land-use practices and exacerbating climate issues (ZLDC, 2013: 13). Likewise, it is essential to address the legal nature of the land issue and consider ethical implications associated with land use in Zambia. Pertinent queries include: What ethical factors influence land use in Zambia? And, what mechanisms exist to rectify injustices related to land use and tenure reform? Additionally, questions extend to private property ownership and broader societal concerns. Property rights determine resource access, encompassing natural resources

like forests and fields. Waldon suggests that property rights can be conceptualised as 'bundles' of rules governing resource access and control, mediated through governmental institutions, particularly the courts (Waldon, 1988). Property rights to land encompass various elements, including the right to 1) use land, 2) cultivate or develop it, 3) transfer or inherit it, 4) sublet all or part of it, 5) access formal credit based on it, and 6) access public services based on it (Meyer, 2009: 216).

Ostrom's seminal work in “*Governing the Commons*” (1990) stands as a cornerstone in developing an analytical approach to explore both natural and institutional arrangements fostering cooperation within the commons. Cooperation is pivotal for societal functionality. Ostrom's research revealed management options for shared commons that are not exclusively public or private. She uncovered global examples of resource users collaboratively managing diverse natural resources. Ostrom identified conditions and design principles that enhance the probability of sustained collective governance of shared resources (Ostrom, 1990). In many instances, resource users collaborate with government bodies and public officials to formulate, enforce, and oversee usage and management regulations. Building on insights from Vincent Ostrom and others, she coined the term 'polycentric' to describe this form of decision-making. It signifies that while the government plays a pivotal role in facilitating, supporting, and even providing tools for governing shared resources, it is not the sole decision-maker (Ostrom et al., 1961). Elinor Ostrom's philosophy proposes principles essentially interpreted as outcomes arising from one or more of these core and representative supplemental-action situations. They facilitate outcome configurations that prove effective in certain empirical settings while proving inadequate in others, as illustrated below:

No.	Design Principles
1	Define clear group boundaries: clear social and resource boundaries may emerge from constitutive processes and the accumulation of local knowledge in some circumstances. However, deep fissures between competing groups may have prevented consensus, or unpredictable shocks disrupted resource patterns in some cases.

No.	Design Principles
2	Match rules governing common goods to local needs and conditions: in remote areas with little interest from central authorities, minimal local autonomy might exist. In contrast, areas attracting attention from national/global entities may lose traditional practices.
3	Ensure those affected by the rules' can participate in rule modification: groups excluded from rulemaking would be less likely to comply/enforce rules compared to those involved in crafting rules aligned with their interests.
4	Ensure outside authorities respect community members' rulemaking rights: people directly affected by resource availability resist bribes if monitoring is required.
5	Develop a system, executed by community members, to monitor behaviour: inconsistent sanctions undermine compliance and generate resentment if disputes are not resolved.
6	Use graduated sanctions for rule violators: lack of dispute resolution processes or ignoring long-term effects reduces compliance and monitoring.
7	Provide low-cost means for dispute resolution: if social fissures or lack of intermediaries hinder nested team formation, significant functions may remain unaccomplished.
8	Build responsibility for governing the common resource in nested tiers: incongruent appropriation/maintenance rules lead to degradation; rules generating inequalities lose observance/enforcement by disadvantaged groups.

Table 3.1, Adapted Design Principles by Long-Enduring Practicable and Replicable Strategy CPR Institutions (Ostrom 1990; McGinnis et al., 2019: 57-58).

Each of these design principles explicitly relates to factors within one or more categories of contextual variables: the biophysical conditions of resources, the rules in use, and the attributes of the relevant community. These design principles have emerged as outcomes from multiple levels of choice, including operational, collective, and constitutional levels. The continued application of these design principles would

give rise to patterns of dynamic changes that constitute a commons. In this manner, elements within each category influence factors across all other categories, maintaining the dynamic sustainability of the entire configuration. The IAD framework provides a structure that directs analysts' attention to the complete range of factors and dynamic processes that are inherently involved in the operation and sustainable management of a resource commons. Utilising these principles to analyse policy and theoretical issues pertains to how distinct governance systems empower individuals to democratically resolve problems.

Increasingly, common areas are expected to address resource management challenges on a larger scale, including a global level. While the term commons is increasingly applied to resource management that transcends the local level, referencing even global resources, the characteristics of resources managed as commons have predominantly been local. Insights from research on the history of commons can be applied to local resources, but the potential for scaling up these insights to address global resource issues is less apparent (De Moor, 2020: 330). To reaffirm the IAD approach: it supports diagnostic, analytical, and prescriptive capabilities. It also contributes to accumulating knowledge from empirical studies and evaluating past reform efforts. This analytical framework offers ample room for extensive theoretical development. Consequently, practically and analytically, this thesis adopts a common IAD framework to address questions regarding land tenure reform, transitions, land governance, and rural livelihoods in Zambia.

Indeed, governance is the process by which a set of rules, norms, and strategies governing behaviour within a specific realm of policy interactions is formulated, applied, interpreted, and reformed. This could entail self-governance: communities' capacity to organise themselves to actively participate in the most significant decision-making processes concerning their governance. IAD identifies the primary types of structural variables present, to varying extents, in all institutional arrangements, but their significance varies across different types of institutional arrangements. Implicitly, institutionalism acknowledges the legal system as one of the regulatory forces shaping organisations (Richter, 2021: 139). The World Bank affirms that a supportive legal framework and effective land administration arrangements are as vital to development processes as sound laws, regulations, and institutional

arrangements for labour and capital. Zambia, like many nations, faces the imperative to expedite efforts to modernize land administration systems to secure land rights, ensure accurate data on land resources, occupancy, and ownership, and organise this information for easy updates and sharing across development-involved institutions (World Bank, 2011: 6). Furthermore, the IAD framework suggests that biophysical, legal-institutional, and sociocultural factors interact intricately, shaping patterns of interactions among relevant relationships in social settings. This framework implies that the repercussions of any policy intervention will inevitably extend through complex institutional systems in ways that may not be immediately apparent. Ostrom has facilitated an understanding of the ultimate connections among resources, rules, and people that together constitute the configuration now referred to as commons, framing institutional arrangements as processes (McGinnis, 2019: 55).

Resources, rules, and people are all situated within broader biophysical, political-legal, and socio-cultural contexts. This invokes the IAD framework, which was designed to be applicable across various policy settings, which states that:

Suppose a wide diversity of institutional forms exist both side by side and nested within one another. In that case, behaviour cannot be explained, guided, controlled and evaluated through reliance on limited sets of pure theories. We must ask whether similar conceptual characteristics underlie all hierarchies, markets, courts, electoral contests, collegial for a, and solidaristically organised communities. Is there a common set of variables that can be used to analyse all types of institutional arrangements? (Ostrom 1986: 459-460).

Ostrom also directed attention to other related processes, especially rulemaking, monitoring, and sanctioning.

The IAD is a comprehensive concept that maps and demonstrates contextual variables, an action arena, and patterns of interactions and outcomes among local actors (Ostrom 2005). It effectively illustrates and explains the intricate interaction of complex variables within specific action situations. Similarly, the IAD framework can be adapted to enhance its capacity to address broader inquiries. For instance, analysts within this tradition typically concentrate on the problem-solving aspect of policy

issues and often downplay the role of power in shaping policy outcomes. The IAD framework is widely acknowledged as one of the most influential perspectives in the research literature on public policy (Heikkila & Cainey, 2018).

As depicted in Figure 3.1 below, the framework represents institutions through a series of boxes, each containing different causal determinants or processes. At the core of the IAD framework lies an action situation where acting individuals or agents of formal organisations observe information, make choices, engage in patterns of interaction, and evaluate outcomes. Choices and outcomes are influenced by the beliefs and incentives of individual actors, which are moulded by the responsibilities and social expectations tied to their official positions, as well as by the information available to them.

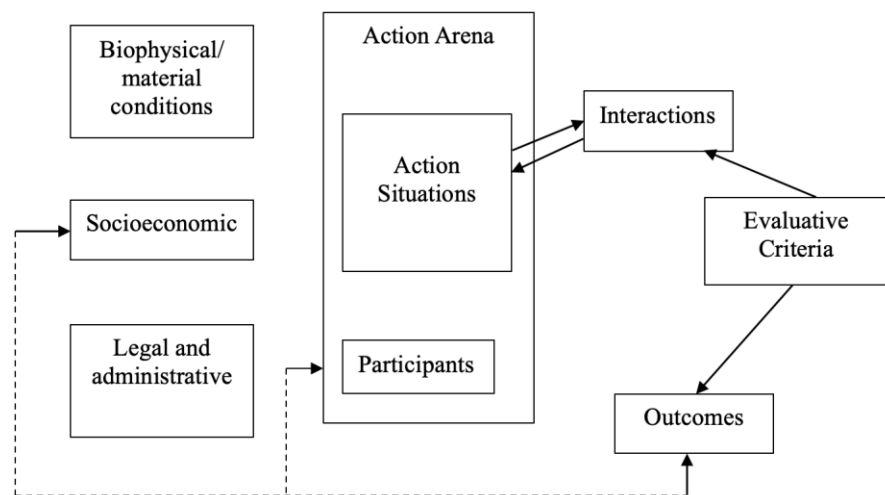


Figure 3.2: Problems are likely to undermine the common properties formalisation or titling process adapted from (Ostrom Elinor, 1990).

Each action situation is moulded by pre-existing contextual conditions, which are categorised for analytical purposes into three groups: (1) the 'nature of the good' under consideration, encompassing all pertinent biophysical conditions; (2) 'rules-in-use', encompassing the complete array of laws, regulations, norms, and shared understandings that participants consider relevant to discussions in that policy domain; and (3) the 'attributes of the community', signifying the social bonds and

cultural features that define the individuals directly impacted by that policy issue. Each action situation represents a juncture where a group of decision-makers collectively grapple with pivotal decisions tied to a specific policy concern. As is customary in strategic interactions, actors appraise potential outcomes differently, with only partial control over the ultimate determination of results. Ostrom characterises an action situation as an extension of standard game models. To define a game, modellers must specify the involved actors, the available actions to them, and how these actions jointly generate alternative outcomes, which are differentially valued by the actors (Ostrom, 1986). These actors may have access to varying sources of information, as well as distinct types or levels of resources that they can use to influence the actions of other players. The functionality of the IAD framework stems from the interlocking 'working components' that shape each action situation, interconnected in the following manner:

Participants, who can be individuals or any of a wide variety of organised entities, are assigned *positions*. In these positions, they choose among actions in light of their *information*, control over action-outcome linkages, and the benefits and costs allocated to actions and outcomes (Ostrom 2005, 188).

Implicitly, the values assumed by these italicised components are established through processes taking place in other contexts of strategic interaction, that is, within different action situations.

The IAD framework distinguishes among three arenas of choice or conceptual levels of analysis: (1) operational-choice settings, in which the decisions of the relevant actors directly impact tangible outcomes; (2) policymaking or collective-choice settings, where actors shape the rules that constrain actions in operational-choice arenas; and (3) settings for constitutional-choice, where decisions are taken regarding which actors are involved in various choice situations and what types of alternative institutional mechanisms are at their disposal as they engage in collective deliberations and make operational-level decisions (Ostrom, 2005: 58-62). Individual and collective actors generate patterns of interaction that lead to specific outcomes. These outcomes are compared against evaluative criteria deemed relevant by the actors conducting the assessments. All these evaluations, along with the outcomes that prompted them, contribute to the overall set of pre-existing conditions, thereby setting

the stage for the subsequent round of action situations (McGinnis, 2019: 53). Some of the contextual issues are as follows:

- Biophysical: Unique biophysical characteristics of customary land areas of habitation, farming, and grazing.
- Socio-economic: Conflicting interests among rural actors' groups involved in land regularisation and titling.
- Legal system: Challenges related to titling procedures.
- Motivational problems.
- Free riding: Individuals benefiting from others' contributions without contributing themselves.
- Asymmetric power relationships: Unequal power distribution among actors, often with some holding greater control over key resources.
- Corruption: Allocation of enforcement powers potentially leading to corruption if illegal rewards are offered.
- Informational problems
- Trust-monitoring: The importance of explicit rules and monitoring mechanisms in larger communities or terrains.

Please see Figure 3.2 below, my depiction of the framework:

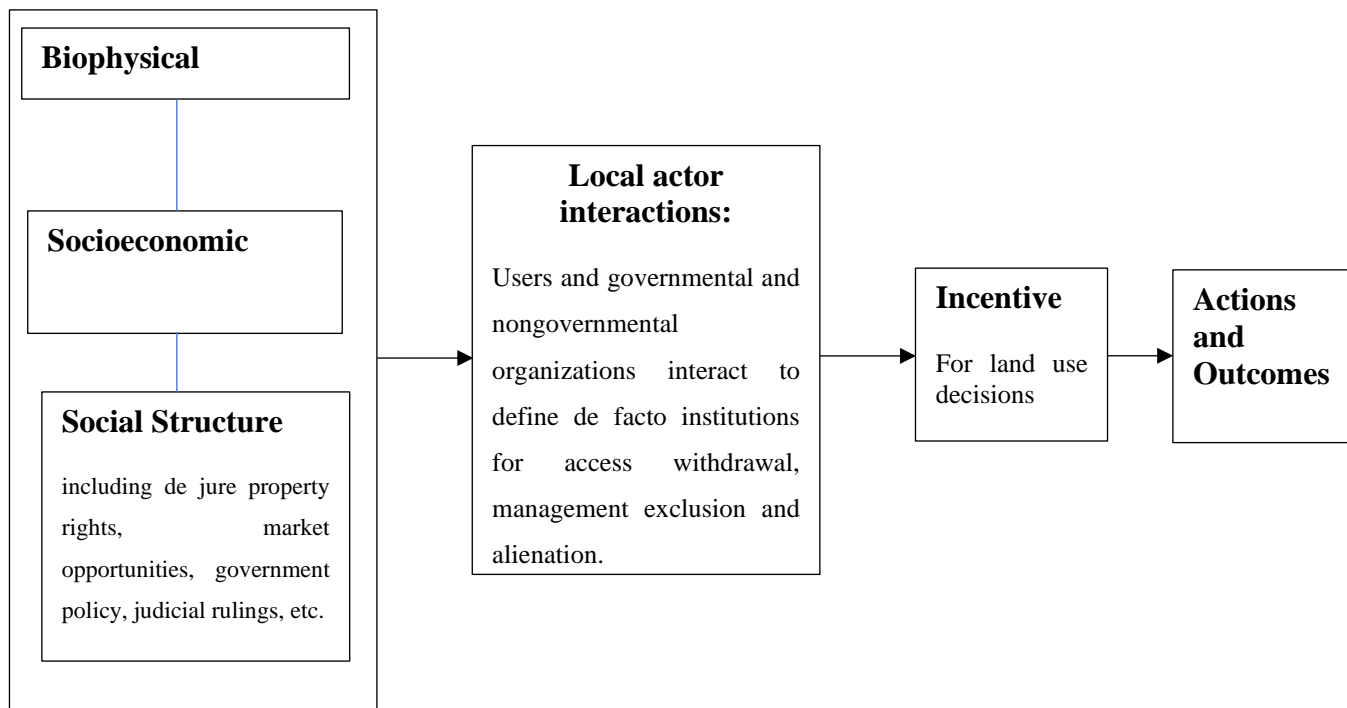


Figure 3.2: IAD Framework, linking context, institutions, incentives, and outcomes (Pacheco,2005; Ostrom, Gardener and Walker 1994).

These contextual factors in Figure 3.2 above constantly interact with the interactions of local actors, shaping specific situations. In the process of land titling, four distinct action situations can arise from the interaction between (1) donors and the government; (2) the government and state officials responsible for titling on the ground; (3) direct beneficiaries and other rural interest groups or landholders; and (4) the government and both local and rural interest groups.

The subsequent empirical research chapters analyse (1) the factors that facilitate or hinder the formalisation or titling of customary land or common-property areas among rural communities in Chembe and Monze districts of Zambia, and how this affects tenure security and the formalisation process; and (2) the emergence of new problems resulting from land titling or private individualisation, and how these challenges impact rural smallholders' livelihoods. The methodology is explained in Chapter 1 of the thesis. This framework represents the community's rules for land access and management that need to be upheld. The challenge of managing customary land could be analysed at a policy or collective-choice level, where decision-makers shape policy within the boundaries of collective choice rules. These policy decisions

then influence the arenas where individuals make operational decisions, directly affecting the physical world. Alternatively, the issue could be approached at a constitutional level, determining who participates in policymaking and the rules governing it. While other analysts focused on general policy or legal context, Ostrom consistently delved deeper to comprehend the intricate connections among resources, rules, and people that constitute what we term a commons. The IAD framework directs analysts to concentrate on essential situations where resources, rules, and people interact. Each focal process is used for analysis based on the IAD framework. The institutional arrangement's framing as processes and the detailed IAD framework assist analysts in identifying specific strategies. IAD-based analyses emphasise management rules in use, as opposed to theoretical rules on paper (Ostrom, 2005).

Market-based theory, with its extreme assumptions, aligns with the IAD framework, producing empirically validated explanatory results in individual choice settings. Context analysis is essential to demonstrate how shared understandings of rules, perspectives on the world, and the community's nature influence the values of the variables characterising action arenas. It is confirmed that various institutional arrangements individuals employ to govern and manage commons, or other challenging scenarios, offer varying incentives and learning opportunities. The rate of effective learning about resource sustainability is typically rapid. The analysis produces a model suitable for predicting land-use outcomes in the field or through face-to-face discussions. This enhances the likelihood of improved outcomes. However, historical factors also influence outcomes. Even making weak inferences about possible results holds significance in defining general trends. At times, predictions are feasible. Predicting improbable or uncommon outcomes is valuable for reform considerations. Beyond outcome predictions, the institutional analyst must evaluate achieved outcomes, along with the likely outcomes under alternative institutional arrangements. This includes determining the economic effects of an intervention, indicated by changes in net benefits resulting from resource allocation, or reallocation. Efficiency plays a central role in estimating return rates on investments. Government intervention in competitive markets often stems from the lack of efficiency in private markets. When exploring alternative institutional arrangements, it is vital to consider how rule revisions affect participant behaviour and resource allocation. Distributive equity analysis is also crucial, particularly in

developing countries with skewed wealth distributions, as policies distributing resources to poorer individuals hold significance. Thus, while efficiency suggests allocating resources where they yield the greatest net benefit, especially for disadvantaged groups, only wealthier individuals possess assets to contribute fully reflecting their benefits from infrastructure use. These differing views of equity can lead to contrasting conclusions about institutional arrangement fairness. Therefore, they acknowledge the importance of intermediate institutions and the state in addressing collective action challenges. These intermediate institutions are locally gathered and organised to effectively manage and sustainably utilise shareable but exhaustible resources such as water and trees. Most analyses implicitly offer various context-specific formal or informal solutions to these resource-sharing problems. These resource systems typically exist within intricate institutional settings, where smaller commons are nested within larger ones, necessitating a detailed exploration of institutions at different scales (Ostrom, 1990: 88-90; Ostrom, 2005: 58-62).

In this context, rules and terminologies are linguistic expressions that refer to enforced directives regarding required, prohibited, or permissible actions by a governing body, such as Zambia. Rules are linguistic entities that are contextual, prescriptive, and adhered to. They are contextual as they apply to specific action arenas but not universally. Rules are prescriptive in that individuals aware of a rule understand that they can be held accountable if they violate it. Rules convey information about actions an actor must, must not, or may perform, influencing their compliance to avoid potential sanctions. Actors can choose to follow or disregard rules, distinguishing actions explained by rules from behaviours explained by scientific laws. To explore governance, one must inquire about the origins of rules individuals use in action situations. In open and democratic governance systems, individuals have numerous sources for the rules they follow in daily life, and self-organisation to create their own rules is acceptable as long as their actions remain lawful. Rules can be followed or disregarded, differentiating actions from scientific laws. In an open and democratic governance system, individuals can craft their own rules, provided their activities remain lawful. Laws are likely to be enacted by regional, municipal, and special governments, supplementing laws and regulations from the central government. Government systems can also foster patterns where elected officials may not solely focus on problem-solving but also wield power and

treat various population segments differently. Constitutions, legislation, common laws, specific by-laws, and individual contracts form a hierarchy of rules, encompassing general laws and specifications. Moreover, "constitutions are often designed to be more difficult to amend than statutory laws, just as statutory laws are more difficult to amend than individual contracts" (North, 1990: 16-47).

The 2016 Zambian constitution on Land, Environment, and Natural Resources principally centres on ensuring land policy, environmental management, and natural resource protection. It establishes a Land Commission to manage and allocate land on behalf of the President, promoting equitable access, tenure security, sustainable use, transparent management, cost-effective dispute resolution, and consultative investments that benefit local communities and the economy (GRZ, 2016). Fundamentally, institutional analysis aids in understanding the operational rules individuals utilise when making decisions. These operational rules are actively used by participants in action arenas. Rules serve as reference points, explaining and justifying actions within a system guided by the "rule of law." This legal framework arises from actions taken in constitutional, legislative, and administrative contexts, representing accumulated decisions across diverse settings, and ensuring consistency between rules-in-form and rules-in-use. Laws must consider available efforts for enforcement within a system not governed solely by the rule of law. However, individuals may attempt to evade rather than obey the law (Ostrom, 1995: 17). This raises the question of which rules are pivotal for institutional analysis. Various specific rules structure complex action arenas. Thus, the analysis should underscore the role of legal entitlements in addition to considering physical abundance. Regarding land, prescriptive rights are relatively straightforward: if someone occupies another person's land openly, continuously, and notoriously for a defined period, and the owner makes no effort to remove the occupant, the original owner forfeits the land rights (Ostrom, 1990: 107-108; Ostrom, 1995: 26-69). Furthermore, another group of variables shapes an action arena concerning the community. Crucial attributes of a community include accepted norms of behaviour, shared understanding among potential participants about the structure of action arenas, the level of preference homogeneity within the community, and resource distribution among affected individuals. Cultural representation applies to this array of variables. If resource appropriators migrate from fragmented communities and mistrust each other, creating and upholding effective

rules becomes significantly more challenging. The commitment of individuals to utilise written vernacular language to express their ideology or abstain from developing, understanding, or sharing knowledge, as well as explaining the foundation of their social order, is another relevant variable for institutional analysis (Ostrom, 1995). Additionally, without a written vernacular language, individuals face much greater difficulty accumulating usable knowledge to pass down across generations (Ostrom, 1995: 27).

Questions addressing institutional change are contrasted to action within institutional constraints. Thus to analyse institutional change Ostrom affirms that:

It is possible to move toward the development of a single theory of institutional change, rather than one theory about origins and another theory about reform. Both constitutional -choice and collective processes produce rules affecting the behaviour of actors in linked situations---The outcome of a collective -choice process frequently is conceptualised as a “policy space,” leaving unspecified what is contained in that policy space, when a regulation is to be determined, the policy space can be thought of as a set of rules concerning who is required, forbidden, or allowed to take what action or effect what outcomes related to a specific domain. To explain institutional change, it is therefore necessary to examine how those participating in the arenas in which rule changes are proposed will view and weight the net return of staying with the status quo rules versus some type of changes (Ostrom 1990:141-2).

For instance, the constitutional choice and collective-choice processes yield outcomes that impact the conduct of actors in interconnected situations. Rules govern both the constitutional choice and collective-choice processes. In a constitutional-choice scenario, individuals decide whether to alter a set of prevailing rules that determine eligibility and the protocol for future collective-choice decisions. The collective-choice rules influence operational activities and outcomes by dictating eligibility criteria and specific rules governing alterations to operational rules. Constitutional-choice rules influence operational activities by determining eligibility criteria and the rules guiding the establishment of collective-choice rules, which, in turn, influence operational rules. The analogy drawn here is that just as constitutional law regulating how laws can be amended arises from the interplay between structures and agencies

(Richter et al., 2021: 141), similar dynamics apply. Thus, this illustrates the connections among these rules and the related levels of practical analysis, as depicted in Figure 3.3

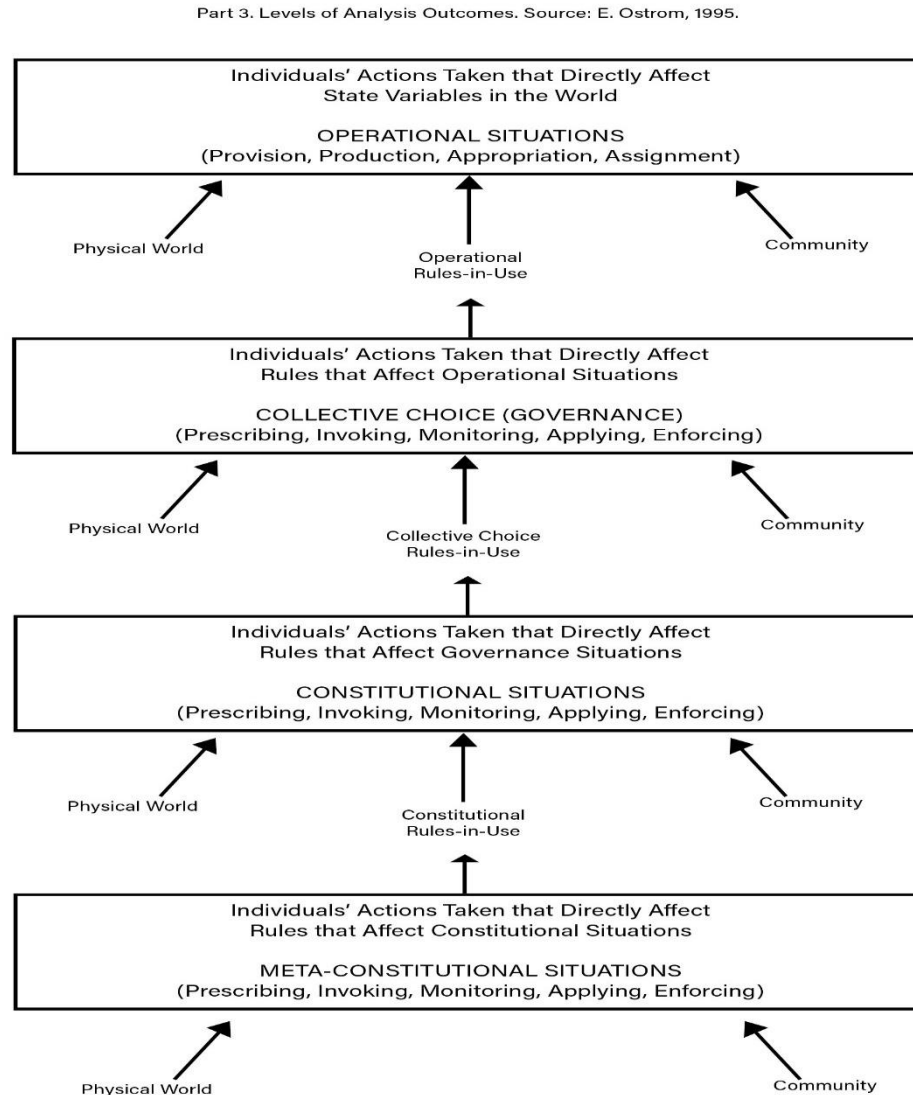


Figure 3.3: Shows Levels of Analysis Outcomes, Adapted (Ostrom, 1995: 29-142). Each design principle is explicitly tied to factors within one or more of the three categories of contextual variables: the biophysical conditions of resources, rules-in-use, and attributes of the pertinent community. These design principles have arisen from various decision-making arenas at the operational, collective, and constitutional tiers. The persistent application of these design principles engenders patterns of dynamic change that prominently exhibit the co-evolution of resources, rules, and communities within a commons. Consequently, elements in each category exert

influence on all other categories, ensuring the dynamic sustainability of the entire framework. The IAD framework serves to direct analysts' attention towards the comprehensive spectrum of factors and dynamic processes that are inherently involved in the functioning and sustainable management of a resource commons (McGinnis, 2019: 58).

3.5 THEORISING LAND GOVERNANCE: DRIVERS AND THEORIES OF GOVERNANCE

Land conflict is prevalent throughout Africa and encompasses issues such as land grabs, the need to enhance food production amidst rising global food prices, rapid urbanisation, growing populations, escalating contestation and conflict over land, and the imperative to address climate change effects to ensure sustainable land resource utilisation (Chitonge, 2020). Conflicts over land commons are entwined with power, politics, culture, and management, often lacking a basis in merits, as neither Ostrom nor Hardin adequately addresses. Precisely, land tenure governance hinges on the rights granted to various land sectors. This is most evident in customary land rights, particularly when undocumented, which become susceptible to fraud and elite capture. Such capture occurs not only at the national level by powerful or affluent groups but also at the local level by community leaders. This perspective is grounded in the reality that customary land in Zambia frequently lacks ownership documentation or well-defined laws that stipulate and enforce rights, ultimately leading to land tenure insecurity. These rights consist of enforceable claims over land, varying from national laws to village regulations, which are again underpinned by broader national frameworks (FAO, 2008: 4). Additional causes of tenure insecurity encompass perceived disparities in land ownership, resulting in conflicts that disproportionately affect women, youth, and indigenous communities. The primary goal of the thesis is to examine how the legal framework concerning land and its institutions could protect legitimate land rights and mitigate conflicts stemming from vague, ambiguous, illegible, or disputed land rights, such as those related to customary land. Notably, Zambia's customary land rights are largely rooted in family relationships and land-community affiliations, fostering cohesion. However, a definitive customary land management system is absent in the country. Zambia formally recognises customary tenure as a viable system for governing land rights. Socially-based collective property

is increasingly becoming an integral part of property relations, guided and safeguarded by statutes, thereby coexisting with more traditional individual-centric norms (Alden Willy, 2018). This recognition involves (a) formalising tenure, (b) integrating customary practices into statutory law, and (c) professionalising and enhancing institutional legibility in customary tenure, alongside the democratisation of customary practices (Byamugisha & Dubosse, 2023: 4). However, it is important to note that customary and statutory land-related institutions tend to cohabit in Zambia. It is crucial not to overlook the fact that certain customary practices or norms may lack fairness, potentially leading to inequities among land rights holders. The Western-inspired concept of tenure security continues to dominate literature and land-policy formulation in SSA, including Zambia. Yet, empirical evidence to validate this understanding remains inconclusive. There is been a failure to clearly define the meaning of tenure security, its implications, vulnerabilities, threats, or the means to achieve it. Supporting this perspective, highlight the widespread insecurity of tenure in communal areas:

People enjoy day-to-day de facto tenure security in many areas and do not express great anxiety about their long-term future on the land. Many existing systems, often informal in the sense that they are not recognised by law, work reasonably well and are further characterised that tenure insecurity comprises: a relatively small number of high-profile cases where tensions of conflict have emerged, or development is clearly stalled. These are now increasing in number as local-level development planning begins, and a chronic low-profile condition in which lack of certainty and weak legal status constrains the land-based livelihoods of the majority (Adam et al. 2000: 118).

This thesis incorporates a human rights approach to comprehend land tenure and livelihoods. So “we confidently grasp the breadth and detail of how women and men access, use, own, and control land to realise their human rights” (Wisborg, 2013: 1218). The study emphasises the multidimensional nature of poverty, encompassing interrelated deprivations, stigma, discrimination, insecurity, and social exclusion (UNDP, 2016). Interestingly, while much is understood about commons from studies of small-scale local commons in irrigation, forestry, and fisheries, surprisingly little knowledge exists about regional and global commons. Numerous questions remain unanswered in the literature. For instance, why do some regional or global commons

exhibit better management compared to others? Under what circumstances do countries cooperate or not cooperate concerning regional or global commons? (Eduardo Araral et al., 2020: 148).

3.6 THE COMMONS AND CUSTOMARY LAND AND LAW: RETHINKING THE ORTHODOXIES: WHAT ARE COMMONS? REVISITED

In theory, a robust ideological commons represents an institutional arrangement for community-based resource management or governance. The roles of institutional arrangements in regulating resource access and use, along with the influence of cultural norms within local community users that enable sustainable natural resource management through familiarisation with formal and informal regulations for CPR management, are crucial factors (Ostrom, 1990). To extend the perspective beyond Zambia's state-owned land – such as farm blocks, urban settlements, etc. – to land use categories ostensibly under customary control, where smallholder cultivation is either restricted, such as national parks, or subject to unclear or conflicting regulatory frameworks such as forest reserves and game management areas (Chamberlin et al., 2015: 5). The commons represents one of the oldest and most universal methods of land use. It is an essential yet currently underutilised conceptual tool for reimagining natural resource management and property rights steering. Sustainability entails looking ahead over both short and long-term horizons. Consequently, rights based on land access can exist independently and in parallel with the concept of private property ownership. The argument against having 'blind faith' solely in private ownership is that, for a better comprehension of these institutions, it is imperative to examine community property rights institutions and government interventions. This view is rooted in the notion that conditions that facilitate or hinder the emergence of a more efficient property rights regime are linked to a diverse resource base, social networks, and a web of interests, particularly in the land. Stability or instability in systems when confronted by internal or external forces of change is also influential. As a result, this thesis contributes significantly to theoretically informed empirical inquiries in field settings by incorporating a rights-based approach to examine land access, use, and

ownership concerning the customary land tenure system in Zambia. Understanding community property rights institutions and government interventions is pivotal for efficient property rights regimes. Conditions influencing these institutions encompass diverse resource bases, social networks, and system stability. Particularly in the context of land, efficient property rights regimes are influenced by diverse resource bases, social networks, and system stability.

Enforcing regulations concerning parties challenging the property rights institution also incurs costs. However, viewing property rights solely as alienation and property sale overlooks an essential aspect—it is vital to perceive property rights as a bundle of rights, not solitary entities (Nayak, 2022). Marginalised individuals and groups often lack secure land rights, exposing them to risks like physical harm, displacement, and loss of property and livelihoods. Securing these rights is considered a path to other human rights and well-being. Despite relying on other recognised human rights, land rights are not universally acknowledged (Boudreaux, 2019: 303). The idea that property rights should be bundles of rights is well-established. Property rights owners should possess all five rights: access, withdrawal, management, exclusion, and alienation (Michael McGinn, 2011: 178), elaborated in Chapter 4. This thesis adopts and applies this conceptual focus to ascertain authorised actors for specific actions related to defined goods or services. These rights are components that can be integrated into more complex bundles. Ownership rights can be linked to the ability to use, control, transfer, or enjoy land within lawful limits. In statutory law, tenure typically refers to private freehold property (FAO, 2002: 47). In Zambia, land ownership and usage rights exist independently, with a gap between formal and informal local land administration systems, a gap this thesis addresses.

Privately occupied plots may be individually owned, but their value often depends on shared amenities like roads and electricity in a communal town planning scheme. Even within households, collectively owned elements like bathrooms and kitchens highlight the importance of institutions in modern life, forming 'mixed systems of communal and individual property rights'. This underscores that communities can manage natural resources without state control or privatisation, actively addressing common property rights challenges (Nayak, 2022). Commons, historically enclosed or managed with access limited to private ownership or state

control, have been the subject of centuries of enclosures and restrictions. The radical case for commons, benefiting the marginalised, warrants attention. Commons may not always prevent resource exploitation or concentration (Wall, 2014: 69-70), yet many rural Zambians view them as productive for subsistence needs. Analysing current land policies and commons-based solutions is crucial for understanding failures, countering threats, and sustaining existing commons. Historical commons comprehension necessitates studying existing models' applicability in real-life scenarios. Real-world research often derives from theory, and employing different frameworks assists in formulating clear questions and potentially diverse conclusions.

3.7 CONCLUSION

This chapter has provided an in-depth exploration and conceptualisation of the IAD framework, along with various approaches and theories that facilitate the examination of land use in Zambia. However, there exists a scarcity of empirical evidence specifically scrutinising the commons, especially customary land tenure, in Zambia. This study addresses this gap by linking political, socio-economic, and cultural land aspects to a rights-based approach, thus enabling the analysis of commons and livelihoods within a single real-world study, as exemplified by this thesis. Commons scholarship often underscores the significance of self-governance within commons. The historical focus has centred on refuting Hardin's assertion that only state or market solutions can prevent a 'tragedy of the commons'. Remarkably, this study's analysis demonstrates that commoners can collectively address resource system collapse without relying solely on external aid. Self-governing institutional arrangements have proven more effective than alternatives involving significant external roles. Under specific conditions, locally developed and enforced institutions can be viable alternatives to externally imposed rules or privatisation (Ostrom, 1990; Dietz et al., 2003). Furthermore, commons scholarship proposes that communities are better poised to effectively self-govern commons. By considering the constituent components of the IAD framework, variations in the governance outcomes of CPR become clearer (Ostrom, 2005). Agrawal and others argue that specific resource attributes, community characteristics, and institutional arrangements foster enabling conditions for successful collective governance of commons. Positioned within a

theoretical construct, this chapter has illuminated the land question, land tenure, and land governance within the context of rural agricultural livelihoods in Zambia. Commons significantly contribute to sustaining indigenous knowledge, culture, and traditional practices. They form integral components of coping strategies, contributing to livelihoods and poverty reduction (Larson et al., 2020: 377). Moreover, this chapter has explored the polycentric governance theory as an apt framework for this study. This theory effectively explains the shift in land tenure systems and governance from dominance by single institutions to a landscape encompassing multiple actors, from Civil Society Organisations (CSOs) to subnational governments. Unlike an international-level collaborative approach, the polycentric method focuses on self-organisation and coordination among diverse actors. The defining characteristics of a polycentric political system encompass autonomous units acting in ways that consider others through collaboration, competition, and conflict resolution. This theory significantly aids in comprehending the research questions posed in this study. A polycentric system empowers units to self-organise, facilitating experimentation and coordination among actors, particularly at the local level.

In conclusion, this chapter underscores the importance of experimentation and reciprocal learning to continually enhance governance over time. Enhanced cooperation may lead to innovations in land governance, promoting adaptability. Summing up, this pioneering land governance analysis is built on the recognition of existing policies, procedures, and institutions governing land, property, and natural resources in Zambia. Governance encompasses value systems, policies, and institutions through which units of development, households, or communities manage their economic, political, and social affairs through interactions between the state, civil society, and the private sector. However, insecure land rights are often linked to inadequate legal frameworks, creating disincentives for agricultural investment and land development. Indigenous commons, though facing various governance challenges, particularly focus on issues tied to formalisation processes for recognising indigenous rights. Addressing legal overlaps, realising benefits from rights, building equitable governance institutions, and fostering management based on collective action are vital aspects (Larson, 2020: 377). The analysis identifies crucial elements within the communal system for sustainable resource utilisation, including land access, utilisation patterns, and resource management through both formal and

informal regulations. Adapting to these regulations enables the sustainability of the commons. Considering the close link between land and community, we have outlined the key characteristics of various rural communities in Zambia and how the 'customary land system' operates and is locally governed. This primarily aims to highlight distinctions in underlying tenure regimes. As discussed, this involves applying Elinor Ostrom's principles to develop practical and replicable strategies for governing CPR institutions. In this case, proper governance of both statutory leasehold and customary land by the government is needed for sustainable management. Additionally, property rights should be perceived as bundles rather than individual rights – access, withdrawal, management, exclusion, and alienation – using the rights-based approach to land governance. This should be reinforced with principles such as appropriation, provision, 'culture inclusive/values' rulemaking, 'institutions' and monitoring, 'accountability', and sanctioning. This approach encompasses not only new institutional structures or existing real-world facts but also influences behaviour and legitimacy in diverse forms, resulting in a comprehensive enhancement of land rights and governance.

4.1 INTRODUCTION

This chapter outlines the research design methodology, detailing the data collection methods and concluding with a summary of the data analysis. The field research spanned from September 2021 to April 2022. Field research involves the practices, methods and procedures of doing research and the methods of data collection and analysis or a different aspect of field research are; a situation that may be attributed to the trends and developments that have taken place in an area of study (Burgess 2003:3). Methodology encompasses the foundational assumptions that inform the procedures for data collection and analysis in research, as highlighted by Guba (1990) and Denzin & Lincoln (2005). It involves the researcher's grasp of social reality, interpretation of phenomena, and the employment of tools and approaches for crafting effective research strategies to address specific questions, (Cohen et al.2007). Research methodology, a systematic framework for conducting investigations, employs a mixed method comprising of field research, a case study approach integrating both quantitative and qualitative methods. The value of both combining qualitative and quantitative methods promotes a world view that encourages and gives an inspiration about the practical value of research design that combines different methods (David L Morgan, 2007:73). This approach outlines steps to ensure the validity and reliability of research findings, covering research design, data collection methods, sampling techniques, data analysis procedures, and ethical considerations. Quantitative methods apply statistical analysis to data from standardised questionnaires via survey methods, representing a broader population across variables like regions, ethnic groups, genders, etc. Qualitative methods focus on narrative analysis and interpretation of people's actions, utilising ethnographic tools (conversations, semi-structured interviews, life histories, oral histories, and observation) from smaller datasets, challenging broader representativity. These ethnographic methods, aimed at individuals and households, can extend to examining policies and institutions to trace their "life histories" or dynamics. This involves engaging with key informants through conversations and semi-structured interviews and analysing documents, diaries, maps, photographs, and other historical methods to

understand occurrences, their causes, and implications, as noted by Hulme (2007: 6-9). This thesis used field research ‘as a way, of investigation which is also referred to as ‘fieldwork’, ‘qualitative method’, ‘case study method and ‘ethnography’; and the use of multiple methods, set of data and theories in field research provides flexibility, cross-validation of data and theoretical relevance (Burgess, 2003:1-166). On the other hand, there is no one theory that explains how governance works or..., there is no single framework or analytical approach that can generate data to answer all questions that might be asked of governance, and governance leading to sustainability of land and improved livelihoods of people who depend on it (Nunan,2020:1).

4.2 CASE STUDY RESEARCH

This section outlines the justification for employing a case study research design, detailing its relevance and application to the study. Case study research, as an empirical inquiry, explores contemporary phenomena within their real-life context, employing multiple evidence sources (Yin, 2003). It highlights the distinct procedures that grant researchers discretion over the methods used, making it particularly suited for addressing complex, unstructured problems involving multiple, time-influenced variables (Barry and Fourie, 2002). Yin (2014:16) defines ‘a case study as an in-depth investigation of a contemporary (current) phenomenon within its real-world context, especially or usually when the boundaries between the phenomenon and the context are not clearly defined. This approach is chosen to gain a comprehensive understanding of a real-world case, including the significant contextual conditions related to it. A case study is more than a single data point; it serves as a discovery or problem-solving process that primarily uses qualitative methods like observation, interviewing, and discourse analysis, supplemented by questionnaires and surveys to obtain robust evidence and perspectives informed by a critical theoretical stance (Bartlett & Vaurus, 2017:1-7).

The research employs a case study approach to address three main questions:

- a) The impact of rural land tenure systems and governance on smallholder farmers in Zambia and the potential enhancements through reforms.

b) The influence of the current land tenure system and its administration on smallholder farmers.

c) The necessary reforms in land tenure and governance to benefit rural communities, especially smallholder farmers.

The selection of a case study and a survey of smallholder interviews and key informants' interviews questionnaire as the primary research strategies aim to conduct an in-depth examination of contemporary land tenure impacts and land reform effects on rural livelihoods in Zambia's customary lands.

The study areas, chosen for their prevalence of smallholder settler farmers, the emerging land markets, traditional tenure systems power balances in rural areas and evolving traditional institutions affect and reflect the demographic changes, customary law shifts, and the often weak or absent state legislation and implementation (ZLA, 2019). Despite their crucial role in food production, smallholder subsistence farmers' welfare has been largely overlooked (Lawry et al., 2014; Mwesigye, Matsumo, and Otsuka, 2017).

The research underscores the importance of exploring not only land administration but also the polycentric governance and land institutions within the Zambian context. The case studies, by incorporating stakeholder voices and perspectives, enrich the understanding of land administration processes. They also serve as a valuable tool for an institutional approach, capturing detailed narratives and the political, and cultural backdrop of customary/rural land administration in Zambia. The studies in Monze and Chembe, by focusing on land ownership and tenure relevance, demonstrate how smallholder agriculture can bolster food security.

Customary land tenure systems, characterised by a complex web of relationships and institutions responsible for land administration, necessitate a multifaceted research approach. To this end, multiple research methods and evidence sources were employed to thoroughly explore and articulate the dynamics within Zambia's rural land tenure systems. Successful research design, organisation, and execution rely on a variety of procedures and techniques (Yin, 2003; Mohd Noor, 2008; Holland & Campbell, 2008). To ensure the validity and reliability of its findings, this thesis adheres to Yin's recommended tactics in research design, data

collection, and analysis. Analysts have suggested refinements for case studies at each research process phase, underscoring the method's suitability based on its compliance with validity and reliability tests.

Tests	Case study tactics	Related research process
Construct validity	Use multiple sources of evidence.	Data collection
	Establish a chain of evidence.	Data collection
Internal validity	Do pattern matching.	Data analysis
	Explanation building	Data analysis
	Address rival explanation.	Data analysis
	Use logic models	Data analysis
External validity	Use theory and replication logic in multiple–case studies	Research design
Reliability	Use case study protocol.	Data collection
	Develop a case study database	Data collection

Table 4.1: Case study tactics for the four design tests Source: Yin (2003:34)

The design of this study was justified as it aligned with the research questions and the philosophical underpinnings adopted. This alignment preserved the originality of the doctoral study and its design. The employment of the case study strategy and its design was consistent with the aforementioned criteria.

The study unravelled the characteristics and complexities of land tenure within customary systems, as well as the dynamics identified, through evidence and data derived from the case study methodology. This approach has been similarly utilised in related research (Silva and Stubkjaer, 2002). Silva and Stubkjaer analysed nine publications that employed case-study methods to explore land tenure and administration, concluding that the case-study methodology is aptly used for its logical process in understanding the sociocultural determinants of land tenure systems and their implications for comprehensive land information and reforms. Therefore, it is specifically recommended to examine the changing aspects between customary and statutory institutions in land administration and governance.

Case study research, focusing on specific issues, features, or units of analysis, does not aim to examine an entire system, organisation, or object in its entirety (Mohd Noor, 2008). The selection of multiple tenure systems within rural or customary lands as the unit of analysis was critical, treating these systems and institutions as distinct units of analysis to capture the essence of each investigated customary area. A variety of methods and sources of evidence were used to thoroughly understand and articulate the dynamics of the multiple or dual land tenure systems in rural Zambia. The research delved into customary institutions, processes, and actors, including indigenous settlers, government officials, and private organisations, each playing varied roles in land administration. It is posited that a range of procedures and techniques is essential for the effective design, organisation, and execution of case study research (Stake, 1995; Yin, 2003; Mohd Noor, 2008). This section also details the selection and description of the study areas, the sources and methods for data collection, the sampling approach, the data analysis and presentation techniques, and outlines the limitations encountered during fieldwork, concluding the chapter.

4.2.1 Selection and Description of the Study Areas

Zambia, covering 752,614 sq. km or 75 million hectares, is administratively segmented into 10 provinces and 116 districts. As of 2020, its population was approximately 17.9 million, experiencing the highest annual growth rate in Africa, with projections indicating a rise to 50 million by 2050. Despite this rapid growth, its population density stands at the lowest in sub-Saharan Africa with 27 persons per square kilometre (FAO, 2020). Zambia ranks among the most urbanised countries in sub-Saharan Africa, with 43.5% of its population residing in urban centres, where about 70% live in densely populated informal settlements (World Bank, 2020). These peri-urban areas often expand into customary agricultural lands governed by traditional chiefs.

The case study focused on Monze and Chembe districts, chosen for their evolving traditional institutions and land governance structures, identified through literature review and site visits. Monze is in Zambia's Southern Province, and Chembe is in the Luapula Province. Both feature prevalent informal settlements, with housing units often built without adherence to formal planning and building regulations, on lands lacking legal protection. This study seeks to explore the necessity of legal

safeguards against land alienation, to preserve lands with vital livelihood functions, as advocated in the Zambian land policy, ensuring continued access, use, and control by customary users (German, 2022: 215). Economic activities in these areas primarily include subsistence agriculture and animal husbandry.

The selection criteria for these districts were based on their proximity to Central District boundaries or peri-urban areas, characterised by high poverty, limited access to services and infrastructure, unregulated development, and poor housing. This diversity in tenure, the interplay between customary and statutory institutions, and changes due to rapid urbanisation prompted their selection. Monze features land owned by families and clans, historically passed down, with the eldest family member overseeing it. Chembe, in contrast, represents a non-land-owning community within the chiefdom/district as community land is considered to be owned and controlled by chiefs, chosen for comparative analysis to assess if their situations mirror a broader national issue with customary land. The study employs case to provide empirical data elucidating individual and societal behaviours, the dynamics of dual administration systems, and the intricacies of land governance. It aims to explore how these aspects might enhance rural smallholder farmers' livelihoods. The evolving nature of land laws and policies in Zambia presents significant research opportunities, particularly in improving resource distribution among farmers, which is crucial for growth in low-income countries (Adamopoulous & Restuccia, 2014). The dual-site approach aims to:

- Provide insight into rural areas, predominantly involving smallholder farmers on customary lands.
- Represent different land-owning household types within the chiefdoms/districts, highlighting those near peri-urban areas.
- Focus on the variety of land tenure systems in Zambia, especially concerning tenure security in communal areas where most smallholder farmers reside.
- Analyse the current land administration systems in Zambia, evaluating their strengths and weaknesses, with an emphasis on customary land.

- Offer a comprehensive understanding of customary land governance, agricultural practices, and rural livelihoods.

The study areas are detailed in terms of location, demographics, tenure systems, institutional interplays, and economic activities, providing a foundation for the analysis.

4.2.2 Monze District

Monze, situated approximately 200 km south of Lusaka in Zambia's Southern Province, is a rural district that faces frequent hunger and cyclical droughts. Historically, the Southern Province was Zambia's agricultural heartland, notably during the early post-independence era, acting as the primary source of marketable maize and the centre of the country's cattle wealth. This prominence was supported by fertile soils, the early development of transportation infrastructure including railways, trunk highways, and feeder roads, along with favourable rainfall patterns. However, the region has seen significant changes in recent years. The viability of maize farming has been adversely affected by recurrent droughts, pressure from growing human and livestock populations, and frequent restrictions on cattle movement due to outbreaks of cattle diseases, which have sometimes drastically reduced peasant farmers' yields. The district is predominantly inhabited by Tonga-speaking people, under the leadership of Chief Monze. Local rural residents primarily engage in small-scale subsistence agriculture, focusing on both crops and livestock, which represents the main livelihood for many. Polygamy is prevalent in Monze, where it is culturally endorsed and legally recognised, often reflecting a person's wealth and status. In such families, separate fields are usually maintained by each spouse.

Land tenure in Monze is mainly customary, with traditional leaders allocating land to households. Although the society is matrilineal but patrilocal, Tonga women may possess land rights, expected to benefit from land through their children or male relatives. Typically, women gain access to land via their husbands, with wives often responsible for planting food crops, while husbands focus on cash crops alongside a smaller portion of food crops. The district is marked by significant poverty, with over 65% of households cultivating less than one hectare. In contrast, the more affluent households, constituting about 10% of the population, manage more than 3.5 hectares.

4.2.3 Chembe District

Chembe, a newly established district in the Luapula Province, is located approximately 615 km west of Mansa, the provincial capital. The district is predominantly inhabited by the Bemba and Aushi ethnic groups, under the leadership of Chief Kasomalwela. The main livelihood for the rural communities in Chembe is subsistence crop farming, particularly maize. In 2005, the district underwent rapid economic development following the government's decision to allow private investors to initiate sugarcane plantations and chilli farming projects, which catalysed Chembe's establishment as a district. This economic boost attracted a significant influx of immigrants seeking employment and opportunities, transforming Chembe into a peri-urban area. Despite the broader economic benefits, the local poor communities have faced challenges in reaping these advantages (Ng'ombe, 2009). The developments have led to increased land pressure for investment purposes, affecting the local communities both positively and negatively (Keivani and Mattingly, 2007).

Urbanisation and the resultant shifts in land tenure and livelihoods, driven by the demand for land, have seen local elites acquiring land, transitioning from customary to titled ownership and employing locals on their farms. Despite this, the majority of Chembe's residents remain fish traders and subsistence farmers. Land administration is traditionally managed by the Chief (traditional leader), who holds the land in trust for the community, with sub-chiefs, village headpersons, unit committees, and clan or family heads supporting land governance. A village committee oversees land allocation, strategic planning, and decision-making concerning land tenure.

In Chembe, people enjoy usufructuary rights, with land ownership residing with the chief, allowing them to build houses and farms. These rights are transferred through gifts, inheritance, pledges, tenancy, and leases, adhering to local community laws. Land security is a concern due to the lack of legal documentation, with tenure security relying on national frameworks that outline land allocation and usage.

Land transfers in Chembe follow family succession and patrilineal lines, allowing land transfers to children but excluding daughters and their offspring. Before the 1990s, migrants could access land freely or at minimal costs through various agreements.

This system facilitated land use and ownership rights for newcomers, including purchases or gifts (Kasanga & Kotey, 2001). Zambia's customary land tenure systems, including in Monze and Chembe, have seen significant transformations. Between 1964 and 1995, land control was vested in the President, with the state having the authority to take land for public interest without compensation. The 2006 constitutional change granted full ownership and control to customary authorities, though the state retained rights for institutional land use. Urban and local elites have acquired land through leaseholds and purchases, while chieftaincy institutions have seen enhanced roles in land administration. Currently, customary institutions, including the Paramount Chief, sub-chiefs, elders, and village headpersons, manage land administration autonomously, with significant input from clan and family heads in land transactions and governance.

4.3 VALIDATING THE CONCEPTUAL /THEORETICAL FRAMEWORK AND INTRODUCING THE METHODS

Before conducting the field study, an extensive literature review was undertaken to establish a conceptual framework and provide an overview of Zambia's land governance. The research employs a mixed-methods approach, incorporating alternative methods to address potential shortcomings. The central argument posits that enhancing tenure security and land administration efficiency will mitigate land conflicts, foster formal transactions, boost investment, and facilitate land use as collateral, ultimately improving livelihoods for smallholders and rural communities. The study examines how tenure security varies across individuals, groups, and locations, assessing its impact on different social demographics, including men, women, the youth, and economically disadvantaged smallholders, and explores land tenure systems and security in rural or customary lands to inform land governance.

Zambia features a dual land tenure system consisting of state and customary lands. Customary law predominates rural land allocation, inheritance, and use, with traditional authorities overseeing access. Nationally, land administration vests in the President, with the Land Act of 1995 delineating governance under statutory and customary systems. Statutory land falls under the Ministry of Lands and Natural Resources and, the Ministry of Local Government and Rural Development, while customary land remains under traditional chiefs' custodianship. Despite the Act's

intentions to enable a land market and regulate it through bureaucratic control, its implementation has introduced confusion, particularly in customary land governance. The study navigates the complexities of land governance, noting the indeterminate extent of state versus customary lands, with ongoing conversions of customary into state land challenging the administration's efficacy. It aims to uncover legislative gaps, proposing amendments to align with international standards for land governance. Utilising the Institutional Analysis and Development (IAD) framework, the research emphasises polycentric governance's role in enhancing information sharing among decision-making bodies.

Zambia's Eighth National Development Plan recognises challenges in land governance, with shifts from customary to state management affecting resource stewardship. The study underscores the importance of secure tenure rights in promoting food security and equitable governance, questioning the necessity of formal rights versus informal institutions. Focusing on Monze and Chembe districts, it seeks to improve land governance by examining customary land tenure dynamics and pathways to sustainable administration. Employing Ostrom's Adapted Design Principles, the research methodology aims to elucidate how collective resources can be effectively governed, contributing to the academic discourse and practical solutions for smallholder farmers. This section elaborates on the methods used to strengthen the theoretical framework, exploring the interplay of rules and norms in land administration and governance.

4.4 DATA COLLECTION SOURCES AND METHODS

This section details the data collection sources and methods, along with the sampling approach, outlining the fieldwork's design and execution. The study engaged practitioners involved in land governance in Zambia through surveys and interviews, incorporating field visits as a crucial component. Data were collected using two primary instruments: questionnaires and document reviews. The questionnaires, featuring a mix of open and closed-ended questions, were systematically administered to selected respondents. Document reviews supplemented the primary data, involving the analysis of various sources such as textbooks, newspapers, online resources, and academic journals deemed relevant to the study. The fieldwork spanned over six months and was conducted across Zambia, as detailed in Table 4.2.

Period	Fieldwork Stages
August 2021	Design research tools and prepare for fieldwork: arrange for field placement/and office space alternatively with Indaba Agricultural Policy Research, the Zambia Land Alliance, or the Ministry of Lands'and Natural Resources.
September 2021	<ul style="list-style-type: none"> - Due to bureaucracy, seek clearance from the Ministry of Lands and Natural Resources after nearly a month, along with Excellence Research Ethics and Science Converge (Eres-Converge) in-country study ethical clearance. - Make appointments with government institutions and selected non-governmental organisations, Key Individuals through email, telephone, and in-person meetings; e.g., Zambia Land Alliance, Indaba Agricultural Policy Research Institute, etc. - Test the research tools in Monze, but in a different place from the one chosen for the study in Monze.
October 2021	<ul style="list-style-type: none"> - Conduct interviews with professionals such as government officials, non-government experts and academicians in Lusaka (See annex attached). - Proceed to Monze to arrange and conduct interviews/focus groups/surveys with traditional leaders, smallholder farmers, and district professional key informants.
November 2021	<ul style="list-style-type: none"> - Continue interviews/focus groups/surveys in Monze. - Proceed to Mansa to conduct interviews/focus groups and administer survey questionnaires with small-scale farmers and government/NGO Key Informants.

December 2021	- Spend over a month in Chembe to contact, arrange, and conduct interviews/focus groups/surveys with small-scale farmers and government/NGO Key Informants.
January to February 30th, 2022	- Continue interviews/focus groups/surveys in Monze. - Proceed to Lusaka to conduct interviews with academicians and government/NGO Key Informants.
February 2022	- Finalise data collection in Lusaka and Copperbelt with key informants.
March to April 2022	- Finalise and complete fieldwork, data analysis, and transcription. Return to University.

Table 4.2: Brief Timeline of Fieldwork

The research engaged chiefs and village heads to introduce the study to smallholders in rural and customary areas of Monze and Chembe, where chiefs play pivotal roles in safeguarding communal and individual interests. Site visits were organised primarily through the chiefs and their palace retainers. Despite their introductions, explicit consent was secured from all participants before starting the research. During key informant interviews, most interviewees opted not to be recorded, prompting the requirement for ethical consent forms to document their agreement to participate. Semi-structured interviews facilitated comprehensive data collection by allowing respondents to offer detailed answers beyond preset choices. Interview guides were prepared to steer the interviews, targeting participants based on their roles in land administration. For smallholder farmers unable to write, fingerprint signatures were used to endorse consent forms.

The study's community survey design was deliberately planned to respect the interests of rural residents in Monze and Chembe without detracting from the research objectives. A cross-sectional survey, incorporating both quantitative and qualitative methods, was selected due to its suitability for studying a (or the) representative sample of the population and enabling population-wide inferences from the findings.

The survey ensured a standardised data collection process across households. All the participants' were clearly informed of their rights to decline involvement/participation or withdraw at any time, with confidentiality and anonymity addressed at the outset of each interview. The research employed mixed methods for collecting and analysing both primary and secondary data. Surveys were conducted with 111 smallholder farmers on customary land in Monze and Chembe to (gather) capture a representative snapshot of all Zambian smallholder farmers. Quantitative data was gathered through standardised questionnaires to assess tenure situations and personal viewpoints. Additionally, 47 key informant interviews with state and non-state actors were conducted to address knowledge gaps and validate data from household interviews. These qualitative expert interviews explored changes in traditional structures, land governance, tenure security, and the role of informal documents and institutions. Topics discussed included rural agricultural activities, the role of chiefs and the state in land rights, community participation, challenges, and livelihood or food security indicators.

Data were collected from various sources, including community/smallholder household surveys (111 respondents), key informant interviews (47 respondents), and (8 smallholders FGDs 4 held in each area) Focus Group Discussions (FGDs). Questions for community surveys and FGDs, excluding those for key informants, were translated into the local language to accommodate respondents, many of whom are illiterate and do not understand English. Translated questions were also 'back-translated' independently to ensure accuracy. The study predominantly employed qualitative methods, focusing on exploring individuals' lived experiences, personal narratives, and feelings, as well as examining connections and networks through discursive approaches.

4.4.1 The population of the Study

In this study, the term "population" denotes all individuals within a specific group of people, occasions, or objects, embodying any group-sharing traits relevant to the researcher's focus (Also see Prior, 2004:332). The target population for this research included the districts of Monze and Chembe in Zambia, with data collected from a representative sample of smallholder rural poor within these areas. This approach, inspired by Richard's advocacy for understanding African farmers' viability and

performance through direct engagement in their farms, was applied to comprehensively grasp the perspectives of communities in both districts (See Richard, 1986).

Data collection involved a variety of methods as mentioned earlier. Recognising the literacy challenges among most respondents, survey and FGD questions were translated into the local languages, Tonga and Bemba, and then back-translated by an independent party to ensure accuracy. A pilot study involving 20 participants pre-tested the newly translated questionnaires, leading to further refinements before administering them to 111 smallholder farmers. Additionally, 47 key informants from state and non-state institutions were interviewed to provide a depth of understanding across different aspects of land governance. This methodology draws on Yin's recommendations for case study research, emphasising the importance of triangulation through various data collection tools to enhance reliability and validity. By comparing data from individual interviews, FGDs, and literature reviews, the study ensured a robust validation process for its findings. Key informant interviews, both structured and unstructured, offered detailed insights from experts within the land sector, including officials from the Ministry of Lands Natural Resources and local district councils, alongside community leaders involved in land administration under Zambia's legal framework. These interviews, combined with the survey data from land users and owners on customary land, provided a comprehensive understanding of the study's focus areas, contributing to informed conclusions and recommendations.

4.4.2 Interviews

Interviews serve as a crucial research technique in the humanities and social sciences, offering a platform for structured to unstructured in-depth dialogues with various social actors. This method enables researchers to grasp the participants' reported experiences and diverse viewpoints on the subject matter. It also facilitates the revelation of participants' mixed responses to events, policies, or informal organisational norms. Semi-structured and unstructured interviews align well with the comparative case study methodology, as they embrace the procedural essence of conversation and the social aspects of knowledge creation. Nonetheless, structured

interviews hold value in specific scenarios, notably when dealing with participants who have limited time or are unable to elaborate on their opinions.

In this study, semi-structured and unstructured interviews, which were flexible and open ended were pivotal for collecting comprehensive insights on land tenure systems and the governance of customary land, aiming to assess the impact on smallholder farmers and the potential benefits of land reform. Semi-structured interviews, facilitated by interview guides, provided a structured yet flexible framework for discussion, enabling respondents to explore topics deeply while allowing for spontaneous follow-up inquiries. This approach yielded a nuanced understanding of the subject matter and effectively communicated the study's objectives. While maintaining a focus on specific topics, the interviews were adaptable, with the sequence of questions not strictly fixed, allowing for natural progression based on interviewees' responses and the conversation's flow. Unstructured interviews, conducted with local community members, fostered a conversational atmosphere that encouraged participants to share their experiences openly. These interviews were categorised into two main groups: one consisting of specialists, officials, and professionals, and the other comprising local community members, all anonymised to protect their identities.

The research also utilised semi-structured interviews with 47 key informants, including government officials, NGO representatives, and academics, to understand the intricacies of customary land governance and the interplay of polycentric governance within Zambia's state and traditional institutions. Alongside, published documents on Zambian land served as a secondary source of primary data, uncovering the governance processes of customary land and highlighting the dynamics between state and customary institutions.

4.4.3 Household Survey

This study utilised surveys with both quantitative and qualitative elements, focusing on the distribution of certain aspects across a population. By also employing open-ended questions, the survey enabled the collection of insights from 111 smallholder farmers in Monze and Chembe, exceeding what could have been gathered through interviews alone. The use of a self-completion questionnaire aimed to address three

research questions, leveraging the efficiency and cost-effectiveness of small-scale surveys to produce controlled information and support the primary qualitative research with evaluative data.

The survey targeted smallholder farmers in Monze and Chembe due to their reliance on agriculture and the potential comparative insights their responses could provide. This purposive sampling strategy selected participants based on specific characteristics relevant to the study's focus on customary land and agriculture. The process involved administering questionnaires to 111 smallholder farmer respondents and conducting a factual survey to gather background information from individuals, aiming for a sample size of less than 50 respondents per district. Interviews supplemented the survey, with 111 smallholders (households)' farmers. These interviews, conducted in English and Bemba, explored various aspects of land administration, including tenure, governance, and the roles of different stakeholders. The integration of household survey questionnaires and key informant interviews offered a comprehensive view of land administration and governance, identifying key actors, decision-making processes, and their impacts on land use and ownership. This multifaceted approach not only provided insights into the current state of land tenure and governance among rural smallholders in Zambia but also facilitated comparisons with international development policies and their implementation at the community level. The study's methodology, combining direct questioning with in-depth interviews, allowed for a detailed examination of the land tenure system, its challenges, and potential reforms from the perspectives of those directly affected.

4.4.4 Focus Group Discussions (FGDs)

Group interviews and Focus Group Discussions (FGDs) were employed as key data collection methods during field visits, designed to gather insights from multiple respondents simultaneously. This approach ensured uniform questioning across participants to mitigate the impact of individual experiences and minimise costs. The uniformity of questions and the written documentation provided helped to reduce interviewer bias and facilitated the efficient compilation of data. FGDs, in particular, were instrumental in delving deeper into topics identified from community surveys, offering a dynamic forum for smallholder landowners and users to exchange views, thus enriching the research with diverse perspectives. In total, eight FGDs were

organised across Monze and Chembe districts—four in each—to tackle both primary and subsidiary research questions. These discussions explored various aspects of land tenure, including ownership patterns, allocation and acquisition processes, and the factors influencing access and ownership. Participants were purposively chosen for their insights into land tenure and administration, with sessions conducted in accessible public spaces within each community. Each FGD aimed to include five to six household heads or other informed individuals, with sessions segregated by gender and also mixed groups to ensure comprehensive representation and encourage open dialogue.

The integration of household surveys, key informant interviews, and FGDs allowed for a robust validation of data and facilitated a multi-faceted exploration of the study's themes. This mixed methods approach not only confirmed findings across different data collection strategies but also provided a nuanced understanding of land governance issues, challenges in infrastructure and service provision for rural communities, and the dynamics between customary and statutory land institutions. Furthermore, the study illuminated the complex interrelations between formal and informal governance structures in rural Zambia and their implications for land governance. This comprehensive methodology highlighted the contextual specificity of land governance, uncovering the nuanced impacts and challenges faced by rural communities in navigating land tenure and administration.

4.4.5 Observation

Observation served as a key qualitative method during field visits in this study, playing a crucial role in data collection. Employing the participant observation approach, the researcher dedicated significant time to observing people's behaviours and activities in the Monze and Chembe districts, utilising a structured observation tool, such as a checklist, to systematically record observations at set intervals. This method enabled a direct comparison of social relations and physical situations across the two sites, enhancing the research's depth by integrating document analysis, direct participation, and introspection alongside other data collection methods like household surveys, interviews, and FGDs. Site visits allowed for firsthand observation of land use dynamics, including changes and conversions, contributing to a comprehensive understanding of the land allocation and acquisition processes. By

engaging with landowners and prospective buyers—from initial land viewing to negotiations and registration with customary and statutory institutions—the researcher could witness the intricacies of land administration. This observational strategy was invaluable for verifying information from interviews and FGDs, which could be influenced by cultural, religious, and political biases.

4.4.6 Secondary Data

Secondary data for this research was sourced from various authoritative entities, including Zambian land laws, government policies, maps from local district councils and information provided by agricultural extension officers. Through document review, detailed insights into land tenure, customary land administration, and rural land use requirements were gathered. This secondary data played a crucial role in contextualising the case study within a specific narrative framework, offering perspectives on historical developments, past policy interventions, and current objectives concerning land tenure and governance in customary and rural settings.

4.4.7 Constraints in Collecting Data

The research timeline was significantly impacted by the need to obtain authorisations from both customary and statutory land administration bodies, consuming a considerable portion of the allocated time for data collection. To mitigate this, the researcher extended work hours, including weekends. Household surveys were scheduled for afternoons, aligning with the respondents' return from their fields and workplaces. Similarly, interviews with key informants from the Land Commission and District Land Alliance were arranged for late afternoons and evenings to accommodate their official schedules. This timing posed challenges, as many respondents were likely fatigued after their day's work, affecting their participation in the study.

Despite these obstacles, all targeted respondents were successfully contacted and interviewed. Some participants expressed concerns about fatigue during the survey and interview processes and shared experiences of participating in previous studies without seeing tangible benefits. However, they were reassured about the academic nature of this research and its potential to offer valuable insights and

recommendations'. Another challenge was the inadequate record-keeping by some customary tenure institutions, complicating data retrieval. While some entities agreed to share information, they lacked the necessary records. The use of triangulated data collection methods enhanced the study's credibility and validity, allowing for a comprehensive mapping of interactions among various actors. This approach also facilitated a detailed analysis and helped identify inconsistencies by cross-checking data from multiple sources, ensuring a thorough investigation of the research questions.

4.5 SAMPLING APPROACH

The study employed a multiple cross-sectional case study methodology to select two chiefdoms within the Monze and Chembe districts, distinguished by their population density and distinct land tenure characteristics, factors crucial to land administration. These districts were chosen due to their tenure complexities and uncertainties that contribute to land fragmentation, influencing infrastructure and service provision. A comparative analysis of these rural areas in Zambia was deemed necessary to explore the differences in land tenure systems and the dynamics between customary and formal tenure systems. The sample used is a substitute for the population, it a reliable and a representative sample, and was selected without bias as methodical procedures were used (Hammond & McCullagh,1978:131). For the sample size and sampling procedure, a subset of the target population was analysed to infer about the entire group. Representativeness in the sample is essential, mirroring the need for a comprehensive cross-section of the population in both quantitative and qualitative research. While qualitative researchers cannot observe every relevant aspect of a group, organisation, or site, they seek to gather a representative sample of observations. Data from smallholder farmers in Monze and Chembe were collected using interviews and focus groups, employing 'stratified purposeful sampling' (Patton,2002). This approach segments the population into homogeneous strata to ensure major variations are captured, facilitating the examination of differences in how a phenomenon is experienced, alongside identifying significant associated factors. Table 4.3 details the sample size distribution among smallholder farmers within the chiefdoms or districts of Monze and Chembe.

District	Ward	Male	Female	Total
Chembe (Luapula Province)	Kapwepwe	16	14	30
	Kasoma Lwela	4	8	12
	Luapula	5	8	13
	Lwiilu		1	1
Subtotal		25	31	56
Monze (Southern Province)	Hufwa-Hamapande	16	11	27
	Mayaba	13	15	28
	Subtotal	29	26	55
Total		54	57	111

Table 4.3: Monze and Chembe Districts' Rural People Smallholder Farmers' Sample Size, March 2022

4.5.1 Recruitment of Study Participants for the Household Survey

In the study areas of Monze and Chembe, both located on customary land governed by Chiefs, agriculture is the primary livelihood of the interviewed individuals. Participant recruitment for the community survey occurred within Chief Monze's jurisdiction in Chembe District, Luapula Province, targeting four wards: Kapwepwe, Kasoma Lwela, Luapula, and Lwiilu. Additionally, in Monze District, Southern Province, two wards, Hufwa-Hamapande and Mayaba, were selected in the Chief Kasomalwela area. A total of 111 smallholder households from these rural areas were chosen due to their significant agricultural contributions to the Southern and Luapula regions. The Zambia Land Alliance has noted the critical external factors affecting land availability and the ongoing tenure insecurity in these districts.

The selection of two study areas aimed to deepen understanding of the interactions between customary authorities and land administration, contributing insights to land reform efforts. The sample size was proportionately allocated between the districts, taking into account their population differences to ensure representativeness. A sample of 55 Monze and 56 Chembe respondents from each rural area/ district was determined to be optimal, aligning with guidelines suggesting that sample sizes ranging from 30 to 500 can yield reliable results. This sample size captures the diverse socio-economic and political landscape of the areas, facilitating comprehensive data collection for the study's objectives. The initial aim was to survey 110 households, 55 per district, within the constraints of time and budget. However, the inclusion of an additional household in Chembe raised the total to 111, with 55 respondents from Monze and 56 from Chembe. The sampling process involved a random selection from village registers in each chiefdom/district, with smallholder farmer respondents chosen via systematic sampling from these registers. (A random sample in this case is 'in which any one individual measurement or count in the population is as likely to be included as any other' (Hammond and McCullagh 1978: 133). Despite challenges with incomplete or outdated village registers, the selection process, supported by Agricultural Field Extension Officers and village headpersons, ensured a fair and representative sample. This methodological approach allowed for a balanced and insightful examination of the study areas, informed by the time and resources available.

4.5.2 Key Informant Interviews

Purposive sampling was utilised to identify experts and stakeholders with significant knowledge of land governance, encompassing both modern and customary land tenure systems. Key informant(s) interviews were conducted with individuals from formal land sector institutions, including the Ministry of Lands and Natural Resources, Ministry of Agriculture, and Ministry of Local Government, as well as staff from public universities and staff from both international and local non-governmental organisations involved in land issues. These statutory institutions were chosen due to their roles as defined by the Zambian government to offer administrative frameworks for efficient land administration (as per the Constitution of Zambia, 1991, amended in

2016). Conversely, non-state institutions were selected for their expertise in land matters and their responsibilities as land users and custodians.

The study engaged a range of key informant(s) available during the research period, including traditional leaders, village headpersons, justices and magistrates from both traditional and conventional courts, and officials from government and NGOs focusing on land and justice issues. Details of the interviewed key informants are provided in Appendix 1a. For the formal land sector, interviews were carried out with officials from the Ministry of Lands and Natural Resources (MLNR), the Ministry of Agriculture, and the Planning Department of the local district council. Additionally, six interviews were conducted with professionals and officers from the customary/non-statutory sector, including three chiefs from each district and chiefdom involved in the study. The selection of statutory land sector institutions' was based on their governmental establishment and mandate to develop frameworks supporting coherent land administration in Zambia (Constitution of Zambia, 2006), while non-state entities were chosen for their designated (mandate) roles' as land custodians and users' within the studied districts.

4.5.3 Household Interviews with Smallholder Farmers

This research utilised structured survey interview questionnaires with 111 households, employing close-ended questions to gather data from smallholder farmers in Monze and Chembe. Despite the structured format, the approach remained flexible to accommodate additional insights beyond the initial questions. The selection of participants followed a systematic method, starting with a randomly chosen first household head, followed by the selection of every third house thereafter. Specifically, in Monze and Chembe, 111 household heads (55 in Monze and 56 in Chembe) were chosen, selecting from every second house after an initial random selection. The preliminary findings from the fieldwork were shared with the surveyed smallholders and participants in a forum, facilitating an exchange of insights and feedback.

4.5.4 Sampling of Focus Group

For qualitative data collection, distinct sampling methods were applied to Focus Group Discussions (FGDs) and Key Informant Interviews (KIIs). The study included 8 FGDs, with four held in each targeted area, and 47 face-to-face KIIs employing semi-structured questions to delve into the nuances of land tenure and land reform in the selected areas and across Zambia. Respondents for the FGDs and KIIs were chosen using an Availability or Convenience Sampling procedure, incorporating age and gender as part of the criteria for FGD participant selection. Each FGD consisted of five to six members, ensuring equal representation across the two chiefdoms/districts.

In total, the FGDs comprised 10 men, 10 women, 12 village head persons, and 12 youths, adhering to the United Nations' definition of youth (ages 16 – 35) to guide youth selection. The selection of youth participants was based on self-identification within the age criteria, acknowledging that not all community members of eligible age view themselves as youths due to personal circumstances such as marriage or parenthood. It's crucial to note that FGD participants represented specific social groups within the communities—such as men, women, adults, and youths—rather than individual households, providing diverse perspectives on the social dynamics influencing land tenure issues.

4.6 ANALYSIS AND PRESENTATION OF CASE STUDY EVIDENCE

Before fieldwork, a comprehensive literature review was undertaken to define the main themes and sub-themes, informed by document analysis and existing literature. This groundwork facilitated a thematic analysis of qualitative data from the semi-structured interviews' and focus group discussions, focusing primarily on qualitative insights, complemented by quantitative analysis where necessary. (the data analysis was mainly based on qualitative data but some quantitative analysis also took place). This approach helped in shaping the conceptual framework of the study, offering a broad view of Zambia's land governance challenges. Documents, including academic publications, government and NGO reports, and legal texts, provided a rich source of secondary data, contributing to an understanding of land tenure, governance, and the infrastructural needs of rural areas. Such documents, which were not specifically produced for social research but are conserved/preserved and relevant to

social researchers' inquiries, supplemented the primary data collection by offering historical context and insights into policy developments and land governance ambitions. Fieldwork involved structured household interviews and direct observations, with data later coded and categorised using the NVivo software to identify themes and sub-themes. Despite NVivo's technical support, the interpretive work—such as code creation, classification, and data interpretation—remained the researcher's responsibility. Interviews were recorded with consent and analysed to contribute to an in-depth understanding of land tenure and reform issues. (See attached annex 1a and 1c provides further details).

The analysis of both qualitative and quantitative data included information from literature reviews, expert interviews, and field surveys. Quantitative data from questionnaires were processed and analysed for descriptive statistics, while qualitative data from FGDs and KIIs underwent thematic analysis to uncover deeper insights into land tenure security, usage, access, ownership, and administration. The findings, supported by good land governance principles like equity and transparency, were presented through cross-tabulations, charts, and diagrams, following a systematic approach to analyse evidence on informal land governance.

Chapters 5, 6, and 7 of the thesis discuss the findings from each study area, highlighting differences in perceptions between local elites and indigenous rural smallholders. This distinction underscores the impact of multiple administration systems on land tenure and administration dynamics. The analysis aimed to advance theoretical understandings of self-governed collective action, incorporating system-dynamics diagramming to elucidate the complex interplay of actors within customary land administration. Through a blend or combination of qualitative and quantitative methods, the study critically examined evidence to address the research questions, employing descriptive-analytical methods to interpret open and closed-ended survey questions.

4.6.1 Thematic Analysis

The study employed or used a thematic analysis approach to the primary data gathered from fieldwork, incorporating both descriptive and analytical methods. The data collection involved a comprehensive process, including reviews of country and global documents, conducting key informant interviews, and facilitating focus group discussions (FGDs). This approach to thematic analysis was chosen for its flexibility and versatility, enabling the identification and examination of patterns within the data, thus providing an in-depth analysis.

During the data collection phase, interviews and FGDs were both documented and recorded, with the content subsequently transcribed into English. These transcriptions were then subject to conventional content analysis, a method well-suited for flexible text data analysis. Following transcription, a detailed content analysis was undertaken to derive meaningful insights into the relationships and impacts highlighted by the research, aligned with the conceptual framework of the study. This analytical phase involved a systematic examination of texts, oral communications, and visual materials generated during data collection. The findings were organised into tables, with qualitative data in some instances transformed into quantitative formats to facilitate analysis. This process led to the identification of emerging patterns, trends, and themes, particularly focusing on how different methods of land acquisition and the resulting variations in tenure security influenced factors such as farm size, farming practices, food production, food security, and, notably, land accessibility and agricultural livelihoods.

4.6.2 Data Processing and Analysis

Data analysis is the systematic process by which researchers examine and structure their data to gain insights and share findings with others. It encompasses the utilisation of codes, coding systems, and networks to categorise, organise, and display the collected information effectively. As Dey highlights, the essence of ‘analysis lies in decomposing data into smaller segments to understand their fundamental elements and organisational structure’ (Dey,1993: 30). These identified structures are subsequently applied to the studied phenomenon to elucidate it. The techniques and

systems employed to analyse data collected through questionnaires, interviews, and documentary analysis are detailed in the ensuing sections.

4.6.3 Units of Analysis Component

Case study research on land tenure and administration typically emphasises the ownership and life experiences of individuals directly involved with land—owners, controllers, or users—rather than focusing broadly on household views, structures, institutions, or community perspectives as a whole. Given the problematic nature of using households as the primary unit of analysis, especially noted in studies across (Sub-Saharan) Africa where household members increasingly prioritise individual over collective interests, researchers are encouraged to engage with a variety of stakeholders including household heads, chiefs, community elders, women, and non-natives for a more nuanced understanding of land issues.

Acknowledging the limitations of household-centric analyses, this study shifts focus to individual smallholder landowners and users, exploring their personal experiences with land management, decision-making regarding land use, ownership, and the dynamics of land control. This approach recognises individuals as key actors within a semi-autonomous social field, interacting within their specific contexts. Fieldwork involved interviewing 111 smallholder farmers, capturing a gender-balanced perspective across the Chembe and Monze districts.

The study employs the Institutional Analysis and Development (IAD) framework to map and analyse the contextual variables, action arenas, and interaction patterns among local actors, offering insights into the complex variables at play in specific action situations. This analytical framework highlights the interactions between key actors and the institutional arrangements and processes that produce outcomes, with seven suggested variables characterising these action situations, including participants, positions, outcomes, potential outcomes, levels of control, available information, and the cost and benefits of actions.

Focusing on individual agency within households allows the research to address underexplored aspects of land allocation and use, such as inter-generational relations, gender, and ethnic origin. Analysing how land governance is enacted

through the interactions between state and customary institutions provides a deeper understanding or comprehension of the challenges faced by marginalised groups, advocating for their inclusion in development policies and reforms. This approach also examines how policies, institutions, and procedures influence livelihood strategies and outcomes, highlighting the impacts of land governance on disadvantaged communities. Which is equally a ‘thoughtful combination of methods and data that improved the depth, scope, and rigor of analysis’ (World Bank, 2007:92)

4.6.4 Descriptive Statistics

The study adopted a descriptive-analytical method complemented by discourse and narrative analyses to critically assess and interpret the data. While discourse analysis was utilised, it engaged with a non-traditional understanding of discourses, specifically focusing on 'land reform discourses' within the case studies. Descriptive statistics were applied to explore and elucidate the relationships, connections, and dynamics between formal and informal hierarchies in land use and allocation. For qualitative data, this approach involved a detailed examination and explanation, whereas quantitative data analysis addressed both open and closed-ended questions. Coding was employed in discourse and narrative analysis to systematically analyse and interpret qualitative data. For quantitative analysis, MS Excel software facilitated the generation of descriptive statistics from data collected through the household survey, with SPSS used for further statistical analysis. Techniques such as counting, calculating averages and percentages, and utilising tables helped summarise questionnaire data, which were then packaged and presented in both tabular and graphical forms.

According to Yin's framework for case study analysis, two primary strategies include grounding analysis in theoretical constructs and developing a structured framework to organise the study (Yin, 2003). The study's research question was explored through these lenses, employing:

- Descriptive statistics to assess continuous variables like age, household size, years of education, income, and expenditure, as well as ordinal variables including education level, decision-making authority on land, land-use

practices, gender, land and house ownership, and access to community infrastructure.

- Qualitative interpretation through narrative and discourse analysis with key informants to identify and understand the interplay and overlaps among different actors and institutions.

4.6.5 Qualitative Content Analysis

The analysis of responses to the subsidiary research questions utilised discourse, (dialogue), and narrative analysis techniques, focusing on open-ended questions to delve into the tenure dynamics and interactions within the study's scope. This involved a thorough examination of national-level legal frameworks, including constitutions, land acquisition acts, land acts, agricultural land acts, and land use regulations, to understand the institutional regularities governing customary land in Zambia.

Qualitative data were meticulously transcribed, selectively translated, and analysed through discourse and narratives, aligning with the research objectives and presenting thematically. The cross-tabulations and network diagrams helped elucidate the relationships among various aspects under study, drawing comparisons with related research articles and reports. This comprehensive approach, incorporating key informant interviews, surveys, and FGDs, provided insights into the complexities of land tenure, use, administration, and governance systems. Also, document reviews and expert interviews further explored land acquisition, administration, and the impact on rural agricultural livelihoods in the two studied districts.

The study identified two main types of actors: traditional or non-state actors, including chiefs, elders, clans, natives, and settlers, who play crucial roles in managing land rights and transactions, and State actors, particularly the Ministry of Lands and Natural Resources (MLNR), which forms the institutional backbone overseeing land transactions and administration in Zambia. The study delineated the characteristics of customary and statutory institutions by examining customary land tenure, key actors, and their roles in land administration. The statistical analysis of survey responses facilitated the generation of descriptive statistics using MS Excel, with results presented in frequency tables, cross-tabulations, and graphs. These findings,

generalised to the broader population, were triangulated with qualitative data analysis outcomes, offering a well-rounded understanding of the subject matter.

4.7 LIMITATION OF THE STUDY

The study, while successful, encountered several challenges. The primary data collection methods—household surveys interviews, key informant interviews, and Focus Group Discussions (FGDs)—primarily captured the perspectives of household heads within the study areas. Despite careful selection, the respondents' views are based on personal experiences and may not fully represent the broader community's opinions. Additionally, the study drew on insights from experts in customary and statutory land administration, yet lacked comprehensive input from customary courts, state courts, and other local government legal institutions that adjudicate land resource conflicts, leading to a gap in capturing the full spectrum of stakeholder perspectives in land administration.

The translation of research questions and responses between the respondents' native languages and English posed another challenge, potentially influencing the study's findings. To mitigate this, methodological triangulation involving key informant interviews, household surveys interview, and FGDs was employed to cross-validate the data collected. Further obstacles included logistical issues due to COVID-19 restrictions and limited time for face-to-face interviews with government ministries during the second phase of fieldwork. Despite these hurdles, coverage of eight key government ministries was deemed to provide a balanced overview of the governmental landscape. Financial constraints also arose, necessitating the purchase of gifts for chiefs and food for focus group participants as part of the research process. Conducting fieldwork across the geographically distant districts of Monze and Chembe presented additional logistical challenges. Nonetheless, the researcher managed to overcome these difficulties, ensuring the research's validity remained intact.

4.8 VALIDITY AND RELIABILITY

Validity in research refers to the accuracy with which the data collection instruments measure what they are designed to measure. To ensure validity, this study carefully aligned the content and construct of the data collection tools with the essential elements of the research instrument(s), ensuring they accurately represented the variables under investigation. This alignment aimed to achieve the study's objectives as outlined by Golafshani (2003). Reliability, on the other hand, emphasises the precision, accuracy, and consistency of research instruments to collect the intended data effectively. To enhance reliability, the questionnaire(s) was field-tested before the main data collection phase. An advantage in conducting this research was the researcher's fluency (and conversant) in the languages spoken within the study areas, facilitating effective communication and data collection.

4.9 ETHICAL CLEARANCE

Ethical considerations were paramount in conducting this study, which received approval from the Excellence Research Ethics and Science (ERES)-Converge Committee IRB Zambia, the sole private IRB registered in the country, ensuring adherence to Zambian research protocols. Authorisation was also secured from the Ministry of Lands and Natural Resources, permitting land research within Zambia. Written consent was obtained from all participants, with consent forms provided before surveys and key informant interviews, supplemented by advance in-person and telephone arrangements. Further, I completed General Data Protection Regulation training through Swansea University to ensure the secure handling of data, which will be stored for five (5) years before being destroyed. Swansea University's Directorate of Research and Graduate Studies reviewed my research proposal and found no need for an ethics panel review. The University's Research Ethics Committee advised that the study posed no significant ethical concerns for several reasons:

- The interviewees were not considered vulnerable.
- The interviews were within the professional expertise of the participants.
- The research material was not sensitive or potentially disturbing.

- Informed consent was fully obtained for all interviews.

Despite Andrew Herod's caution that researchers can never be entirely transparent without potentially influencing interviewee responses (Herod, 'Reflections', 323), nevertheless, the research project was clearly outlined to participants before interviews. Consent forms provided offered the option of anonymity and the opportunity for participants to review (or evaluate), comments attributed to them in the written report, ensuring ethical standards were maintained throughout the study.

4.10 CONCLUSION

Chapter Four delineates a contextually tailored research design and methodologies for empirical inquiry within this thesis, utilising a hybrid approach that incorporates the modified Institutional Analysis and Development (IAD) framework. This approach includes a case study methodology supplemented by questionnaire surveys to offer a detailed exploration of customary land governance in Zambia, particularly focusing on the emergence of polycentric governance in land administration.

The chapter outlines the research paradigms prevalent in social sciences, detailing the survey design implemented in this study. By integrating both qualitative and quantitative methods—referred to as mixed methods—the study aims to achieve a comprehensive understanding of the subject. It elaborately discusses the study's target population, sample size and selection strategies, data collection instruments, data processing and analysis techniques, and the validity and reliability of the research tools. Ethical considerations pertinent to the study were also examined to ensure a thorough and responsible research process. Moreover, the chapter introduces the case studies and provides an overview of the study sites, setting the stage for applying and operationalising the conceptual framework throughout the subsequent parts of the study.

CHAPTER 5: LAND TENURE REFORM IN ZAMBIA: LAND TENURE SYSTEMS AND LAND GOVERNANCE PERSPECTIVE

5.1 LAND TENURE SYSTEMS AND THEIR EVOLUTION

The evolution of land tenure systems in Zambia presents a compelling narrative of the intricate interplay between historical, social, and political forces. As we delve into the pages of Zambia's history, we embark on a journey that explores how land tenure systems have transformed over time, shaping the nation's socio-economic landscape. This section, titled 'Land Tenure Systems and Their Evolution,' takes us through the pre-colonial era, colonial era, and the aftermath of Zambian independence, unravelling the complex dynamics that have influenced the ownership, use, and management of land across different epochs. By tracing this evolution, we gain insights into how historical legacies, colonial imprints, and post-independence policies have collectively moulded Zambia's land tenure systems into their present form.

5.2 PRE-COLONIAL ERA

In pre-colonial society, individuals' connection to the land was established through their membership in communal groups. The entitlement to claim land was tied to citizenship within a village; the village headman held the authority to grant or potentially withhold membership (Bates, 1976:255). Emphasis was on group affiliation rather than property rights, with social relationships taking precedence over land ownership concerns (Bates, 1976). What mattered were the relationships with those who facilitated the land acquisition and utilisation, not the direct ownership of the land itself (Chanock, 1985:46). As land's control gained significance as a source of wealth, specific rights related to land emerged. The transition led to disputes involving control, sale, lease, and boundaries. Indigenous inhabitants began asserting individual ownership rights over land (Chanock, 1985:231). This period marked the initial emergence of issues related to the demarcation between customary and state land, which continues to pose challenges in Zambia.

5.3 COLONIAL ERA

During the colonial era, customary law was initially deemed inferior and underdeveloped by colonialists and their institutions. Customary law was recognised as law only when it didn't contradict written law. In Zambia, both white settlers and indigenous people primarily held land either collectively within families or under the authority of Chiefs or traditional leaders on behalf of their communities, adhering to respective customary laws. While individuals within ethnic groups had rights to access and use the land, they could not sell it. However, they could transfer land rights for consideration or as gifts according to local norms. Conversely, land inheritance was governed by respective customary laws.- Nonetheless, the control of land, especially land lacking valuable mining resources or fertility, warranted systematic indirect governance. Chieftains were entrusted with political authority over Trust land, which they governed in rural African areas to strengthen customary institutions and customs. This was distinct from the governance of European settlers and urban residents, who adhered to modern civil law and owned or rented private property (Mamdani, 1996).

5.4 INDEPENDENCE

Zambia attained its independence in 1964. However, the newly-formed Zambian state adopted the land administration framework established during the colonial period (Mvunga, 1980). Under the administration of Kenneth Kaunda (1964 to 1991), Zambia's first President (1964 to 1991), land previously designated as Crown Land during the colonial era was transformed into state land. This measure aimed to assert the State's authority over all of Zambia's land, eliminating British sovereignty over it. Kaunda's administration classified the national territory into three categories: State land, Reserves, and Trust land. Although the term 'native' was omitted from the official description of Reserves, each ethnic group's chief continued to hold authority over Reserves and Trust land. The primary distinction between Trust Land and Native Reserves was the duration of non-native interests, which was 99 years in Trust Land. Trust Land permitted the granting of land to non-natives if it was determined to be in

the interest of both races. Alienating land in Reserves and Trust Land necessitated the consent of the native authority (Mvunga, 1980). The current legislation describes 'customary areas' to encompass all land previously referred to as Reserves and Trust land.

After 1964, local assemblies assumed control over Reserves and Trust land, diminishing the authority of chiefs or traditional leaders over these lands in the newly independent Zambia. Nonetheless, chiefs and village heads were not abolished by the government, and they continued to wield influence as traditional leaders. In 1969, amendments to the Zambian Constitution enabled the confiscation of undeveloped land, particularly land left unused by absentee landlords. The socialist regime under Kenneth Kaunda's government significantly altered the land policy through the Land Conversion of Titles Act. The 1975 Lands Act asserted that 'all land in Zambia shall be vested absolutely in the President (The Head of State) and shall be held by him in perpetuity for and on behalf of the people of Zambia' (Land Act, 1975). Under this Act, private land ownership was not legally recognised, and freehold tenures were converted to 100-year leaseholds. Moreover, vacant and undeveloped land was nationalised, prohibiting its subdivision and subleasing without the President's consent. Private land ownership ceased, and the land was declared devoid of value. Consequently, land ceased to be a tradable or mortgageable asset. Real estate agencies were consequently ordered to cease operations (Bingham, 1993). This sentiment against land ownership was further solidified by the Land Conversion of Titles Amendment Act of 1985, which necessitated the President's written permission for non-Zambians to acquire land. This situation hindered foreign investment in Zambia's agriculture sector (Bingham, 1993). In 1991, a market-oriented government recognised the necessity for land tenure reform to foster private sector development and attract private and foreign investment. This led to the formulation of the Lands Act 1995, a significant development that repealed the Land Conversion of Titles Act of 1975 and previous land laws, including Zambia's State Lands and Reserves Orders from 1928 to 1964, as well as the Zambia Trust Land Orders from 1947 to 1964. This Act forms the basis of the current land tenure system.

Many legislative interventions have been undertaken since Independence to establish the framework for managing customary land. During the Independence

Period, spanning from October 1964 to October 1991 under the rule of UNIP, Zambia maintained a dual land tenure system: (a) statutory tenure characterised by state ownership and controls, permitting leasehold, and (b) customary land tenure. The land was not meant to be sold; instead, progress and developments on the land were allowed. This approach led to fewer land conflicts and a relatively low level of tenure insecurity. However, the period of Independence exposed Zambians to social, economic, and political transformations resulting from the migration of rural residents to urban areas, creating an artificial land shortage. The inherited land administration system struggled to accommodate the growing population's demands, particularly in urban regions. In response, in 1970, the government enacted the Lands Acquisition Act, Chapter 189 of the Laws of Zambia, granting the President the authority to acquire land through compulsion for the public interest. This legislative step aimed to reclaim large portions of land left idle by white absentee freehold landlords, perceived to be held for speculative purposes (GRZ, 2002: 5).

5.5 IMPLEMENTING THE LEASEHOLD OPTION

In 1985, legislation was enacted to restrict land distribution to foreigners in Zambia, with exceptions for investors and companies endorsed by the presidential government. Although trading customary land was legally feasible before the 1995 Lands Act, the processes for acquiring ownership of customary land remained ambiguous. Typically, private landowners obtained customary land through title deed leasehold applications submitted to the Ministry of Lands. Consequently, most private landowners were either politicians or civil servants with connections within the Ministry of Lands. Furthermore, the 1995 Lands Act was initially passed by the Movement for Multi-party Democracy (MMD) during Zambia's first open elections in 1991. The MMD held a commanding majority in parliament from 1991 to 2001. The enactment of the 1995 Land Act was a stipulation for foreign debt relief from certain donor countries. While the 1995 Lands Act exhibits certain ambiguities, it significantly reinforces the rights associated with title deeds. Although land ownership was vested in the President, and freeholding was not recognised, Section 6 of the Lands Act introduced 99-year leaseholds. Additionally, Article 5 of the Act, which permits the sale and purchase of leaseholds, essentially signifies the identification of private land

ownership. Moreover, Article 3(3) of the Act relaxed restrictions on land possession by foreign individuals and companies, actively inviting foreign investment. This measure was closely aligned with the Zambian government's objective to facilitate and promote economic development.

The Lands Act also consolidated both Reserves and Trust land under customary land, as detailed in Article 2. This consolidation facilitated the acquisition of title deeds for customary land by both foreign investors and Zambian citizens. Chiefs played a crucial role in this process by providing recommendation letters to expedite the approval and endorsement of title deeds, as outlined in Articles 8(2) and (3). The 1995 Lands Act notably reinforced the authority of the chieftain institution in granting land rights and distributing customary land (Zambia's 1995 Land Act). This illustrates various ways through which local authorities can intervene in issuing land rights for customary land in Zambia, given that the nation comprises 73 ethnic groups, each with distinct customs, social structures, and political systems (Gadjanova, 2017). Consequently, the approval of title deeds by chiefs or traditional institutions varies, reflecting differing regulations from one chief to another. The interpretation of the Lands Act has granted chiefs the discretion to grant rights to customary land and its inhabitants, including affluent Zambians and foreign investors. The legal framework introduced by the 1995 Act recognised pre-existing rights to customary land, facilitating land rights and acquisitions by outsiders, foreign investors, and Zambian residents (Chitonge et al., 2017).

The evidence reviewed here appears to indicate that the legal definition of customary land derives from the 1995 Lands Act, which refers to the Orders-in-Council that delineated National Reserve and Trust Land between 1928 and 1964. Although this category is not defined in the current 'Constitution of Zambia' (1996), drafts of a new constitution have outlined customary land as "land delineated as such under an Act of Parliament, held by traditional communities identified based on tribe and allocated by a chief" (GRZ 2014, art.297). While these definitions utilise the status of land after the colonial period, where 94% of the land comprised Native Reserve or Trust, various legal instruments have transformed portions of this customary land into state land. The 1995 Land Act is the most prominent legislation in this context and the practice of converting customary land into state land when the title is consistent with

the law. Chiefs, even those with lower levels of education and connectivity to Lusaka, have now come to comprehend the permanence of titling customary land, although this understanding was not initially widespread.

Throughout the colonial era, as well as the periods before and after independence, new land governance systems were introduced to customary land in Zambia. These interventions aimed to address public interests, promote the common good and national welfare, rectify irregularities in customary land allocation processes, encourage investment through written records, and expedite development by simplifying land acquisition and documentation procedures (Kasanga & Kotey, 2001). The trajectory of customary institutions has been marked by numerous shifts across centuries of colonial and post-colonial influence. Zambia, notably, has been impacted by de Soto's assertion that strengthening property rights, particularly for the impoverished, can facilitate the emergence of an efficient market and optimise asset allocation for growth. Furthermore, well-structured property representations aid in identifying the economic potential of resources, enhancing possibilities for development (De Soto, 2000:231-2). Framing institutions within the discursive and politico-economic context enables institutional analysts to design nuanced policy recommendations and ensure effective dissemination. However, certain analysts, while exploring the relationship between economic development and inequality, have broadened their perspectives to encompass diverse dimensions of human development and well-being. Within Zambia's land discourse, there's recognition of both intrinsic and instrumental reasons behind the significance of national inequality. Intrinsic reasons are rooted in concepts of equity and ethical/moral imperatives that are well-established, deeply ingrained, and often normative. Instrumental reasons pertain to the social, economic, and political ramifications of heightened or escalating inequality.

It has been suggested that elevated land and natural resource values, coupled with the absence of legal recognition, challenge the land rights of local inhabitants against those within or outside the community. Historically, much land and associated natural resources were not formally registered as property of the state, allowing governmental disposal without due consideration of actual occupation status. Neglecting existing rights often stems from a legal framework inherited from colonial times, which has been further entrenched post-independence. This bias takes various

forms, such as recognising rights only for currently cultivated land, excluding fallow land, or imposing conditions that hinder the registration of communal property. In Zambia, customary land and natural resource rights are neither registered nor surveyed, with the law permitting registration solely of individual rights. Thus, although most of the country's land adheres to customary rules, formal registration of associated rights is unfeasible. Such limitations tend to favour well-informed and well-connected individuals, which has contributed to land concentration and inequality, particularly where land value is appreciable (Deininger et al., 2011; 99). However, a political challenge persists in achieving growth-enhancing land reform and ensuring the effective alignment and collaboration between land laws – such as the 1995 Land Act – and the Ministry of Lands. This alignment aims to supersede local interests and allocate land following developmental objectives. Achieving this entails enhancing non-market mechanisms to make them more responsive to state directives, and often, improving informal land allocation processes to bolster state agencies' ability to supersede local interests when they hinder productive land use. This notably raises questions about how conditions within land conflicts influence tenure insecurity.

From an intellectual perspective, it is posited that markets facilitating the exchange of land rights offer a cost-effective method of putting more land to productive use. The institutions governing land markets influence the transaction costs associated with such exchanges, the distribution of resulting benefits, and the incentives for rational economic agents to engage in efficiency-enhancing transfers and land-improving investments. Moreover, land stands as one of the most valuable collateral assets, and clearer property rights coupled with greater ease of exchange would have ramifications for the development and efficiency of financial markets. This underscores the significance of land markets within the broader context of economic development (Deininger & Feder, 2014:1). Conversely, Zambia's post-Independence economic struggles and weakness were largely attributed to the state's inability to manage land rents and discipline rent allocation processes. Some policies were misguided, and lessons were not heeded promptly regarding the inefficacy of certain attempted industrialisation strategies. Importantly, the failure to learn from these mistakes underscores state weakness and the influence of powerful groups capturing critical rents, impervious due to the political and institutional frailty of the

state. It is argued that during the early stages of development, the state plays vital transformative roles in promoting technology acquisition and advancement. The challenge for Zambia, as for other African and underperforming countries, is to identify these pivotal transformative capacities and build upon them (Khan & Gray, 2006:16).

5.6 EFFECTS OF GOVERNMENT POLICY AND THE CURRENT LAND TENURE STRUCTURE IN ZAMBIA

Zambia's land tenure system is characterised by dual land tenure: customary tenure and statutory leasehold formal title registration. Chiefs oversee and allocate land within the customary system, ruling with the consent of their communities. The cornerstone of customary land tenure is the principle of usufruct, which grants access and use of land without conferring ownership rights. This principle formed the foundation of land policy for reserve and trust land post-independence.

This institutional framework, although considered insecure or nonconforming by Western standards, functions effectively within the indigenous population. Customary tenure within Chembe's communal land and Monze's predominantly ancestral or clan land can be categorised into two main types: organised customary land tenure, where influential families wield control, and an 'unorganised' system, where powerful chiefs exercise authority. Despite all land in Zambia being vested in the President, land administration on reserve and trust land adheres to customary law, albeit with the President retaining the power to allocate land within these regions. Individuals seeking to transform customary land into leaseholds are granted 14-year leases. In instances where survey requirements are met, Zambians on reserve land receive a 99-year lease from the State. The government endorses the concept of statutory leasehold tenure on State land, offering an automatic renewal period of 99 years for lessees who abide by the conditions outlined in the lease agreement – this is further elucidated below. This typology reveals the variations within Zambia's land tenure systems across both spatial and temporal dimensions, providing insights into the inequality and land insecurity prevalent in extensive investments. While statutory leasehold tenure involves governance through formal land laws, the specifics are delved into in the table below.

Legal recognition	Registered or recorded	Land area [km2] / Population	Comment
99 years - Lands & Deeds Registry Act, Common Leasehold Act	Surveyed and registered, includes land held under common leasehold and converted customary land	The official figure is 6%... of 753,000km2 (45,180km2). However, current estimates put this about 13% (see Table 3). Est. population: 47% on leasehold, including informal tenure.	This includes private and public institution land for own use. A full certificate of title is offered.
14 years - Lands & Deeds Registry Act	Mapped and registered		A provisional certificate of title is offered (a temporary measure before the survey).
30 years - Lands & Deeds Registry Act	Mapped and registered		For (re) settlement schemes.
30-year occupancy license - Housing (Statutory and Improvement Areas) Act	Block surveyed and registered		An occupancy license is not considered ownership.

Table 5.1 a, Adapted Lease tenure typology, (Mulowa, 2016: 24).

Legal recognition	Registered or recorded	Land area [km2] / Population	Comment
National Forest - Forest Act	Surveyed and registered	7.7% of 753,000 km2 (57,981 km2)	This is public land for public use or benefit.
Local Forest - Forest Act	Surveyed and registered	3% of 753,000 km2 (22,500 km2)	This is public land for public use or benefit.
National Park - Zambia Wildlife Act	Surveyed and registered	8.0% of 753,000 km2 (60,548.40 km2)	
Game Management Area - Zambia Wildlife Act	Surveyed and registered	22.1% of 753,000 km2 (60,548.40 km2)	

Other National Monuments - Various related Acts	May be mapped, surveyed or registered	No data	
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Table 5.1b, Adapted Public/Gazetted area tenure typology, (Mulowa, 2016: 24).

Legal recognition	Registered or recorded	Land area [km2] / Population	Comment
Individual - Constitution, Lands Act	Not registered	Officially this is 94% of 753,000 km2. However, removing all gazetted and converted areas will put this at less than 60%.	Can be converted to a leasehold under the Lands Act. The status of converted land is not certain.
Communal (grazing, water, etc. rights) - Constitution, Land Act, various customary laws	Not registered		
Informal settlements (de facto tenure)	Not recognised, considered illegal/informal	Not registered	Urban areas can be formalised under Housing (Statutory or leasehold and Improvement) Areas Act, or on public land through degazetting.

Table 5.1c, Adapted Summary of tenure typology, (Mulowa, 2016: 24)

Zambia's land tenure system is characterised by a dual framework, encompassing indigenous or customary tenure alongside statutory or legal tenure. Statutory tenure, sanctioned by the law, is primarily applied to State land, defined by the Lands Act, No. 20 of 1996 as land situated outside customary areas. Within this context, leasehold tenure predominantly serves as the principal mode of land ownership, without freehold tenure. Traditional tenure underpins unrestricted land access for all community members, including those involved in cultivation, such as junior family members. The configuration of rights varies among distinct tribes, revealing similarities within customary areas, as well as distinctive differences in scope and practice. Notably, customary areas recognise three fundamental rights categories: individual ownership, concurrent interests, and communal interests (Mvunga, 1980). Individual ownership bestows broader rights upon landholders, enabling perpetual land ownership, which can be transferred, gifted, abandoned, or relinquished through

diverse mechanisms. Concurrent interests encompass parallel claims to the same land, often for purposes like accessing wild produce or grazing animals. It is crucial to avoid conflating communal tenure with this pivotal aspect of traditional tenure. True communal ownership pertains to the utilisation of specific land parcels collectively held within the community (Mvunga, 1980). Membership in the community where the land is situated determines an individual's eligibility to exercise any of these rights. Consequently, community members possess the entitlement to use wells, grazing lands, or forest resources (Mulowa, 2018: 19-2).

5.7 THE DUAL REGIMES OF LAND TENURE AND TENURE REFORM RELATION

In Zambia, the prevailing statutory leasehold tenure predominantly governs land rights in the present-day state-owned land. Notably, the statutory leasehold tenure continues to regulate lands encompassing Reserve leases and rights of occupancy granted in Trust Lands. The foundation of this tenure draws from English property law, which has been adapted over time through local enactments. Consequently, the land interests within this regime are aligned with those recognised in English property law. Upon Independence, Zambia inherited two primary types of land interests known under English law: freehold and leasehold interests. Among these, the fee simple was the sole freehold interest in existence.

The statutory leasehold interest involves the grant of exclusive possession rights over land for a specific, predetermined period, shorter than the grantor's interest. Following the tenure reforms in 1975, leases in state land directly held from the state varied in duration, ranging from short-term to 30, 90, and 99 years. The 1975 land reform, executed through the Land Conversion of Titles Act, was a crucial enactment in the realm of statutory tenure. This legislation not only curtailed the granting of land for terms exceeding a century but also converted all freehold and leasehold interests extending beyond a century from July 1, 1975, into statutory leases of fixed 100-year duration — Refer to sections 5 & 6 of the 1995 Land Act for details. Under this Act, existing leases of freehold were transformed into subleases, while prevailing underleases were converted into underleases of the subsequent derivative class. Notably, the terms, conditions, covenants, and rent associated with statutory leases are

stipulated under the Act's authority. The developmental clause within statutory leases holds paramount significance, mandating lessees to execute specified development within designated timeframes. Furthermore, post-tenure reform, customary law continues to exert its influence over various aspects of indigenous lives in Zambia, especially regarding the applicability of customary succession laws to lands converted into statutory tenure or necessitating re-evaluation. Throughout Zambia, traditional leaders wield substantial power and influence, presiding over extensive portions of customary land and resources. Their purview encompasses matters ranging from land utilisation to access rights. Within their chiefdoms, they exercise decision-making authority, mediate disputes, and act as intermediaries with government officials (USAID, 2021). In essence, the most significant land interest attainable under statutory tenure is a lease of ninety-nine years, albeit with numerous aspects of this interpretation being subject to scrutiny.

The exact extent and delineation of state land remain elusive. Differing sources estimate the area of state land between 6-30%, with the remaining under customary tenure. These figures remain fluid, primarily due to the ongoing conversion of customary land into state land. The 1995 Land Act actively promotes the transition to customary tenure, and this conversion continues to be an active and evolving process. It is imperative to establish the procedural aspects of customary land's transformation into state land, encompassing both private entities and state acquisition, to comprehensively elucidate the impact on smallholder farmers. The promulgation of the Lands Act of 1995 did not bring about substantial changes to the land tenure system. The entirety of Zambia's land remains vested in the President (Lands Act, 1995, Part II, section 3.1), and land within customary areas, held under customary tenure before the inception of the Lands Act 1995, persists under the same tenure (Lands Act, 1995, Part II, section 7). Additionally, the Lands Act 1995 introduced the Land Development Fund and established the Lands Tribunal, the highest court overseeing land matters, to resolve all land-related disputes. The jurisdiction of the Lands Tribunal extends to all cases, including conflicts within customary areas concerning land issues. The fund's purpose is to foster land development by offering financial support for services in newly developed regions. While the President holds the entirety of the land, the practical transfer of rights is delegated to the Commissioner of Lands (Mulolwa, 1998). Presently, the Zambian land tenure system

is characterised by two distinct paradigms: customary rights governing the former reserve and trust lands, now designated as customary land, and statutory tenure regulating state land, previously known as crown land. Given their marked disparities, both customary and statutory tenures warrant comprehensive exploration and discussion, elaborated upon below.

5.8 CUSTOMARY TENURE AND STATUTORY LEASEHOLD: THEORETICAL AND EMPIRICAL PERSPECTIVES

Zambia's customary tenure systems have elicited extensive discourse on numerous fronts. Given the diversity across these systems from one community to another, it suffices to underscore features common to all categories of tenure under scrutiny. Significant disparities arise between land ownership frameworks rooted in English law and those founded on customary law. Under English law, land ownership entails the complete exclusion of all community members, barring those permitted access by the landowner or by legal provisions. Conversely, under customary law, land ownership does not confer the same level of exclusivity. Here, community members possess acknowledged interests in the same land parcel, exemplified by the ability to graze cattle following crop harvests. When it is stated that an individual holds land under customary law, the implication is that they possess greater rights than others. Further clarification regarding customary land ownership is warranted. While the term 'communal' frequently characterises land ownership, it is rarely exercised communally by the entire community, barring instances involving rivers, forests, and grazing areas. Typically, individual members maintain distinct rights, such as cultivating crops on designated land parcels. Nonetheless, these individual rights are not always exercised exclusively, as other community members might access the land for purposes like collecting firewood. Thus, distinct individual rights coexist with shared interests, leading to three categories: communal, concurrent, and individual rights within customary tenure (Kaunda, 1987:33). However, customary tenure exhibits certain deficiencies in the context of modern society, often failing to address crucial gaps. Notably, it lacks mechanisms to regulate land use and development. Consequently, both central and local governments lack control over land use and development within customary tenure areas. This limitation results in the non-application of government

policies designed to oversee land transactions, unlike the case of state land, which operates under the mechanism of state consent. In light of these observations, it becomes evident that while customary tenure offers certain advantages, reform is imperative to enhance responsiveness to diverse needs, ensure security, and enable the application of government policies concerning land use and development. This necessity for customary tenure reform has garnered recognition from both academic circles and international organisations engaged in Zambia (Dorner & Bruce, 1982).

In alignment with this line of thought, customary tenure has been associated with attributes such as limited individual ownership, insufficient tenure security, fragile institutions, environmental degradation, and bias against smallholder farmers. Yet, these perceptions warrant re-evaluation within the Zambian context. Furthermore, it can be posited that:

The emergency of land reform onto national political agendas in the late 1980s must be understood in the context of wider pressures for the liberalisation of African economies. By the 1990s, many African states were under pressure from rural constituents to deal with grievances over land matters, to address historical wrongs or resolve problems of conflict and displacement ...in the wider context of land reform discourses on the continent, Africa's land questions in the contemporary period and ask why land reform has been perceived to be important, in this case since the 1990s, international land policies and development aid policies have explicitly linked access to secure property right with poverty reduction (Manji, 2020: 43-44).

The perspective held is that the comprehensive delineation of exclusive land rights was not a primary objective of these reforms. This notion stems from the fact that land in Zambia was largely communally held by the community, as evidenced by land reform initiatives in the early twentieth century.

By the mid-1990s, Zambia had established legislative frameworks aimed at promoting rural land investment and augmenting productivity through the privatisation of customary land. The enactment of the 1995 Land Act facilitated the conversion of customary land into extended leaseholds on state land (USAID, 2014). This assertion takes into consideration the central intellectual argument, which

examines the overall impact of land privatisation on the well-being of rural populations. In Zambia, rural households derive their livelihoods from a diverse range of natural resources including land, water, trees, and other assets. Among these, the land holds paramount importance, forming the cornerstone of agricultural production in most rural households. Globally, there exists a consensus that a correlation exists between land tenure security, livelihoods, and poverty. The prevalence of poverty remains distressingly high in Zambia, with a Human Development Index of 0.586 placing the nation at 139 out of 189 countries globally (UNDP Human Development Index, 2014). Poverty is disproportionately concentrated in rural areas, where 74% of the population lives in poverty, a rate more than double that of urban poverty at 35%. The livelihoods of rural communities remain heavily reliant on sectors that have not been significantly impacted by recent growth, particularly agriculture, forestry, and wildlife. Consequently, a significant portion of the population lacks the means to meet basic daily food requirements.

Rural poverty in Zambia, linked predominantly to agriculture and natural resources, is exacerbated by the inherent variability of the climate. Increasingly frequent and intense droughts and floods have adversely affected food and water security, energy, and livelihoods, especially in rural areas. Zambia's climate has been undergoing shifts due to human-induced global climate change, with projections indicating further significant changes in the coming decades. Temperature records from 1960 to 2003 indicate a mean annual increase of 1.3°C, equating to an average of 0.3°C per decade (See: Zambia's Intended Nationally Determined Contributions (INDC) to the 2015 Agreement on Climate Change). Over the same period, mean rainfall has decreased by an average of 1.9mm/month, representing a decline of 2.3% per decade since 1960. Given this context, adapting to climate change is a top priority within the national development agenda (GRZ, 2017:2). However, the available data largely revolves around household-level assessments, leaving a gap in understanding the nuanced relationship between Women's Land Rights (WLR) and poverty. Notably, the emphasis has been on household land rights as opposed to women's rights specifically, in the context of poverty alleviation. The intricate nature of land policies remains unclear to both rural men and women, hampering efforts to examine and address gender-based inequalities in land ownership across African countries (Doss et al., 2013: v). The analysis of farm productivity primarily focuses on the question of

use rights—access and the ability to exploit land outputs and resources—driving farming decisions rather than formal ownership. Furthermore, Michael Mc Ginn (2011: 178) accurately states that property rights determine authorised actions related to specific goods or services. This concept is underpinned by a complex array of rights, including access, withdrawal, management, exclusion, and alienation rights. However, ownership definitions, particularly in terms of documentation or titling, have been more pertinent in analysing farmers' capacity to leverage land as collateral for credit access and in safeguarding farmers' rights against external threats from entities seeking large-scale land investments (Doss et al., 2013:3). Additionally, recent years have witnessed increasing threats to the security of tenure for indigenous communities living under customary land tenure systems, propelled by the pressures of rapid urbanisation, which is projected to reach 62.4% by 2050 (World Urbanisation Prospects, 2018). Without reliable, up-to-date land records in customary settings has exacerbated the unregulated conversion of customary land to statutory tenure. Women are disproportionately affected, primarily due to gender-related disparities and complexities inherent in land administration within customary areas. The consequences include forced displacements, property dispossession, and inheritance issues. The majority of Zambia's rural land is managed through informal, undocumented traditional institutional mechanisms, with the statutory system largely absent in these regions. Rural communities reliant on customary lands for agriculture face threats from urban elites and foreign investors, further exacerbated by inadequate land rights documentation in customary areas (FIG, 2020: 2). In cases where official titles are absent, well-connected individuals manipulate legal institutions to manipulate and manipulate documentary evidence, securing legal titles in their favour. Instead of investigating the barriers that prevent the poor from utilising the law for their advantage, the government assumes the deficiency lies with the impoverished themselves.

The discourse surrounding the effects of land titling registration underscores its characteristics as 'slow, expensive, difficult to keep up-to-date, and inaccessible to impoverished individuals' (Cotula, 2007:6). Moreover, the analysis reveals that the process of registration often yielded limited or negligible impacts on investment behaviour and income. It was observed that registration did not consistently prove to be either necessary or sufficient for establishing a robust level of tenure security

conducive to land development (Zevenbergen, 1998; Deininger, 2003). Since the early 2000s, research has increasingly shown that formalisation is indeed essential, but its implementation should adopt an incremental approach to adequately address the multifaceted social dimensions of tenure. Another emerging realm of research and policy formulation examines the augmentation of local institutional capacity by devolving the authority of national and state-led agencies to community-level entities, thereby fostering more equitable land management practices. Certain enduring aspects of Zambia's land policy appear to echo the socialist principles of President Kenneth Kaunda's UNIP government. For instance, the replacement of freehold tenure with leasehold tenure exemplifies this inclination (Roth et al., 1995:5). The adoption of the leasehold system seemed to facilitate enhanced governmental control over land and its utilisation:

Extensive changes in state agricultural land ownership accompanied the Ordinance in 1956 that introduced the concept of 'progression' whereby a farmer who performed satisfactorily could upgrade tenure from leasehold to freehold. (Roth et al., 1995:15).

One of the noteworthy developments during the socialist government's ascension in 1972 was its transformative alteration of the land policy, as evidenced by the enactment of the Land Conversion of Titles Act in 1975. This Act encompassed several provisions, including:

- (1) vesting all land within Zambia under the ownership of the President
- (2) converting freehold rights into statutory leasehold rights for periods not exceeding 100 years
- (3) nationalising unutilised and undeveloped land parcels
- (4) imposing restrictions on land subdivision and subleasing without the President's approval.

The concept of private land ownership ceased to exist, and all land was denoted as having no intrinsic value. This redefinition of land allowed it to function as a tradable commodity that could be mortgaged and sold. Subsequently, in 1991, under a market-oriented government, the necessity for land tenure reform emerged to stimulate private sector expansion and foster private as well as foreign investment. This drive culminated in the promulgation of the Lands Act of 1995, which repealed the Land Conversion of Titles Act of 1975, the Zambia State Lands and Reserves Orders (1928-1964), the

Zambia Trust Land Orders (1947-1964), and previous land legislations. This Act constitutes the foundation of the current land tenure system (Van Loenen, 1999:2-3).

Governments across different political eras have perceived investment as a catalyst for economic growth, job creation, and augmented public revenues. However, these investments have often given rise to widespread apprehensions regarding the chosen development trajectory and the equitable distribution of costs and benefits arising from commercial ventures (Cotula, 2020:47). Furthermore, vibrant land markets have demonstrated their potential to inadvertently lead to undesirable land concentration. The potential for such unfavourable outcomes, coupled with the intricate and politically contentious nature of land matters, underscores the importance of establishing a comprehensive land policy framework. Such a framework would guide the sequence of specific interventions within the sector, yielding multiple advantages by fostering consensus, prioritising actions, and averting costly missteps by ensuring stakeholder participation in implementation and monitoring. The state's role encompasses various functions beyond merely maintaining reasonably efficient markets. Consequently, different forms and sources of corruption manifest in developing countries. Often, the state, especially in contexts like Zambia, faces limitations in effectively managing and optimising land use. Nevertheless, surprisingly extensive tracts of land remain under state ownership and management. Experience suggests that transferring effective control of such land to the private sector could accrue benefits for local governance, spur investment, and enhance equity. Indeed, equity indicators emphasise the importance of recognising all forms of tenure as part of land reform, safeguarding all land rights, not exclusively those that are formally documented (Bayer, 2021:63). When individuals from disadvantaged backgrounds have lawfully occupied public land for prolonged periods and substantially improved it, their rights should be acknowledged and formalised, ideally in a manner that prevents negative equity outcomes (Deininger, 2003:179). Furthermore, the issue of state weakness stands as a pivotal constraint on development across underperforming developing nations, particularly in Africa. The recent emphasis on accelerating African economic development has once again brought to the forefront the crucial question of prioritising governance reforms for Sub-Saharan Africa (SSA). To elaborate, a global report published by the Land Matrix in 2011 indicated that between 43.7 and 83.2 million hectares of land, in deals encompassing areas exceeding 200 hectares, had changed hands between 2000 and 2011. Notably, Africa emerged as the primary target

region, with 754 land deals covering an estimated 56.6 million hectares; out of these, 21 million hectares involved deals where project implementation had commenced. Two distinct analyses underscored the concentrated nature of these land deals in select SSA countries, including Ethiopia, Mozambique, Tanzania, the Democratic Republic of Congo, Ghana, Liberia, and Zambia (Answeweew et al., 2012; Schoneveld, 2011).

Conversely, as articulated by the Commission for Africa, mainstream sentiment underscores that conventional concerns regarding corruption, accountability, and the rule of law are critical for bolstering the capabilities of SSA states, including Zambia (Commission for Africa, 2005:5). According to this perspective, these governance reforms serve as a prerequisite for effectively utilising greater aid and investment inflows. I concur with Sachs in reasoning that many of the governance objectives delineated in the standard reform agenda, such as substantial reductions in corruption and enhanced accountability, are likely unattainable within the short to medium term. As a consequence, this motivated me to delve into the realities on the ground in Zambia. This chapter delves into the restructured landscape of land governance envisioned by reforms spanning from 1993 to 2018. Please see Table 5.2 below illustrating key land reform events in Zambia between 1993 and 2018:

Year	Key Event	Key Outcome
1993	National Conference on Land Policy and Legal Reform	Aimed to create an investor-friendly environment to stimulate economic growth and land investments (Brown, 2005).
1995	The Land Act of 1995	Introduced provisions for converting customary land rights into leasehold rights (statutory tenure). Supported emerging commercial farmers (Stiko and Jayne, 2014; Chapoto, 2010).
2000	Implementation of Reformed Land Administration System	Initiated a review and overhaul of land administration in Zambia.

Year	Key Event	Key Outcome
2012	Review of the Reformed Land Administration System	Continued the process of reviewing and reforming land administration in Zambia.
2014	National Land Audit Programme	Aims to establish a comprehensive and accurate database on land ownership in the country (MLNR, 2020). Not yet completed (Mandhu et al., 2019).
2018	Review of Customary Registration	Reforms have led to the consolidation of power among chiefs and traditional authorities, resulting in tenure insecurity and reinforcing inequality (Green and Norberg, 2018).

Table 5.2, Adapted Key land reform events in Zambia 1993-2018, (Bayer, 2021:62).

The focal point of land protection and management has garnered considerable attention in Zambia since the 1990s. Over the past two decades, there has been a comprehensive revision of regulations governing land access and utilisation, with numerous laws undergoing amendments. Notable state-driven initiatives encompass the contentious formulation of the 1995 Land Act and other pertinent subjects explored in Chapter 6.

Aligned with Boserup's delineation of land rights evolution, the contextual significance is profound (Boserup, 1965). Boserup posits the genesis of territorial rights in hunting and gathering land claims, which subsequently evolve towards individualised land ownership as population pressures escalate and formal property rights gain recognition from governing bodies. These shifts in property rights dynamics further pave the way for the emergence of land sales and rental markets, anticipated to bring about efficiency enhancements and additional benefits as the land transitions into more effective uses and is entrusted to more adept users. Secure property rights, once established, become a pivotal component for investments and securing agricultural financing. Consequently, these factors are envisaged to have a

constructive influence on the velocity and scope of agricultural growth, thereby contributing to the mitigation of challenges related to poverty and food insecurity in predominantly agrarian societies (Samboko, IAPRI, 2017: 1). Despite land insecurity, the proliferation of land markets in SSA raises concerns. Ownership of land tends to concentrate among affluent individuals, with inefficient usage patterns prevailing (Hichaambwa, Chamberlin & Sitko, 2014; Jayne, Chamberlin, & Heady, 2014; Binswanger, Deininger, & Feder, 1995). The land is being acquired for speculative purposes by non-agricultural households equipped with financial resources and the aptitude to navigate the intricate process of acquiring land title deeds (Sitko, Chamberlain, & Hichaambwa, 2015:13). This thesis undertakes an examination of the transformation in customary tenure, the underlying causes, and the outcomes of landholding concentration and the exclusionary effects impacting the majority of rural individuals and smallholders. The legitimacy of prospects for safeguarding land rights against scarcity holds practical relevance. Unchecked and undeterred by fitting policies, the perpetuation of land concentration and elite land acquisitions threatens to stifle growth prospects for smallholder agriculture as land constraints escalate. The potential consequences for agriculture's contributions to positive development outcomes could be severe. Of particular interest is how the evolution of land rights affects impoverished segments of society. Without diligent monitoring and aligned interventions by the government, the disenfranchisement of the impoverished could transpire, yielding adverse implications for future growth trajectories. The current context underscores the relevance of evolving land rights in development discussions, especially given the projections of rapid population growth across SSA, extending beyond 2050 (United Nations, 2015; Samboko, 2017: 1).

The acceleration of population growth throughout SSA has precipitated escalated land pressures, a shift in landholding dynamics, inefficient land utilisation, and heightened land concentration. Moreover, land sales and rental markets have emerged, leading to elite land acquisitions (Jayne, Chamberlin, & Heady, 2014; Binswanger, Deininger, & Feder, 1995; Chamberlin & Ricker-Gilbert, 2016). Concerns are voiced that prevailing trends marginalise the rural poor, ensnaring them in poverty. Given the pivotal role of land as a productive asset within many developing nations, monitoring the evolution of land rights becomes imperative to preclude the marginalisation of vulnerable segments of society, necessitating improvements in land

documentation processes (IAPRI, 2017: v). Furthermore, the advent of land sales markets doesn't inherently result in the transfer of land to more productive users. Moreover, the individualisation of land rights could potentially yield even more disadvantageous outcomes (Plateau, 1998). The establishment of sales markets might inadvertently deprive traditional communities of their livelihood sources, often with inadequate compensation, thereby fostering social unrest and violence and eroding a vital form of insurance. The provision of land rights in such a context doesn't inherently elevate productivity; the accessibility of land rights could indeed facilitate the concentration of landholdings among an affluent minority capable of speculatively accumulating land without utilising it for productive purposes. Historical evidence suggests that in instances where other markets aren't sufficiently developed or policy-induced distortions impact land market operations, enhanced land transferability can deprive the poor of a crucial social safety net.

The impetus behind enhanced access to markets, infrastructure, and financial intermediation is to furnish alternative avenues for the benefits associated with communal land ownership—such as insurance, diversification, and access to investment funds. Simultaneously, these external factors increase the costs—such as investment disincentives or missed land transactions with external actors—associated with traditional land ownership systems. Consequently, with economic advancement, the relative allure of communal systems diminishes, and eventually, it becomes economically rational for a community to confer permanent and fully transferable ownership rights to individuals (Deininger & Feder, 2014: 4-14). Notably, White settlers who held land under leasehold or freehold titles leveraged these titles as collateral for obtaining loans from financial institutions to develop their land. This led to economically more developed land in comparison to land governed by customary law. While Zambian land policies have indeed acknowledged and integrated customary institutions, they don't always address the political factors that have contributed to localised inequalities (Clover & Ericksen, 2008:60). It's important to emphasise that institutions don't emerge in a vacuum. The conception and provision of institutions are akin to supply and demand, and path dependency—indicating the influence of past decisions on the trajectory of an institution's evolution—plays a pivotal role. Path dependency underscores that investments and adaptations made within initial resource management institutions often render it arduous for

stakeholders to abandon these arrangements, allowing them to influence subsequent actions. Therefore, grasping the intricacies of state frailty in land governance across SSA and Zambia requires revisiting the political history spanning colonial eras and even preceding them.

5.9 AN OVERVIEW OF UPDATED LAND GOVERNANCE MILESTONES IN ZAMBIA

The subsequent table succinctly encapsulates the salient landmarks in Zambia's land governance trajectory:

Year	Event Description
1964	Zambia gained independence and acknowledged land as state and customary property.
1975	The Land Conversion of Titles Act vests all land in Zambia under presidential ownership.
1980	The Local Administration Act designates chiefs as statutory members of rural councils and mandates their consent for leasing customary land.
1993	National Conference on Land Policy and Legal Reform.
1995	The inception of a Land Tribunal with jurisdiction over land dispute resolution. The Land Act acknowledges customary land tenure systems while facilitating the conversion of customary land to private property.
2002	The government initiated the Farm Block Development (FBD) program to acquire land reserves for enhancing investor access to agricultural land.
2015	The Urban and Regional Planning Act extends planning regulations to encompass all land in Zambia.
2017	Draft National Land Policy is revealed.

Year	Event Description
2020	Launch of the National Systematic Land Titling Programme for urban zones, aimed at documenting properties within formal and informal areas and issuing Certificates of Title. This move aims to provide insights into land ownership and establish a computerised, sustainable, and accessible national land registry.
2021	Official approval and release of the Final National Land Policy.

Table 5.3: Timeline Illustrating Land Governance in Zambia adapted (Satge & Sommerville, 2022: 18).

5.9.1 Land Policy, Reform, and Regulatory Framework

The variation within the legal and institutional framework is extensive, particularly concerning the recognition of property rights across different public institutions. This recognition serves as a guide for responsible investment and ensures adherence to regulations. There are five pertinent areas of concern:

1. Recognition of Rights: Land and natural resource rights must be unequivocally recognised, well-defined, identifiable on the ground, and enforceable without incurring substantial costs.
2. Voluntary Transfer: The voluntary transfer of land rights should be founded on informal agreements between users, ensuring that they receive fair compensation. Such transfers should not involve expropriation for private gains.
3. Transparency: To fulfil their respective roles effectively, all stakeholders, with a particular emphasis on the government, necessitate access to accurate and up-to-date information on opportunities for actual transfers. Additionally, information regarding the technical and economic consequences of significant investments should be made available.
4. Technical and Economic Viability: The feasibility of investment and the concomitant land governance intricacies warrant examination.

5. Environmental and Social Sustainability: It is imperative to safeguard areas unsuitable for expansion from encroachment. Additionally, rights associated with such areas must be respected. Clearly defined environmental norms must be established, and mechanisms for monitoring their adherence implemented (Deininger et al., 2011: XL-XLI).

5.9.2 Nationalisation of Land in Zambia

Following Independence, Zambia embarked on a trajectory of land reform that led to nationalisation, wherein the state asserted ownership over all, or a substantial portion of, land (Bruce, 1993). Central to this nationalisation was the establishment of a state-managed leasehold tenure system, wherein individuals and collectives were granted land tenure exclusively from the state. The rationale underlying the adoption of this form of nationalised land rights was rooted in the belief that a leasehold tenure system aligns more harmoniously with customary tenure systems, which inherently recognise communal interests in land (Bruce, 1993; Lungu, 1994). This approach aimed to ensure the preservation of community cohesion in land ownership, while simultaneously adapting it to modern group or collective frameworks (Dore, 1971; Lungu, 1994). Bruce succinctly encapsulates this rationale by elaborating that:

The state has established the successor to the tribe, working out its former land allocation prerogatives. Where the state consists of a single tribe or ethnic group and the chief or king of the group is the head of state, the lease is a new legal instrument for exercising traditional land allocation powers (Bruce, 1993:24).

Land held under collective tenure is allocated for various usage categories. For instance, some land under collective tenure is designated for household purposes, while others serve as common grazing land (Giovanelli et al., 2016:4).

When land is nationalised, it establishes a direct relationship between the state and cultivators through a lease system. However, this approach also disrupts established relationships with traditional authorities and land stewards. The state leasehold system aimed to offer farmers more secure tenure by providing them with title deeds that could be used to secure agricultural credit. In this context, state leasehold tenure merely represents another form of individualising land tenure. After the nationalisation of land in Zambia, customary tenure continued in most rural areas,

while the state limited the allocation of leasehold tenure to specific project areas (Bruce, 1993).

5.9.3 Colonial Era The 1975 Land Reform Conversion of Title Acts

Following its independence in 1964, Zambia maintained a dual land tenure system comprising statutory and customary tenures. The only alteration made was the renaming of Crown land as state land, while the utilisation of Native Reserve land and Trust land persisted. During this period, rural-urban migration led to the construction of illegal houses on vacant private or public land by rural migrants relocating to urban areas. This marked the emergence of informal settlements on land held under statutory tenure within urban Zambia. Consequently, Zambia began to exhibit a coexistence of two tenure systems: statutory and informal tenure in urban areas, and customary tenure in rural areas. Although this thesis does not address informal urban settlements, the rise of informal settlements has become a significant concern. In response, the government implemented land reforms in 1975, which led to amendments in the Housing Statutory and Improvements Areas Act. Through these reforms, security of tenure was extended to occupants of informal settlements via the process of upgrading these settlements (Mandhu & Mushingi, 2021:169). Nonetheless, the problem of informal settlements persists, indicating either a sluggish or unsuccessful implementation of informal settlement upgrading (Mandhu, 2021).

The pivotal legislation following Zambia's independence was the 1975 Land Conversion of Titles Act, commonly known as the Conversion Act. Since the 1970s, predominant analyses have highlighted the shortcomings of land registration and titling programmes across SSA, with a particular focus on Zambia, in achieving their intended objectives (Peters, 2009). Much of the criticism has centred around market-based capitalist ideologies. Numerous scholars argue that advocates of the private property model misunderstood communal tenure (Gluckman 1969; Noronha 1985). Crocombe and Noronha, for instance, posit that communal rights do not negate the existence of individual land rights in customary tenure (Crocombe, 1974; Noronha, 1985). Rather, in certain customary tenure systems, communal rights coexist with individual rights (Ostrom, 2000). Moreover, the term 'usufructuary' rights, employed

to describe individual rights in customary tenure, is considered misleading, as it fails to encompass the full spectrum of customary land rights (Gluckman, 1969). Unlike in Roman law, usufructuary rights in customary landholding permit holders to reap the benefits during their lifetime and are not transferable to heirs, as is the case in formal landholding. It is contended that customary tenure systems cannot be equated with 'open access' as observed in common property systems where specific rights are unallocated (Nkwae, 2006: 91). The existence of rules governing land use within customary landholding groups highlights that the freedom of each member to utilise any unoccupied land segment does not imply the absence of control measures. Authorities representing the group oversee the enforcement of these regulations. Another paradox arises in the legal recognition of Chiefs and head persons by state laws and institutions. While the state acknowledges and even subsidises customary authority, it does not provide legal guidance or endorsement for customary rulings and land administration rules, characterising these matters as 'beyond the state'. Consequently, customary authority operates as an accepted, legitimate facet of state processes while functioning largely devoid of documentation, regulations, or legal backing.

Other scholars dispute the assertion that individual rights within customary tenure systems are insecure and thereby impede investment. This argument is deemed unconvincing for two primary reasons (Gluckman, 1969; Coldham, 2000; Peters, 2009). First, customary-tenure practices offer adequate security of tenure to both the group and individual members of the group, as well as non-members. Transactions involving land, including share tenancies, borrowing, pledging, and acquisitions, are granted substantial recognition and protection, often comparable to formal titles (Migot-Adholla & Bruce, 1994; Peters, 2009). Second, customary-tenure systems allow individuals to acquire inheritable, long-term rights over time, potentially enhancing the value of land (Platteau, 2000). The correlation between titling and tenure security is thus a subject of debate; the registration and titling of land do not inherently generate tenure security. Migot-Adholla and Bruce assert that the crucial yardstick for measuring tenure security is the unchallenged, continuous use of land. Formal title certificates or official documents, at best, merely reaffirm this social assurance; they do not create it. Evidence indicates that individualised statutory land titles within customary land tenure jurisdictions have predominantly favoured

influential private interests. Such land titling initiatives often provide opportunities for land concentration in the hands of political and local elites, with inadequate safeguards for the customary land rights of rural communities. Moreover, there is a dearth of empirical research demonstrating that land titling leads to significant agricultural growth (Quan, 2000). Consequently, the relationships between statutory land rights, land market development, and credit availability remain inconclusive. In some cases, individualised statutory land titling has exacerbated landlessness and poverty by undermining the livelihoods of those dependent on customary land rights (Quan, 2000; Plateau, 2000a). For instance, Quan cites findings from Kenya (Bruce, 1986; Green, 1987; Okoth-Ogendo, 1982; Bruce et al., 1994) to illustrate that land titling programs yielded mixed outcomes. Quan argues that the concentration of land ownership, particularly in the hands of those capable of manipulating the registration process to favour their interests, weakens customary rights within households and among different social groups. Consequently, the security of tenure for non-title holders, such as wives, children, and landless rural individuals, diminishes (Quan, 2000:37). Particularly, registration has exacerbated insecurity among women, intensified disparities in land ownership and agricultural incomes, increased landlessness through sales, and triggered rural-urban migration. This situation has further led to elevated rural unemployment due to reduced sharecropping and tenancy opportunities, in addition to escalating disputes arising from the imposition of individual rights onto pre-existing systems of multiple rights. This context is of significant relevance to this analysis. This thesis also aims to investigate the protection of rights to land access, land use, and land ownership within Zambia's customary land system and to what extent such protection exists. The suggestion posited is that traditional land disputes should be reported and managed by traditional leaders, as they possess a better understanding of land ownership (Zambia Daily Mail, "Leave Traditional Land Disputes to Chiefs," 27th November 2022).

Zambia has witnessed numerous cases of illegal land allocations to both foreign and local entities for agricultural, mining, urban development, or personal use. These allocations have resulted in various land disputes, particularly within rural and peri-urban communities, as exemplified by the Zambia Land Alliance's project titled "Evidence-Based Advocacy Around Large-Scale Land Acquisitions" (Mulowa, 2016:66). In an attempt to address such conflicts, the Lands Tribunal was established

in 1996 under the framework of the 1995 Lands Act. This specialised court is designed to facilitate cost-effective resolutions for land conflicts, thus reducing litigation expenses. This thesis consolidates evidence concerning the costs and benefits associated with more secure and comprehensive property rights arrangements, leading to specific conclusions. Enhanced tenure security, which need not equate to formal titles, has a notable impact on increased investment, particularly in densely populated regions. There is also some evidence indicating that greater transfer rights provide added incentives for investments and improved utilisation of family labour. The capacity to utilise land as collateral and gain access to formal credit markets for medium- and long-term financing is crucial, especially when foreclosure is feasible (Deininger & Feder, 2014:7). Despite criticisms surrounding the individualisation of tenure in customary lands, the Zambian government has intermittently pursued this approach. The belief is that the individualisation of land tenure through leasehold ownership augments landholder tenure security, subsequently reducing litigation-related economic costs. Furthermore, this approach increases investment by enhancing tenure security and diminishing transaction costs. Individualisation also stimulates the emergence of a land market, transferring land to those capable of deriving higher product value from it as more productive users outbid less productive counterparts. Nevertheless, the argument persists that customary authority plays a central role in governing commons in Zambia, ensuring collective action in safeguarding the commons and upholding equity. Evidence indicates that traditional leaders in Zambia have grappled with chiefdom boundary disputes for an extended period, even predating Independence. Efforts to address these conflicts in collaboration with the government through the Surveyors General, although rather inconspicuous in the 1995 Act, yielded 752 copies of the 1958 chiefdom maps distributed to traditional leaders (Representative, Ministry of Lands and Natural Resources, 22 September 2021) . However, some chiefdoms were not depicted on the maps. Astonishingly, 59 years post-Independence, the government still relies on outdated maps and contemplates addressing this matter, leading to a confluence of disputes involving state versus chieftain, chiefdom versus other chiefdoms, chiefs versus subjects, subjects versus investors, and subjects versus subjects.

Considered an issue of national jurisdiction, in 1995, the Zambian government enacted the Lands Act No. 29, which provides for the conversion of customary tenure

into statutory tenure through 99-year leaseholds. However, this law has faced criticism for its inequitable nature, as it appears to favour elite and foreign investors to the detriment of locals, particularly the impoverished (Hansungule, 2001; Zambia Land Alliance, 2002). For instance, Brown highlights that the implementation of the new land law has led to land disputes between villagers, traditional leaders, and their subjects, thereby creating tension between local inhabitants and external entities. Brown further contends that the conversion of customary land tenure to leasehold tenure has bred confusion and insecurity regarding the future of Zambia's commons and customary land. These problems, according to him, are attributable to the absence of an equitable and democratic land administration system, which he argues can result in social and economic exclusion (Brown, 2003:3). The law was also intended to address the competing pressures stemming from the rise of land markets and the necessity for tenure security for small-scale peasant farmers and rural communities.

In Zambia, the land debate has occupied a central position in the national discourse on the country's socioeconomic and political trajectory, as emphasised by (Hansungule, 2001; Zambia Land Alliance, 2002; Machina, 2002; Mushinfwa, 2002; Adams, 2003; Brown, 2003; Palmer, 2004), a dialogue that persists to this day. However, conflicting pressures have prevented the state from clearly defining a land policy that simultaneously achieves equity and promotes efficiency by facilitating the emergence of more productive forms of land ownership. The pursuit of efficiency in landholding necessitates establishing a minimum farm size that empowers new owners to access the capital required for achieving high-quality and productive outputs, essential for competing in an increasingly globalised world. Yet, contrary to these goals, the implementation of 'land reform' in Zambia did not occur under the explicit guidance of the state. Instead, it took place through non-market transfers initiated by private individuals. Although there are theoretical grounds to anticipate a substantial non-market component in such land transfers during the early stages of development, the critical question for countries like Zambia remains whether these transfers are likely to eventually foster a productive agricultural sector (Khan & Hazel, 2006:59). Thus, to conclude the trends unfolding in Zambia, more evidence on changing land use patterns is required, particularly if the underlying land transfers culminate in the emergence of relatively productive land users.

5.10 CONCLUSION

The implementation of land reform varies across countries, driven by social, political, economic, and ideological factors such as the need for equitable land distribution, increased land productivity, and poverty alleviation. This serves as a response to external pressures, including donors and multilateral institutions, which has been a prevailing trend in most SSA countries since 1990 (Chitonge, 2021: 9). Therefore, land policy is pivotal for poverty reduction, governance, economic growth, and environmental sustainability. However, the significance of land policy is often insufficiently reflected in national development strategies, with references to land being either peripheral or lacking specificity (Toulmin et al., 2002). Achieving productivity gains from land reform necessitates a shift in focus from political considerations to objectives centred around augmenting productivity and reducing poverty. Such objectives should inform the design of reform programs that cater to small farmers, guided by consistency and well-documented research (Barraclough 1970). This chapter provides an intellectual history of the concept of land reform in Zambia.

In the context of SSA, Zambia's case of land reform remains a contentious topic. Many land reforms undertaken since the 1960s have fallen short of their intended goals. Unfortunately, comprehensive analysis of the long-term impact of land reform on poverty and productivity is limited (Deininger & Feder, 2014:34). While research into land markets and institutions has been extensive, specific areas would benefit from further or more conclusive investigation. Although markets offer pathways to land access, non-market mechanisms such as allocation by village chiefs, informal rentals within kin networks, and utilising common property resources for collection and gathering continue to shape land use and ownership for many populations. While extensive descriptive studies discuss the pros and cons of non-market mechanisms, quantitative evidence on their efficiency and equity, and how policies altering incentives impact their extent and modes, is scarce. As informal systems often have lower operational costs and can provide land access for the poorest rural segments who may not participate in land rental or sales markets, comprehending the potential and limitations of non-market mechanisms remains critical (Deininger & Feder, 2014:36).

CHAPTER 6: FINDINGS AND ANALYSIS

6.1 INTRODUCTION

This chapter begins with a concise socio-economic profile of the sample to provide context for the main analyses. Socio-economic characteristics of respondents, in the study, isolated gender, age, education level, occupation and sources of income or livelihood. The socio-economic parameters are highlighted in the findings chapters. Among the sampled households, one hundred and eleven are situated on customary land. Key informants, totalling 47, were drawn from government institutions, traditional establishments, academic circles, and civil society. The chapter delves into data analysis and the presentation of results, derived from data collection instruments, including the survey questionnaire, semi-structured interviews, and documentary analysis. The primary focus of this chapter is an exploration of how Zambia's current land tenure systems, legal framework, policies, and institutions impact smallholder farmers. While a detailed discussion of land policies and complementary laws is presented in the preceding Chapter 5, "Land Tenure Reform in Zambia," it's essential to note that Zambia's land legal framework and policy have undergone significant changes since independence. This includes the shift from nationalisation to privatisation, particularly concerning Statutory Leasehold land, while the governance of customary land has remained relatively stable.

Central to this chapter is the assertion that all land in Zambia is vested in the State, as dictated by the Land Law Act. It also addresses concerns about land grabbing, where elites appropriate customary land and convert it into statutory land. The study's findings underscore the presence of both formal and informal institutions that shape social interactions. Informal institutions, while entrenched and resistant to change, wield significant influence. The government's interest in ensuring the enforcement of efficient property rights is highlighted, in line with North (1990). This thesis aims to contribute to these discussions by adopting an analytical approach that situates purposeful institutions within a complex tapestry of overlapping, often unintentional, institutions. This approach illuminates the value of such an analysis in understanding evolving social practices regarding communal resources (Barnes, 2023; 124). The study examines the impact of these factors on rural customary land tenure based on

field data collected in Monze and Chembe, as well as various chiefdoms across Zambia, during the period between September 2021 and April 2022. Monze and Chembe are selected as representative cases for Zambia. Additionally, it scrutinises the legal and institutional mechanisms that regulate access to and use of land resources. It pays particular attention to the role of smallholder farmers and institutions in fostering sustainable rural livelihoods in Zambia.

6.2 THE EMPIRICAL MODEL AND RESULTS

As previously illustrated, Ostrom's work encompasses both failed and successful cases, elucidating how users establish institutions to govern common pool resources. These institutions are designed to secure a continuous stream of benefits, adapt to changing conditions, and resolve conflicts. Ostrom's analysis also underscores that successful institutional arrangements often blend public and private elements (E. Ostrom, 2011). The thesis aligns with Pedersen's (2016: 105) notion of polycentric governance, emphasising that access to land should be viewed as a contingent process characterised by gradual institutional change over extended periods. This approach broadens the empirical scope beyond local actors to encompass stakeholders at all levels. That is to say, a polycentric system concept is achieved if, also there is a commitment to some degree of local level independence, and mechanisms are aswell exist to allow for coordination between local, regional, national and national jurisdiction (Baldwin et al.,2016).

A critical aspect of polycentric governance is the engagement of civil or private stakeholders, such as users of small-scale common pool resources, in defining policies, establishing institutions, and overseeing the system. This participation offers advantages, including local and issue-specific knowledge, trust-building to promote social capital, improved adaptation, lower enforcement costs, and the establishment of parallel autonomous systems that mitigate the risk of system-wide failures (E. Ostrom 2005: 281-282). Furthermore, polycentric governance introduces a balance of power between higher and lower levels (Ostrom, 1999). The findings demonstrate these actors' ability to craft new regulations, leading to competing 'new rules of the game.' Understanding governance systems is complex, given the multiplicity and

diversity of rights and institutions within and between communities. This interconnectedness extends beyond local boundaries, involving regional and global communities (Nunan, 2020: 242). Considering these principles, Monze and Chembe, the two selected districts for this study, exhibit characteristics that typify cultural and historical aspects of land governance. Both districts rely heavily on agriculture for livelihoods, with rural settings and substantial agricultural dependence. In Monze, land predominantly belongs to clans as ancestral land, discouraging land sales. Conversely, in Chembe, the land belongs to families, with some parcels owned by the Chief and traditional leaders, and it can be sold informally.

While conventional wisdom asserts that secure land rights are crucial for customary land users in Zambia, this study observed a willingness among smallholders to utilise land. Challenges arise from the fragmentation of arable, fertile land in distant areas, which is viewed as a hindrance to land use and a perpetrator of poverty. For instance the:

“ Rapid population growth has led to a heightened demand for land and a decline in soil fertility. Despite the existence of government policies, smallholder farmers are marginalised and not reaping their advantages”
(Ministry of Agriculture Representative 22 February, 2022).

Population growth, urbanisation, and climate change exert increasing pressure on land and natural resources, complicating access, control, and security of land tenure. Thus, land tenure security, intertwined with cultural and historical factors, influences land management, household income, investment, and food security. Despite Zambia's relatively abundant land in some regions, improper land administration, power abuse, and flawed systems rather than land scarcity are identified as key triggers for land conflicts. Consequently, this analysis examines whether Zambia's land institutions, laws, and policies facilitate the growth of small-scale agriculture.

The intricate web of institutions within the governance system and the multitude of variables affecting governance systems, practices, and outcomes underscore the complexity of this issue (Nunan, 2020: 238). Critical institutions involved in land governance include the Ministry of Lands and Natural Resources, the

Ministry of Local Government and Rural Development, and local authorities, including City, Municipal, and District Councils. Notably, challenges in surveyed land parcel boundary data stem from the absence of a comprehensive register on State land and limited data on land tenure. While land parcels and rights data remain undemarcated in over 280 of the 288 chiefdoms, the Ministry of Lands retains data for internal use. Customary land is primarily administered by chiefs, with village headpersons maintaining manual village registers, as prescribed by the Registration and Development of Village Act. The study found that traditional leaders' recording of communities in registers was important as information was used to control and access land. However, these registers are incomplete and outdated. Earlier studies by Loenen (1999) and later Adams & Turner (2005), noted that under customary tenure individuals accessed land from the chief verbally; however, this thesis established that in Chembe, local communities had to follow stipulated procedures to access land in chiefdom. It was revealed that all community members should notify their village head persons on who occupied land and their names were recorded in the village register, writing down information of land holders resulted in improved methods of record keeping as land claims were considered the subject of the chiefdom or area. Moreover, the findings underscore the crucial role of land tenure security in both state and customary land. Land conflicts, particularly in customary land, are pervasive in Zambia due to deficiencies in the land governance framework. These conflicts encompass the invasion(s) of idle, unsettled public land, or undeveloped private land, illegal or double allocation of land by some politicians and government officials', displacements, encroachments, and boundary conflicts, multiple or double allocations of land, eviction by private landlords, eviction by government agencies, and inheritance conflicts. (Interview with ZLA staff and MLNR representatives, 18 December 2021). Furthermore, cases regarding land rights manifest through local notions of access and rights. These local ideas often align with customary rights, which are rooted in the customs and norms of specific tribal lineages in the Monze and Chembe regions. The research findings shed light on the significant-scale acquisition of agricultural land by private investors and urban elites, leading to increased land concentration and heightened social conflicts over land and rural livelihoods. Additionally, land tenure security takes various forms depending on national regulatory frameworks for land allocation and land use specifications. In both Monze and Chembe communal areas, land title is vested in the State. Under communal

ownership, individual rights are conferred to residents for housing and arable land while allowing unlimited access to communal grazing land managed by the community. Individuals can sell and purchase land through informal markets, with bequeathing land to heirs as the only formal transfer method.

Theoretically, customary tenure has been perceived as incapable of providing tenure security due to the ambiguity of customary land law and overlapping legal systems. Tenure insecurity would reduce an individual's incentive for long-term investment in their land, especially given the prohibition on land sale or transfer (Besteman, 1994: 486). Security of tenure extends to the recognition of these rights by others; the absence of such recognition leads to competing claims and potential conflicts over land. Similarly, tenure security has been a critical factor in conservation farming, echoing the 'tragedy of the commons' argument proposed by Hardin in 1968. Hardin argued that individual resource users, fearing that their neighbours would continue harvesting, would not limit their resource consumption, resulting in resource degradation. In this context, individual interests compel resource overuse. To address this dilemma, Hardin suggested nationalising or privatising resources to establish rules for resource use (Ostrom & Cox, 2010). This argument has been widely accepted, with rural development specialists and international donors embracing the need to modify customary tenures to promote economic growth (Cohen, 1980: 355). However, others argue that smaller farms, typical of smallholder farmers, use labour and land more intensively than large farms (Binswanger et al., 1992). In alignment with a significant finding of this thesis, scholars concur that indigenous land tenure regimes often separate access to land from control over land. Land may be categorised as private, communal, open access, or public, and various instruments assign usage rights, control rights, and transfer rights to land (Byamugisha & Dubosse, 2023: 2). This thesis defines access to land as the right or opportunity to use, manage, and control land and its resources, with or without land ownership. Access without ownership includes activities like renting, temporary use of land borrowed from relatives or friends or acting as a custodian of land on behalf of the owner. Ownership, on the other hand, grants individuals complete rights and absolute power to use, sell, rent, or bequeath land.

The evidence indicates that smallholder farmers cultivate land to secure their rural land rights continually. This is supported by the fact that many farmers in Monze and Chembe rely on farming as their primary livelihood. Control over land use varies at different socio-political levels, with families and neighbourhoods controlling arable land allocations, while grazing and woodland use involve broader segments of society (Okoth-Ogendo, 1989; Bennett, 2004: 380). However, it's essential to go beyond formal legal frameworks. Practical applications are crucial to test the provisions and ensure that they are more than theoretical constructs. In the context of E. Ostrom's work on governing common pool resources, her insights extend to self-governing resources, public goods systems, and specialised systems such as special districts or private associations (Ostrom, 2005: 283). Communities have historically relied on institutions that don't neatly fit the state or market models to govern resources successfully over extended periods (Ostrom, 2002: 2). While collective action theory is a valuable tool for addressing governance issues, it's just one of many needed for a diverse analytical approach. Natural resource management involves a blend of state oversight, private property rights, and local stakeholder participation. Notably, the land tenure system in Zambia shares similarities with the land tenures in African countries affected by conflict. There is no reason to assume that land conflict cannot occur in Zambia. The land holds immense value for village communities and smallholders in Monze, Chembe, and across Zambia. Land isn't merely a commodity; it's a fundamental element for realizing various human rights, essential for rural livelihood strategies as it provides social, economic, and financial benefits to these communities. Despite its importance, land tenure for rural smallholders lacks sufficient state protection, leading to high insecurity among its occupants. Land conflicts often spill over from one area to another, forcing peaceful landowners to relocate. Unclear regulations regarding land use and alienation, coupled with ill-equipped traditional authorities for land administration, contribute to this issue. Furthermore, customary land tenure in Zambia is associated with a lack of transparency and accountability in its management. The misuse of state power for land governance has paved the way for encroachments on customary lands and conflicts between the state and the public. Zambia Land Alliance (ZLA), a prominent local non-governmental organisation (NGO) founded in 1997 with offices in both Monze and Chembe, has been actively working in these areas for over a decade. They have been instrumental in influencing land policies and raising awareness about land rights

among marginalised populations. ZLA has taken a lead role in shaping land resource utilization within the current policy and legal framework in Zambia.

Zambia's dual tenure system currently lacks clarity regarding the acquisition requirements for customary land. This has led to conflicts between chiefs and the government, as frequently reported in the media. Journalistic reports often align with findings in both Monze and Chembe, echoing arguments made by Sommerville et al. (2018: 1). These reports highlight accusations of traditional authorities "selling" land to investors without community or local government consent. There are also allegations of government and local councils allocating both customary and state land for political patronage or personal gain (See also: Sommerville, M. (2021) Quarterly Media News, Tetra Tech, 22 November 2021). Once perceived as an almost limitless resource in Zambia, the land is now facing challenges due to population growth and the "illegal" development of markets in customary land, particularly in areas near urban centres. Customary land management is under tremendous pressure, and the reach of formal land institutions remains severely limited. The exponential population growth poses significant challenges to land sustainability. These findings align with the observation that Zambia is experiencing a high level of rural in-migration, with 12% of rural households having moved from elsewhere within the previous decade (Chamberlin et al., 2020).

The findings from Chamberlin et al. (2016) reinforce the current study's conclusions. They suggest that changes to the Zambian land tenure system, especially the continuation of the 1995 Land Act, which favours local elites and foreign investments in acquiring customary land, have resulted in the displacement of local populations in many parts of the country. This challenges the common assertion that 94% of land is available for smallholders, with more realistic estimates suggesting it is closer to 54%. Furthermore, the pursuit of title deeds adds to the complexity of the situation. Additionally, statutory or leasehold tenure typically pertains to land referred to as state land. The findings affirm that leasehold is a land tenure system where land is rented from the state through a contractual agreement, usually for 99 years, with other options including 14-year leases (provisional), 30-year leases for resettlement schemes, 30-year occupancy licences for housing improvement areas, and 10-year land records issued by local authorities. In essence, leasehold land tenure is based on

long-term rentals, where land owned by one entity, either the State or an individual, is leased to another entity. In practice, the security of 99-year leases is comparable to that of freehold land tenure systems. Philosophically, Hansungule (2001: 25) argues that the use of the term "communal land tenure" has led to confusion in the conceptualisation of African land tenure systems. Similarly, the term "allocate" concerning land acquisition has caused significant confusion. Customary land is not always acquired through allocation, and this term implies the existence of successive land authorities at various levels of allocation, leading to a cascade of rights both upwards and downwards (See also: The 1995 Land Act: An Obstacle or Instrument of Development? Hansungule, 2001: 25). The findings suggest that customary, community, and communal land, often used interchangeably, have been subject to significant rethinking in land policy over the last decade. Communal land tenure is described as a system where communities have considerable control over land use. While the community is considered the owner of the land, it allocates land to its members for cultivation. Practically, this may refer to smallholder households, family-based production units, villages, or communities. In this study, we explore households of smallholder farmers within the community. Customary area is defined as the areas described in the Schedules to the Zambia (State Lands and Reserves) Orders, 1928 to 1964 and the Zambia (Trust Land) Orders, 1947 to 1964; The Land Acts also provides for conversion of customary tenure to statutory tenure. In section (8.1) Any person who holds land under customary tenure may transfer it to leasehold (not longer than a 99-year lease) by:

- A grant of lease by the President
- Any other title that the President may grant
- Any other law

The customary land tenure system still predominates in Zambia, with only very limited introduction of property forms such as the leasehold- See also: Zambia (2016) *An Act to amend the Constitution of Zambia. (Amendment) No. 2.*

Constitution of Zambia (Amendment) No. 2 of 2016 101 reads,

254. (1) Land shall be delimited and classified as State land, customary land and such other classification as prescribed. (2) The President may, through the Lands Commission, alienate land to citizens and non-citizens, as prescribed. (3) Land shall be held for a prescribed tenure — Classification and alienation of land and land tenure.

This clause of the Constitution, which is the supreme law in Zambia, highlights only two types of tenure systems in Zambia, and the President has overall jurisdiction over the governance of all lands in Zambia, The Constitution of Zambia (Amendments) [No.2 of 2016 101]

According to the 1995 Land Act Land Administration:

(3.1) All land in Zambia is held by the President forever on behalf of all Zambians. Therefore: (3.2) The President can give land to any Zambian, (3.3) The President can only give land to any non-Zambian if:

- The non-Zambian is a permanent resident of Zambia
- The non-Zambian is an investor
- The President writes a letter to the non-Zambians granting them land
- The non-Zambian inherits land in a will
- The non-Zambian is given a concession by the National Parks and Wildlife Act (3.4)

However the President cannot give customary land away to either a Zambian or a Non Zambian unless he/she:

- Takes the customary law in that area into account,
- Consults the Local Chief, local authority and if the land is in a game Management Area, the Director of the National Parks and Wildlife Service, (unless the person applying for this land has already done so)

• Consults those currently occupying/using the land in question (3.5) The land given out by the President must be used for the benefit of all Zambians. (3.6) The maximum leasehold the President can give is for 99 years unless:

- It is in the best interest of the country
- It is approved by two-thirds majority of the National Assembly (3.7) To give out land, the President must also: • Control over-development of the nation's land and preserve the nation's resources

- Set aside land for game management areas, forests and national parks (4.1) The President cannot give land without receiving money and/or ground rent except where the land is going to be used for a “public purpose.” (4.2) “Public purpose” is defined as:

- For Government use only or benefit of the Zambian people
- Construction of a new settlement or township
- Railway stations and tracks
- Hydro-electric or other power/electricity generating plants
- Preservation areas for forest produce, water and other natural resources (5.1)

Without the President’s approval, a person cannot:

- Sell;
- Transfer or
- Assign land.

Therefore, a person wishing to do either of the above must first apply to the President for his approval. If the President doesn’t reply to an application asking for approval within 45 days of the letter being submitted then the approval is deemed to be automatically granted. Also the President has to give reasons for refusing to transfer or sell land. If the person does not agree with the President’s decision, he/she can appeal to the Lands Tribunal but must do so within 30 days of the President’s refusal¹ This legal STATEMENT IS NOT CONDUCTIVE AS THE STATE HAS VESTED TOO MUCH POWER IN THE PRESIDENT (Evidenced by Extracts from the Lands Act of 1995).

The Lands Act of 1995 brought about a formal transformation in Zambia's land governance by opening the door to foreign investments. However, the enforcement of regulations in this regard remains weak. Investors, local authorities, and government officials often wield considerable influence. This shift towards statutory jurisdiction tends to marginalise local land users, leaving the welfare implications largely in the hands of individual actors. The Zambian government is actively promoting the acquisition of title deeds for land, but this has led to increased insecurity among those without such deeds. Residents, often unaware of the complexities of leasehold titles, can be easily deceived into consenting to an individual's land registration, resulting in

the loss of their customary rights to the land parcel (Key informants, ZLA Executive Director, interview, 12 April 2022). Furthermore, land is sometimes sold through covert markets to local elites who subsequently convert it into titled land. During the Focus Group Discussions (FGDs), some men pointed out that certain individuals receive excessively large portions of land that they underutilise, thereby leading others to use it illegally. This has resulted in a surge of land disputes within the community. In all the FGDs held in Chembe, the issue of land displacement and encroachment by the government, local elites, and investors for the expansion of township boundaries and agricultural ventures was consistently cited as a major challenge.

Key informants also highlighted additional land-related challenges, including illegal land allocations, unplanned settlements, land disputes arising from unclear boundaries, communities encroaching into game reserve areas due to limited farmland, and communities allocating land to themselves without obtaining permission from traditional leaders through a practice locally known as 'Ukusokola'. The Headman in Kasomalwela, Chembe, listed these challenges as affecting land administration in his area:

Village Headmen are not involved in land allocation or resolution; only the Chief, Village Headmen, and communities are not able to express their rights; lack of representation in land allocation communities lack area development committees in the area. Vulnerable groups, including youths, aren't represented in the village committees. (Interview, Village head person, Chembe, March 2022)

This study undertakes a re-examination of land tenure systems and customary land governance. Notably, when a piece of land undergoes a permanent transition from customary to titled status or other forms of state land conversions, there is no provision in either statutory or customary law for its reversion to customary land. The vague language of the Act places customary rights holders at a distinct disadvantage. The precise extent and location of state-owned land remain uncertain. Various sources estimate the proportion of state land to be between 6% and 30%, with the remainder falling under customary tenure. These figures are dynamic, largely due to the ongoing conversion of customary land into state land. The 1995 Lands Act encourages the conversion of customary tenure into leasehold tenure through a one-way process that

does not allow converted land to revert to customary tenure, as provided for by the Lands Acquisition Act (Chapter 189 of the Laws of Zambia), 1985 Land Circular No.1, and the 2016 Amended Constitution. However, a recent groundbreaking court case challenged this irreversibility regarding the conversion of customary land. On 21 April 2022, this conversion led to scattered parcels of leasehold tenure land within the larger customary estate. Estimates regarding the total number of conversion cases and their area remain speculative, fluctuating between 250 cases covering 20,000 hectares and 5,000 cases encompassing 500,000 hectares on an annual basis. This uncertainty carries significant implications for the jurisdiction of the two parallel land administration systems and the delivery of land administrative services.

The Court of Appeal of Zambia delivered a judgment in the case of Molosoni Chipabwamba and 12 other displaced village owners versus Yssel Enterprises Limited and 7 Others. In this ruling, the Court of Appeal revoked the Certificate of Title issued to Bills Farm Limited, the new owner following an unlawful conversion of customary land to State land. The Court also ordered that the land should revert to customary tenure (See also: Report Southern Africa Litigation Centre, Lusaka, Zambia, 22 April 2022). This underscores the importance of recognising the role of legislation in reform. It is argued that the courts play a crucial role in ensuring that customary law undergoes reform and development, refining the legal framework to align with human rights norms and contribute to gender equality promotion (See: Ndulo, M. (2011) which is highly relevant to African customary law, customs, and women's rights. Cornell Law Faculty Publications, Paper 187. Ithaca, NY: Cornell University). The study also includes recommendations to enhance awareness levels regarding land rights, land policy and legal issues, and land acquisition procedures at the village and chiefdom levels.

6.3 THE CONTEMPORARY STATUS OF LAND GOVERNANCE IN ZAMBIA: CHALLENGES

To comprehend the challenges affecting contemporary socio-legal-economic relations concerning land, it is essential to examine the cause-effect relationships, frameworks, and instruments of land management or governance. Weaknesses in land governance

and poor enforcement of national laws jeopardise tenure security, thereby impacting the food security of smallholders on customary land. However, the issue of land control is intertwined with economic, political, and social factors, necessitating a context-specific understanding. Under the 1995 Land Act, Article 3. (1), all land in Zambia is vested absolutely in the President for the people of Zambia, including land held under customary tenure. The Ministry of Land and Natural Resources manages state land through legal statutes, while chiefs administer customary land through unwritten customary law and traditional norms. Chiefs oversee areas held under customary tenure, maintain law and order, and ensure that all subjects have access to land for residence and cultivation. Although Zambia's constitution recognises customary law, it is considered subordinate to statutory law, particularly the 1995 Land Act. Notably, some customary practices described by key informants contradict constitutional provisions and are considered neither legal nor valid. Both tenure systems coexist in Zambia, often leading to conflicts, with questions about the superiority of one system over the other. Customary land tenure has been integrated into statutory land law, despite its incompatibility with the 1995 Lands Act and the 2016 Constitution, which regulate how laws can be changed.

The contentious implementation of Zambia's primary legislative framework for land policy, the 1995 Lands Act, is seen as a source of confusion and insecurity in customary land governance. In rural areas, customary law and practice typically dominate land allocation, inheritability, and use, with traditional authorities determining land access. Concerns about customary land holding are widespread, with many perceiving it as lacking documentation, leading to tenure insecurity, forced displacements, and frequent land disputes. Land ownership allows individuals, families, and smaller tribal units to carve out pieces of land from larger tribal estates. This shift from communal to individual land ownership has altered land management dynamics.

In Zambia, all land administration and control are vested absolutely in the President. While the legislative framework offers guidance on converting land from customary to statutory tenure, it does not clarify whether rights acquired under customary tenure continue to exist after conversion. Secure tenure is crucial for agriculture and food security, prompting some smallholder farmers to invest in land

improvements despite not having formal titles. The 1995 Land Act Section 8. (1) reads:

‘Notwithstanding section *seven*, after the commencement of this Act, any person who holds land under customary tenure may convert it into a leasehold tenure not exceeding ninety-nine years on application, in the manner prescribed, by way of conversion of customary tenure into leasehold tenure: (a) grant of leasehold by the President; (b) any other title that the President may grant; (c) any other law.’ (1995 Land Act).

Zambia's situation mirrors that of several Sub-Saharan African countries where one part of the law converts customary land into statutory land while another provides statutory recognition of traditional tenure. In practice, the dominance of statutory tenure over customary tenure creates confusion and inequality in land rights. Despite statutory recognition of both state and customary land tenure, communal land rights in Zambia are often insecure, and lacking legal protection. This discrepancy between legal and perceived security is a source of vulnerability for landholders. This aligns with Hall's argument that...

‘Notwithstanding section *seven*, after the commencement of this Act, any person who holds land under customary tenure may convert it into a leasehold tenure not exceeding ninety-nine years on application, in the manner prescribed, by way of conversion of customary tenure into leasehold tenure: (a) grant of leasehold by the President; (b) any other title that the President may grant; (c) any other law.’ (Hall et al., 2017)

It is crucial to highlight that in Africa, particularly in Zambia, land tenure takes two primary forms: rights between individuals and rights between an individual and the state (Report, 1995: 7; Hansungule, 2021: 24).

As discussed in the literature review chapter, Zambia's customary law is not a uniform set of customs but rather a collection of various systems that share certain fundamental concepts, including the control and administration of land by traditional leaders. In contrast, Zambian Common Law is more general in its application. This dual system has persisted since independence, although with significant changes to

the rules and structures of land governance. Formerly, what was known as 'crown land' became 'state land,' while 'reserve land' and 'trust land' transformed into 'customary land.' To further underscore the legal framework that acknowledges both traditional and modern customs and laws, promoting effective land governance in Zambia, the focus groups conducted in both Monze and Chembe consistently affirmed that:

We Owned the Land Before the State was established, we depended on the land left by our ancestors, but people with money working with government personnel are getting the land because they have the money. (Smallholder farmers, 19 February 2022).

As active land markets encroach upon traditional systems of land management in customary areas, smallholder farmer populations are increasingly displaced from their ancestral land. These farmers currently have limited legal or institutional recourse within the existing system, primarily due to the absence of recognition of land sales in customary areas, outdated laws, and inadequate land policies. Zambia serves as an illustrative case for examining the opportunities and challenges associated with formalising customary land rights. Notably, Zambia's 288 customary chiefs hold legally recognised authority over a substantial portion of the country, ranging from 70% to 94% of the total land area of 752,614 km². However, there exists an invisible hand at play, represented by local elites who are acquiring land from rural communities. They do so through market-driven mechanisms, wherein the elite accumulate land and keep it idle, intending to profit by selling it at higher prices in clandestine markets. This strategy involves acquiring land with the anticipation of future price increases before reselling it. The comments from both the Focus Group Discussions (FGDs) in Monze and Chembe underscore this phenomenon:

[When you go around our villages], you will see that most of the fertile lands are not cultivated because the owners are people working in the government who live in cities— there is elite urban capture of land. (Smallholder farmers FGD, Monze & Chembe, 21 February 2022).

Furthermore, underdeveloped and clandestine land markets contribute to tenure insecurity, unreliable records, informal settlements, encroachment, underutilisation of land, and inequitable land distribution in Zambia (Interview with MLNR

representative, 28 March 2022). These issues impact the governance of all land in the country.

Another significant issue, evident in both Monze and Chembe, is that policy and legislative changes fail to mitigate the impact of liberalised land reforms on smallholders in Zambia. The Executive Director of Zambia Land Alliance highlighted that the current land laws do not align effectively (Key informant interviewee, 28 March 2022). In Zambian land governance, it appears that these laws are inconsistent with practice, resulting in gaps in institutional and legal frameworks. These gaps include underdeveloped provisions for land dispute resolution, land-use planning and control, public land management, and land information. The integration of local land management institutions with national land administration is needed to efficiently register customary land and recognise property rights within customary systems. Key informants interviewed at the Ministry of Lands and National Resources (MLNR) in 2022 explained that without a clear approach to valuing land leads to poor occupants not receiving fair compensation for their land, ultimately weakening local community economies and potentially deepening poverty. (For example, the rural population has continued to experience higher levels of poverty in Zambia, where extreme poverty in rural areas at 65.1% , and urban (22.4 %) (Zambia Statics Agency 2023:7-16). Thus, land laws must ensure equitable access to land, especially for vulnerable land users. Public land overlaps with both state land and customary areas, resulting in public land existing within customary or state land boundaries. Customary land has been subject to "grabbing," a term commonly used to describe the illegal and irregular allocation of land by the state, politicians, and well-connected individuals (Klopp, 2000; Manji, 2021: 19). The characteristics of African customary tenure, including overlapping use rights and the prohibition of land sale due to group control, have been identified as major issues. Planners argue that government intervention is essential to address low investment, poor farming techniques, and land fragmentation associated with customary tenure. Land tenure is viewed as a set of economic relations, prompting solutions like legalisation and investment facilitation (Besteman, 1994: 436-88). As a result, the 1995 Lands Act allows for the conversion of customary tenure to leasehold. However, the Act does not specify how to protect the status of land under converted tenure. It also does not address any additions to or subtractions from customary areas

as described in its Schedules. Consequently, the outdated figures of 6% and 94% for state land and customary areas remain relevant today.

Corruption is evident even at small scales: individuals are granted land by traditional authorities when they are not entitled to these parcels. This was a common finding in both Monze and Chembe. In the past decade, Zambia's land policies have shifted towards promoting responsible governance of tenure as central to a participatory and sustainable development model. This new paradigm focuses on inclusive solutions to reconcile the diverse needs of land users and agricultural producers. Despite the complexity of natural resource governance, it's imperative to consider various questions and methods to effectively manage whole societies and economies, not just smallholder farmers (Nunan, 2020: 242). In an environment with numerous institutions with overlapping mandates and unclear operating parameters, which a comprehensive land policy should provide, inefficiencies in land administration and management emerge due to a lack of coordination among related agencies. The overlap of statutory and customary systems creates confusion and ambiguity, allowing the state and urban elites to exploit land in Zambia. Most national laws and policies have predominantly focused on statutory tenure, while customary tenure regulation remains uncodified. The Lands Act recognises customary tenure and supports its conversion to statutory tenure but does not facilitate reversion. This is because statutory and customary tenures are governed by different institutional frameworks. Consequently, the current land registration system does not cover customary tenure, as there is no comprehensive system applicable to both tenures (interviewees Monze local court Justice; ZLA Monze Representative, 07 January 2022). Moreover, the lack of policy guidance and legal protection for customary land results in a lack of transparency in land allocation. Traditional leaders often allocate land without community participation, leading to decision-making issues and conflicts. Foreign investors and domestic elites exploit this situation, violating human rights (Yan & He 2021; Executive Director Zambia Land Alliance, Interview, 8 October 2021). Regarding the participation of local communities in land allocation decisions, the study found limited structures that enable community participation at the village and district levels. These structures, such as village committees, are typically appointed by traditional leaders and primarily focus on community

development rather than land allocation. In essence, many of these structures lack a strong emphasis on land-related issues.

6.4 THE CURRENT LEGAL AND POLICY FRAMEWORKS OF LAND GOVERNANCE IN ZAMBIA: STATUS OF LAND LEGAL PROVISIONS

State land in Zambia is regulated by statutory law, while customary land is governed by customary legal paradigms. These two systems, though not entirely isolated from each other, coexist in a manner that often leads to conflict and confusion at their intersection. The simultaneous existence and interaction of these two tenure systems contribute to a decline in tenure security, highlighting the resilience of customary tenure.

Under current Zambian law, once land is recognised by statute, decisions and rules under customary tenure systems become legally valid and binding. To facilitate the registration of documents required by other laws, there is an office known as the Registry of Deeds, centrally located in Lusaka, Zambia's capital city. The Lands and Deeds Registry Act (1994) and the Land Conversion of Titles Act (1995) formalised the registration and administration of land. These legal provisions recognise land held under customary tenure, as stated in section 7 of the 1995 Lands Act. However, the study findings reveal that section 8(1), which deals with land conversion, often takes precedence over section 7(1), which pertains to recognition, thereby giving statutory tenure greater importance than customary tenure. This hierarchy is because customary tenure does not offer the security of tenure through ownership titles. Section 7(1) of the 1995 Lands Act stipulates that land held under customary tenure before the commencement of the Act shall continue to be held and recognised. In contrast, section 8(1) allows individuals to convert land held under customary tenure into statutory leasehold tenure not above ninety-nine years on application. Unfortunately, the Act does not specify the nature of customary rights or the procedures for acquiring, exercising, recording, and registering these rights. The Zambia Land Alliance (2004) has pointed out the contradictions in these two sections and the need for transparency and accountability in land administration.

This legislative inconsistency has led public officials to continue expropriating customary tenure, arguing that the customary system lacks security due to the absence

of title deeds, even though it is statutorily recognised. MLNR (2017) acknowledges a gap in the 1995 Lands Act concerning recognition and documentation for individuals and communities, which results in inadequate recognition of communal land rights under customary land tenure. Consequently, there are now two overlapping systems of land tenure in place, one legal and one illegal. Moreover, oral records of land transactions have traditionally been used to provide evidence of property and land rights. However, the dominance of the conventional land administration system has relegated oral records to informality. This system places significant importance on written documentation as proof of ownership, diminishing the validity of possession alone. Rural dwellers often trust oral documentation more than written records. Still, there appears to be an agenda to privatise or register land tenure, transforming customary tenure into private property tenure, despite contradictory state land laws in Zambia. This trend is not unique to Zambia and is observed in many Sub-Saharan African countries, where statutory recognition of customary tenure often coexists with efforts to privatize the same land.

The evidence from the Monze and Chembe districts of Zambia reflects this trend, where provisions for both statutory recognition and conversion of customary land have yielded mixed outcomes. Some key informants (ZLA Executive Director & Ministry of Lands Officials, 22 September 2021) argue that Zambian land legislation is ambiguous regarding the registration of customary ownership rights. Instead, it primarily focuses on converting customary land into statutory land, implying that only elites and notable locals benefit from secure land ownership. Conflicts arise due to the lack of a formal demarcation of land boundaries in customary tenure, as there are no survey and registration requirements similar to those in statutory tenure. An inclusive and accountable land sector is essential for enhancing security, promoting dispute resolution, and expanding the assets of the population. Furthermore, there is a debate over whether ownership under customary law differs from English law. Before British rule, various indigenous communities in Zambia had distinct customary land laws governing land use and management. However, under customary tenure, individuals have clear rights to use and enjoy the land they work on. The thesis underscores that despite land reform programmes aimed at ensuring tenure security for the dual land tenure system in Zambia's history, land laws have not significantly improved tenure security.

6.5 LEGAL FRAMEWORK OF LAND TENURE IN ZAMBIA

Zambia's land governance is governed by a comprehensive suite of legislation, including the Constitution, which addresses various aspects of land ownership, control, and tenure. This legal framework is designed to establish secure land rights, encompassing the administration of state land, statutory law, and governance of state and customary land in Zambia. As stated in the Constitution, it is essential to interpret and apply these laws in a manner that aligns with the Bill of Rights and contributes to the promotion of its purposes, values, and principles. In Zambia, land tenure presents itself in two primary scenarios: rights between individuals and rights between individuals and the state, as outlined by a representative from USAID Tenure and Global Change Zambia. Here is an overview of the key legislative provisions that constitute the legal framework of land ownership, control, and tenure in Zambia:

1960 Land Survey Act: This Act outlines comprehensive provisions for the registration and licensing of land surveyors, enabling them to create diagrams and plans for spatial data records. It is important to note that the current land data is incomplete and outdated.

1970 Lands Acquisition Act: This legislation addresses the compulsory acquisition of land and other property by the state, providing compensation to individuals who lose access to their land or property.

Lands and Deeds Registry Act, Chapter 185 of the Laws of Zambia, 1994: This Act governs land registration and the issuance of certificates of title, formalizing land ownership.

1975 Lands Act: This legislation further reinforces the nationalisation of land by vesting all land in the President, who holds it in perpetuity on behalf of the people of Zambia. It plays a crucial role in defining different categories of land, including statutory and customary land.

Conversion of Titles Act 1975: Under this law, freehold land held by commercial farmers were converted into leasehold or statutory leasehold for a maximum of 100 years, renewable. This law also prohibited land sales (except

for developments such as buildings and farm infrastructure) and marked the end of freehold tenure in Zambia.

1995 Lands Act: This Act significantly vests all land in Zambia absolutely in the President, granting extensive power over land resources. It differentiates between statutory land and customary land, with public land considered part of statutory land. However, it vaguely defines public land as land held in trust for government use, such as national parks and cultural sites.

2010 The Lands Tribunal Act: This legislation establishes jurisdiction to hear and resolve disputes related to land under various land-related laws, protecting customary land tenure.

2015 The Urban and Regional Planning Act: This law outlines principles, standards, and requirements for urban and regional planning processes, with provisions for developing customary areas in consultation with local chiefs. It grants the Minister authority to sign planning agreements in the public interest.

2015 Forest Act: The Forest Act establishes categories of forests, including national forests, private forests, and community forests, emphasising the participation of local communities and traditional institutions in sustainable forest management.

2016 National Constitution (Amendment): The amended constitution defines the state's mandate in overseeing natural resource utilisation and environmental protection. It acknowledges land as state land and customary land and legally recognises and protects land occupants and lawful tenancies.

2021 National Land Policy: This policy calls for the protection of land occupants and the harmonisation of landowners with lawful tenants. It provides a comprehensive framework for land administration and management, promoting equitable access to land in both state and customary land. However, effective policy implementation remains a challenge.

6.6 Analysis of Major Land Reforms in the Mid-1990s

During the 1990s, Zambia embarked on land reforms with the primary goal of ensuring secure land tenure for individual formal state leasehold landowners. This objective aimed to bolster the country's revenue base, encourage investment, and mitigate land disputes (Mandhu & Mushingi, 2021: 170). Consequently, Zambia witnessed significant socio-economic changes, including the accelerated commodification of land, particularly in the second wave of reforms in 1995, which attempted to reverse the 1975 reforms.

Land reform decisions are typically influenced by a multitude of factors encompassing social, political, economic, and ideological considerations. These factors include the imperative need for equitable land distribution, increased agricultural productivity to address food supply requirements, poverty reduction, gaining support from rural populations, ensuring environmental sustainability, fostering political and social stability, and responding to external pressures, notably from donors and multilateral institutions. In Zambia, as in Africa at large, land reform transcends mere livelihoods; it carries profound political and cultural dimensions (Chitonge, 2021: 9). Unfortunately, these reforms paid insufficient attention to revising policy and legal frameworks or restructuring land administrative structures, resulting in a continuation of colonial-era practices. The land policies formulated in the 1990s aimed to address capacity-building in land administration institutions, reorganise land management systems, and clarify responsibilities between state and non-state actors, such as traditional leaders. The initial focus of policy reform was primarily on enhancing tenure rights on customary land, which was perceived as threatened by land concentration in the hands of speculators uninterested in agriculture. This concentration eroded the tenure security of local farmers and exacerbated disparities in land ownership. However, the narrow focus on land tenure security is now expanding to encompass broader issues of land governance.

Good land governance entails three key elements: rules, laws, and principles; institutions responsible for enforcing these rules; and the actual implementation of these rules and principles, which includes land policy administration and usage. Land tenure reform only gained prominence in the 1990s due to donor pressure, driven by the belief that privatising customary land was the key to strengthening land tenure

security and, consequently, attracting investment to enhance agricultural productivity (Harvey & Chitonge, 2021; Interview with ZLA representative, 9 and 23 March 2022). This perspective aligns with Magel and Wehrmann (2002), who assert that good governance in the land sector hinges on comprehensive land policies and legislation, as well as effective land institutions. Land tenure security, in this context, pertains to individuals' and groups' confidence in maintaining access, use, and control over land. Customary land tenure differs from statutory tenure primarily in the absence of formal land documentation, land market valuation, and formal land use management. Despite being communal, customary land does not formally recognise individual land rights. However, customary law, in practice, safeguards both individual and communal land rights indefinitely, protecting residents' occupancy rights against external interference, except for eviction by the government or customary authorities.

The study affirms that the vision of market-based land reform persists in global, national, and local development policy discussions and practices. However, Zambia's progress in addressing equity and poverty reduction goals through land policies has not been consistently or effectively monitored by public institutions. Constraints in financial and human resources often hinder effective oversight (World Bank, 2016). Furthermore, Zambia's 2021 National Land Policy (NLP), while supported by Civil Society Organisations (CSOs), lacks specific measures to safeguard customary landholders or urban informal settlement residents. It primarily focuses on strengthening the registration and issuance of Certificates of Title, disregarding other forms of land documentation, such as those issued by chiefs for customary land or occupancy licenses provided by local authorities to informal settlement residents. CSOs note that this omission disregards two decades of advocacy efforts by chiefs, CSOs, local communities, and other stakeholders seeking recognition of tenure security for customary landholders (ZLA, 28 May 2012).

Since 2017, the Zambian government has promoted land tenure security and revenue generation by encouraging the privatisation or individualisation of customary land through conversion to leasehold. This initiative aimed to attract investment to rural areas. However, limited attention has been paid to the potential negative consequences for the majority of rural residents. In practice, very few title deeds of land ownership have been issued, primarily to immigrants and urban elites. Most

communities continue to rely on traditional methods, such as village registers kept by village heads, to record land ownership. While smallholders expressed a preference for land title deeds to secure their land from encroachment and land grabbing by traditional leaders, village leaders considered the cost and complexity of securing statutory title deeds unsuitable for their communities (Interview with Member of Parliament, 12 February 2022, Monze). Surprisingly, many smallholders in both Chembe and Monze were unaware of the existence of the national constitution and specific land laws governing land rights and access. This underscores the need to raise awareness among citizens about their land rights. Effective governance goes beyond policies, laws, and constitutions. This study concurs with Deininger and Feder (2009: 238) in highlighting that while institutions establish the "rules of the game," their enforcement relies on other institutions and organisations, such as courts of law and bureaucratic agencies. Bureaucrats at the interface between the state and citizens play a pivotal role in implementing laws, policies, and programs related to natural resource governance. They influence the practical execution of natural resource interventions. Therefore, understanding the role of local state actors, who regulate and enforce rules daily, is crucial for comprehending the governance of natural resources and the environment (Cornea et al., 2017). These institutions provide a consistent legal and institutional framework to facilitate access to information and impartially enforce rights. Effective courts and an honest bureaucracy are essential for making property rights effective and ensuring that the benefits of land administration interventions can be realised (Land Registration, Governance, and Development: Evidence and Implications of Policy, Deininger & Feder, 2009: 238). However, the rule of law in Zambia's land sector is relatively weak, with formal institutions playing a limited role in resource use and decision-making. This study underscores that weak or inefficiently administered statutory tenure does not provide substantial improvements over customary tenure. Therefore, it is imperative to identify and rectify any interference or contradictions, both intentional and inadvertent, between the two land tenure systems, all benchmarked against the national constitution. Policies should be systematic and support the law. For instance, decentralisation policies can aim to reduce the costs of dispute resolution. Additionally, the central policy of decentralising power to strengthen local traditional structures is vital. This study also reveals a significant challenge in Zambia: citizens' lack of awareness about their land

rights. It emphasises the need for awareness campaigns and education to empower citizens in asserting their land rights, as depicted in the table below:

Respondents		Knowledge/awareness of Land Rights and Land Policy			
District	Gender	Yes	No	N/A	Total
Chembe	Female	8%	18	2%	28%
	Male	13%	10	-	23%
		21%	28	2%	51%
Monze	Female	-	23	-	23%
	Male	-	26	-	26%
		-	49	-	49%
Total (%)		21%	77	2%	100%

Table 6.1: Knowledge of Land Rights and Land Policies in Chembe and Monze (N=111)

Households interviewed in both Monze and Chembe reported awareness of land policies and legal issues in both districts. Regarding awareness of land acquisition procedures and the conversion of customary land to leasehold, 21% of respondents, who were smallholder farmers (Household interviewees, Smallholder Farmers Chembe & Monze 2022), indicated that they were aware of these procedures in the two districts. They were also asked if they believed there was a need for land reforms or if they were aware of changes since independence, particularly in the mid-1990s. Specifically, 5.4% of the households in Chembe indicated an increased need for land titling, 1.8% for reforms restricting illegal tree cutting for charcoal production, and 0.9% for reforms to promote adherence to land acquisition procedures.

From a policy perspective, this study's findings are concerning. Many individual Zambian investors preferred to obtain their chiefs' consent through the local

district council registration rather than go through the formal process of statutory land titling. However, the law requires landowners to register with the council and then apply for a statutory leasehold title from the Ministry of Lands and Natural Resources (MLNR), at which point the land becomes subject to various taxes. To avoid these taxes, newly registered leasehold private land and customary landholders often do not apply for titling. This effectively authorises the district council to oversee the land, which many perceive as secure as a statutory title but without the additional taxation costs (Key informants, interviews on 8 & 12 February 2022, Lusaka, Zambia). The Ministry of Lands and Natural Resources requires significant reforms to normalise and formalise the land registration and issuance of land titles to citizens. To unlock the country's development agenda, President Hakainde Hichilema issued a policy statement dated 19 June 2022, highlighting the urgent need to address land management issues and remove barriers to land access (Times of Zambia, 2022) (Press statement by Hakainde Hichilema (HH), President of Zambia, joint briefing from Ministry of Lands and Medici Land Governance on the National Land Titling Programme (NLTP), Clean up issuance of land title, HH directs, 19 May 2022, Lusaka, Times of Zambia). As the privileged few, the educated elite, and those with economic and political influence exploit land laws, this leaves tribal members, who are unaware of registration procedures, at a disadvantage. The illustration below demonstrates how intricate one of the procedures is, which can only be understood by literate individuals.

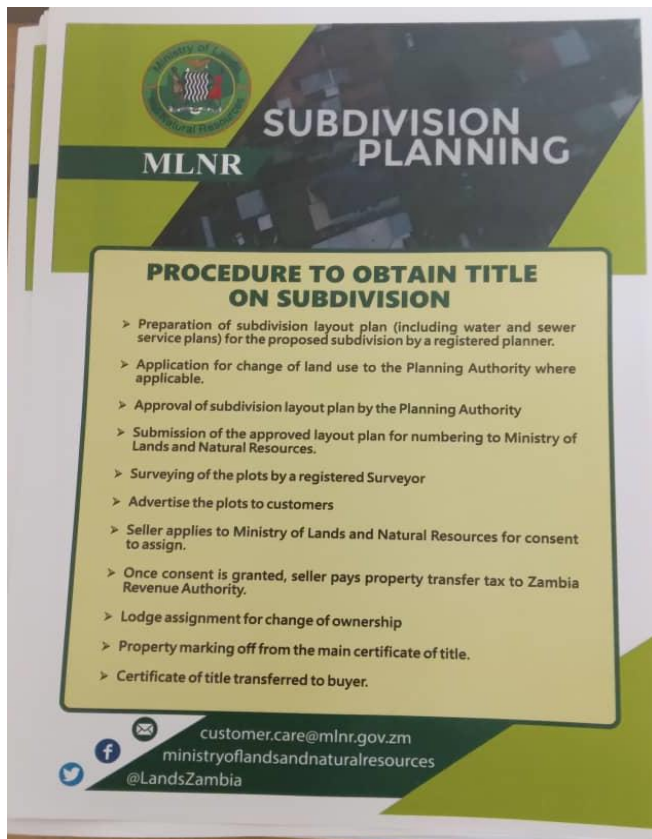


Figure 6.1: Photo of Manuscript of Procedure to obtain title on subdivision obtained at MLNR Office, Lusaka. Source: Photographed by the author (2022).

Furthermore, disparities were identified between policy rhetoric and on-the-ground activities. This disconnect arises from a lack of implementing legislation and/or enforcement of existing laws, either due to weak institutional capacity or poor governance. Zambia's current political paradigm is sceptical of the commons, believing that if nobody takes responsibility for something, it is inevitably abused. This situation often serves vested interests and highlights the archaic and inadequacy of land laws. The discouraging results call for specific actions to be taken based on the land policy. However, the current Zambian land policy acknowledges the issues that have emerged over time but does not specify the exact measures to be taken to address them. While it recognises these issues, it falls short of providing concrete solutions.

6.7 CHALLENGES IN INSTITUTIONAL SYSTEMS

The challenges in managing land in Zambia are deeply rooted in the nation's institutional systems, legal frameworks, and policy structures. Firstly, there is a prevailing dominance of the Zambian constitution and statute law over customary laws and practices. Inconsistencies in design often lead to inconsistencies in practice, particularly in areas where issues such as the displacement of indigenous people under customary land use arise. However, the National Constitution of Zambia outlines certain principles for land use, including equitable access, security of tenure, recognition of indigenous cultural rites, sustainable land use, transparent administration, and effective dispute resolution (Article 253(1)). It also allows for the classification of land as state land, customary land, or other categories (Article 254(1)) (Amendment Act No 2 of 2016 of Laws of Zambia):

Nonetheless, the findings reveal that the 1995 Lands Act does not adequately address the administration of customary land. The Act comprises archaic, incomplete, and cosmetic provisions or legal clauses that do not specifically consider the welfare of rural populations, particularly smallholders, women, and youth. Moreover, disparities exist in the procedure for state land allocation and delivery compared to customary land acquisition. The Act grants Chiefs discretionary authority to allocate customary land. Consequently, institutions dealing with land allocation continue to rely on the 1985 Land Circular No.1, which opened land parcels available on the market by central or local government. This primarily includes land parcels formally surveyed on State land or land converted from customary land to State land (see *ibid* and chapter 4 for more details). Zambia's 1975 and 1995 Land Acts did not fundamentally differ in terms of land implementation and governance. While the 1995 Lands Act aimed to improve the 1975 land implementation system, legislative changes and administrative practices did not align with its policy statements. The 1995 legislative and administrative system entrenched the 1975 Lands Act legal framework, particularly concerning state land alienation and administration. Furthermore, Zambia's land delivery challenges were exacerbated by market failure. The 1995 Act contributed to increased land values and demand. While this is not inherently negative, only the market value of state land is officially recognised. Customary land is typically not supposed to be sold, but clandestine land sales of customary land persist. As a

result, for land to have market value, it must be converted to state leasehold land or private land. However, with proper governance, land systems can facilitate efficient and accountable processes for land registration and transactions.

The findings of this study indicate that obstacles to the proper implementation of land tenure laws include the absence of formalised land tenure, limited knowledge of land rights, low community participation in decision-making, and a lack of capacity among local government officials. Data reveals that incidents of landlessness in both Monze and Chembe are very low. This aligns with the analysis in Chapter 2 of the literature on communal land tenure systems, which highlights the role of the land-owning community rather than the family in land allocation. Typically, when a village is established, land is allocated by the traditional leader, chief, headperson, or clan head, as is the case in Chembe. In Monze, however, access to land is typically through inheritance and land borrowing. This is inconsistent with evidence that family obligations play a significant role in customary law, often superseding individual property rights. It is emphasised that no one 'owns' food, cattle, or land absolutely in the areas under study, such as Barotseland in Zambia and many other parts of Zambia where some smallholders are also pastoralists, as in Monze. Rights are constantly overridden by the claims of kinfolk (Max Gluckman, 1969: 259-63). As one informant put it, 'Our cattle grazing land is not just a piece of earth; it is a sacred space that holds the history, traditions, and sustenance of Monze Chiefdom.' These views mainly revolve around Chief Monze's royal establishment's responsibility for safeguarding ancestral heritage and protecting the people's interests.

6.7.1 Institutional Challenges to Statutory and Customary Land Governance in Zambia

In Zambia, there is persistent pressure from commercial interests on customary land governance (Bayer, 2021; FGD, 9 November 2022; Interview with NGO staff member, 17 February 2022). This pressure persists even though most customary land rights are neither surveyed nor registered, and they lack legislative or constitutional protection since these rights are not formally documented. In cases where formal land governance and its associated institutions are weak and fail to provide adequate platforms for sustainable development or serve the interests of the elite, their effectiveness is greatly diminished. Consequently, individuals who rely on rights

guaranteed by customary law find themselves without protection. This has detrimental effects on people's livelihoods, the quality of natural resource management, and the potential for local development.

While formal land governance systems have legal authority, their operations, structures, and procedures are often poorly understood by the general populace. Furthermore, this system is vulnerable to corruption and tends to favour a small elite. Consequently, individual citizens, especially marginalised rural residents with limited access to information, often find themselves unable to exercise their legitimate rights to benefit from Zambia's state resources tied to customary land. The inability to enforce existing laws and regulations, despite the presence of a functional legal framework, has resulted in weak land governance and institutional capacities at all levels. In fact, in a recent report, the Government of Zambia acknowledges and emphasises that:

The absence of an all-inclusive policy has made it difficult to address several challenges that retard social progress, such as indiscriminate use of land and poor land development practices. There is a need for land administration and management not only to preserve the country's remaining pristine conditions, serenity and beauty but also to place the country's land development on a sustainable path. The policy is also crucial for the sustainable management of natural resources, environmental protection and climate change mitigation and adaption (See: Zambia, Ministry of Lands, and National Resources (2022). *National land policy implementation plan 2022-2026*. Lusaka: Government Printers).

The coexistence of two tenure systems implies that the institutional frameworks governing land governance for statutory land and customary land differ. Inadequate legal frameworks and institutional failures can be further exacerbated by the high costs associated with obtaining information about the legal regime, land access, land use, inequitable access, ownership disputes, and the enforcement of rights. This issue has been well-documented in land rights cases, where disparities in access to information have been highlighted, leading to controversies and opportunities for abuse (Feder & Nishio, 1999). Various institutions are tasked with implementing Zambia's institutional framework for state land governance and administration on statutory land.

These institutions operate at the national level and include government ministries responsible for land services, sustainable land management, and traditional institutions like the House of Chiefs. Additionally, other organisations, such as the National Legal Aid Clinic for Women and the Legal Resources Foundation, play a role in resolving land disputes in urban, peri-urban, and rural areas. Key entities involved in land administration include the Ministry of Lands and Natural Resources (MLNR), the Ministry of Local Government and Rural Development, the Office of the Vice-President's Department of Resettlement, and the Ministry of Agriculture. Consequently, the responsibility for land administration is heavily centralised within the MLNR. The issuance of leasehold titles is a significant duty of the MLNR, which houses key figures like the Surveyor General, responsible for survey authority, the Land and Deeds Registrar, and the Commissioner of Lands, who acts on behalf of the President as the principal state land administrator. The centralisation of land administration is evident in the fact that a single Commissioner is responsible for signing most land documentation, with oversight provided by two land registry officers and 52 licensed surveyors nationwide, who are ultimately accountable for quality control of all survey work on state land.

6.8 CUSTOMARY LAND ADMINISTRATION, LAND GOVERNANCE, AND INSTITUTIONAL ARRANGEMENTS

This thesis significantly reveals the role of institutions in natural resources governance, particularly informal institutions referred to as customary or chieftaincy institutions. This perspective on institutions represents a critical turn in the institutional analysis of natural resources governance, which generally seeks to elucidate the complex and unequal relations within and between local, national, and global levels of natural resource management (Hall et al, 2014: 82). In line with Chanock's observation (1991: 64) regarding Zambia, this thesis's findings corroborate the central role that chiefs played in reinforcing the system of indirect rule during colonial times. Chiefs were pivotal as allocators of land, and their authority was intricately linked with land tenure. Chiefs' mandates encompass granting occupancy and use rights, signing land records, overseeing land transfers, and regulating common-pool resources such as grazing areas and thatch cutting.

The administration of the 1995 Lands Act stipulates that a chief must consent to any potential land conversion before it can be notarised by the district council and MLNR. Chiefs are also required to approve every transaction within their chiefdoms. Even after land is converted, chiefs maintain a nominal role in land management. Chiefs' consent is supposed to be granted only in cases where the conversion does not infringe upon existing land rights holders or where adequate compensation and resettlement measures are in place. Chiefs are authorised to approve the transfer of up to 250 hectares in total per new land rights holder. This study reveals that chiefs and traditional leaders gradually lose control over land when investors convert land from customary tenure to statutory tenure. This diminishes not only the chiefs' control over the land but also their authority over rural communities (Key informants, discussions with chiefs & ZLA land experts, 2022). Formal land institutions are weakened and susceptible to corruption, as they are excluded from adequate coverage by the legal system. The customary land governance system faces significant pressure from economic development, political interests, and urbanisation in Zambia. The Lands Act of 1995 explicitly defines land ownership in Zambia, stating that it is not owned by individual Zambian citizens, but rather by the President of the Republic on their behalf. While there have been changes in the principles governing natural resource ownership, the traditional system continues to play a significant role due to the pervasive influence of traditional rulers on most Zambians. Both Chief Monze and Chief Kasomalwela emphasised in interviews conducted for this study that issues surrounding the conversion of customary statutory land into leaseholds stem from the extensive authority of the President over all land in Zambia, as authorised by the Lands Act. They advocate for enhanced consultation with local chiefs when allocating land to investors. However, it's important to note that chiefdoms are not uniform and have undergone significant changes in both political structures and culture. One critical development has been the emergence of more centralised political systems due to factors like population growth, climate change, and long-distance trade (Cousins & Claassens, 2008: 217).

Traditional leaders, including chiefs, hold influential roles at the community level, serving as custodians of people's traditions and culture. They often preside over different groups and play a vital role in preserving individual and collective identities, with culture and land being key elements that bind Zambian societies together

(Academician & University Professor e-meeting, 10 February 2022). The study found that chiefs are central figures in traditional society, overseeing villages and implementing laws and policies according to customs and traditions. This role is recognised by the state, which supports the House of Chiefs as an advisory body responsible for addressing various traditional, customary, and developmental issues affecting rural people in chiefdoms and the country at large (Minister of Local Government and Rural Development, Garry Nkombo, affirmed the state's confidence in chiefs. Zambia Daily Mail, 20 June 2022). Land in the communities studied here is administered by traditional leaders who distribute, allocate, and settle most land-related disputes with their authority. The hierarchical leadership structure in chiefdoms typically includes the Senior Chief, Chief, Zone Committee, Village Headperson/Induna, and Village Committee. While not all chiefdoms have such an elaborate structure, they usually include at least the Chief, Village Headperson/Induna, and Village Committee. Fieldwork in both Monze and Chembe confirmed the coexistence of statutory leasehold land and customary land. Customary land is administered by traditional leaders, chiefly by chiefs, while statutory lands are under the jurisdiction of local authorities and district councils, acting on behalf of the President through the Ministry of Lands. The study also revealed that in certain areas of both Monze and Chembe districts, land administration follows a mixed customary-statutory system. Initially allocated through the customary system, the land is subsequently converted into statutory land tenure with the consent of the land's custodians, the chiefs or senior or sub-chiefs. These two districts provide a robust analytical framework for examining land tenure, governance, and customary land attributes in Zambia. These findings align with the observations of Professor Michelo Hansungule, a renowned expert in Law and Human Rights, whose report concurs that:

In most parts of Zambia, rural people do not acquire land by way of allocation from chiefs or traditional leaders. Villagers usually discuss or negotiate with those in authority within ancestral areas, or in some cases, they just identify land and start clearing it for their use. It is only when a person wishes to settle in an area other than under his ethnic group that allocation becomes relevant..... One issue to underscore with respect to customary land rights is that contrary to misinformation, rights over a piece of land are, in actual fact, acquired by individuals

and their use exercised by individuals. In Zambia, land tenure practice dictates that individuals acquire the land themselves, which they hold in their own rights. Thus, the right to acquire rights in land vests in individuals by reason of their being legitimate residents in a given area within which they exercise these rights of acquisition. Such rights to acquire land might arise from the fact of being born in a particular area; or from the fact of being accepted as a resident who had moved into the area from somewhere else. Likewise, legitimate residence in an area implies membership in a community, which entitles one to the land of the community. Once the requirements relating to the legitimate residence are fulfilled, individuals may acquire land in any of the ways we have listed above (Hansungule, 2001: 25).

Statute law mandates chiefs to enforce customary laws and practices following national laws. Chiefs are expected to uphold national legislation protecting smallholder farmers, who often constitute the primary food producers in traditional localities (Daily Nation, 'Enhance traditional land tenure,' 9 April 2022, Lusaka). However, in practice, land disputes and the displacement of locals have increased due to some traditional leaders selling land to foreigners and real estate companies. In response, the Zambian government introduced Guidelines' for the Compensation and Resettlement of Internally Displaced Persons in 2013 and the National Resettlement Policy of 2015.

Guideline 18 subsection ii of the Guidelines stipulates that in the event of displacement due to an investment or development project or activity, the investor or developer must provide permanent dwellings following national standards to displaced persons. Guideline 19 subsection iii ensures that the absence of formal legal title to land by affected groups does not hinder compensation (GRZ, 2013: 9 and 10). Furthermore, section 6 subsection C subsections i and ii of the National Resettlement Policy of 2015 specifies that compensation should be paid to persons physically or economically displaced before the project's commencement and that full replacement costs for livelihood losses must be provided to the displaced persons (GRZ, 2015: 26). While the instruments for protecting people from displacement from traditional lands exist, implementation remains lacking, as confirmed by District Land Alliance office staff in both Monze and Chembe in January and March 2022. However, most

customary land occupants affected by displacement receive little or no compensation for their land loss, and investors are often compensated with low-paying casual jobs (FGD, 12 January 2022 and 13 January 2022).

A tangible perspective from interviews with chiefs' representatives reveals that chiefs can be held responsible for the conversion of customary land to statutory land as provided by the 1995 Lands Act. Although the Act mandates chiefs to consult their subjects, especially when allocating land to outsiders, this consultation is often neglected, particularly if the investor is high-profile. Such transactions may involve significant sums of money as a 'token of appreciation' for the land. This analysis aligns with Brown's (2005) argument that some chiefs in Zambia have assumed roles akin to business tycoons with close ties to outsiders. In Zambia, traditional rulers have encountered difficulties in dealing with their subjects regarding the allocation of customary land to high-profile private investors (Brown, 2005: 95–96). Nonetheless, both Monze and Chembe chiefdoms have traditional courts that handle cases related to the violation of traditional laws. These courts, presided over by nominated indunas or traditional rulers with assistance from others, address various cases, including land disputes, marital issues, theft, and civil matters (Key informants, interviews with senior village headpersons, 1 November 2021, Monze & ZLA Staff, 21 February 2022, Chembe). Traditional courts play a vital role in settling land disputes. Furthermore, a majority of smallholder respondents expressed more trust in the authority of traditional rulers than in legal documents. This suggests that the formalisation of law, which involves providing legitimate documents to landowners, may not provide a blanket solution to land insecurity. Key informants also agree that formalizing the law could include the formalisation of customary law (Key informant World Bank, e-meeting, October 2021). People's decisions hold weight when it comes to securing land tenure, with or without land documents.

The Lands Act of 1995 aimed to stimulate investment and agricultural productivity and acknowledged the chief's role and discretion in allocating customary land. Chiefs typically allocate customary land to individuals, families, and investors following the integrated development plans of the customary land area. These plans collaborate with the government's development and investment strategies, ensuring documentation requirements and standards for land use, allocation of land rights, and

dispute resolution within their chiefdom (USAID Country Director, Tenure and Global Climate Change program, Interview, 30 March 2022). Land inheritance from relatives, such as parents and husbands, is also common, and land access and ownership are often facilitated through markets, involving willing-buyer/willing-seller transactions (FGDs, Monze and Chembe, November & December 2022; also see: Zambia. Ministry of Lands and Natural Resources. (1985) Land Circular No 1 1985, Procedure on Alienation Lusaka: Government Printers).

In both Monze and Chembe, individuals seeking customary land typically begin the land application process by approaching the head person. If the head person recommends the applicant, they are then introduced to the chief. The chief subsequently discusses the matter with the rural council and grants consent for the application, often in the form of a simple letter. At this stage, the land is surveyed and converted from customary land tenure to state land. The Ministry of Lands issued Land Circular No. 1 in 1985, outlining this procedure: obtaining the approval of the chief and local authority before the Commissioner of Lands can consider the conversion from customary to leasehold tenure. While these procedures have been codified in statutory form under the 1995 Act, the Act does not specify the 250-hectare limit recommended in the circular. The Ministry of Local Government and Rural Development (MLGRD) plays a dual role in land administration through district and city councils. District council staff, planners, and surveyors, acting as decentralised agents of the MLNR, initiate administrative processes such as leasehold issuance and land conversions at the council level. These processes are then sent to centralised MLNR institutions for decision-making. Unfortunately, the outcomes of these decisions are not routinely communicated back to district agents, leaving significant gaps in knowledge for those handling day-to-day land administration at the council level.

6.9 LEASEHOLD PRACTICE

Subsequently, a lease is registered for the land following Land Circular No. 1 of 1985, which outlines the general procedures that all district councils must adhere to for Land Alienation (Also see: Zambia. Ministry of Lands and Natural Resources. (1985) Land Circular No 1. Lusaka: Government Printers). The analysis of the collected data reveals that this process converts titles from customary law to statutory leasehold.

However, it does not allow the applicant to retain the land as customary tenure. This process is arduous, expensive, and intricate, as the government maintains ownership and control of the land. In contrast to customary land governed by local norms and conventions, state land falls under the jurisdiction of state institutions and statutory law. It's essential to note that the procedure for acquiring state land differs from acquiring land under customary tenure systems. Land under state ownership is secured through a title deed under a leasehold tenure. Leasehold tenure involves the government leasing land to individuals, and landholders own it under the lease, depending on the tenure period. Currently, land in Zambia is leased for 14 years for surveyed land and 30 years for occupancy licenses, primarily residential plots or settlements with a 99-year lease. If the landholder doesn't renew the title after the lease period expires, the state repossesses the land (ZLA, 2020). The advantages of holding land under leasehold tenure include:

It is secure tenure because the land is titled with clearly demarcated boundaries, and the owner has the right to use land according to use rights, unlike customary land where one has to consider the rights of other people embedded in communal bundle rights. Land can be used as collateral to obtain a loan to develop the same land or invest in any business; the owner has the right to dispose of land by selling it and gets a better deal than that under customary tenure. In the case of displacement, the owner of land under the state (leasehold) has the opportunity to negotiate for better compensation as opposed to those displaced under customary land because the title deed is a legally recognised document which confirms ownership (ZLA, 2020).

This discrepancy may be attributed to the absence of firm, standardised guidelines for converting land to statutory tenure. Existing partial rules are often disregarded, leading to numerous pieces of occupied land being allocated to new owners by chiefs and headpersons without following these procedures. This not only results in conflicts between new owners and current residents but also tensions between chiefs and their subjects. Expert interviews and questionnaire data reveal that the conversion of customary land into statutory leasehold land poses a threat. Despite being based on legitimate consent from both the local chieftain and the district council, it is a one-way process of implementation. Leasehold tenure does not revert to customary tenure, nor can leaseholds be cancelled due to a lack of compliance with the initial

agreements. This one-way conversion process has raised concerns among chiefs, who perceive it as an expropriation of their customary land, thereby threatening the existence of traditional leaders (Key informant interviews, 10 & 28 March 2022).

The procedures for converting customary land to statutory land require the chief responsible for the land to grant consent. If consent is granted, an application is submitted to local authorities, such as the local councils, which then produce a recommendation report for the commissioner of lands. When making this recommendation, local authorities ensure there are no disputes or conflicts between the area's customary law or institution and the Act. The Commissioner of Lands may either accept or reject the council's recommendation. If the application is accepted, a certificate of title is issued to the landholder. Land conversion is open to customary land occupants as well as local and foreign investors. However, customary land occupants are often uninformed about the possibility of converting tenure, and the process is complicated, expensive, and bureaucratic. This supports the argument put forth by Van Asperen, P. & Mulolwa, A. (2006) in 'Improvement of customary tenure security as a pro-poor tool for land development: a Zambia case study.' Presented at the 5th FIG Regional Conference (8-11 March 2006, Accra, Ghana). This situation is corroborated by key informants, who suggest that many customary land occupants continue to occupy such land without documentation. Some local and foreign investors exploit this situation by acquiring large tracts of customary land for commercial purposes like agriculture, mining, and manufacturing (Interview Monze District Land Alliance (MDLA), 12 February 2022). These land acquisitions result in the displacement of customary land occupants from the land they have inhabited for years. Furthermore, development leads to land scarcity and, subsequently, increases the exchange value of land. The Government of Zambia designated Chembe as a District in July 2012, necessitating extensive land acquisition for infrastructure development, which resulted in people losing their arable land.

Chiefs and head persons have legally recognised authority over land administration in their respective areas through the Chiefs Act and Village Act, although these laws date back to the 1960s and early 1970s. While Administrative Circular No 1, 1985, prohibits or restricts chiefs from selling more than 250 hectares of customary land for farming purposes in Reserves Trust Land Areas, MLNR has

advised traditional leaders against selling more than this amount to local and foreign investors (Interview with MLNR representative, 10 March 2022; see also: Zambia. Ministry of Lands and Natural Resources. (2022), National Land Policy Implementation Plan 2022-2026. Lusaka: Government Printers). Moreover, there is little guidance available to chiefs and headpersons regarding their specific duties, responsibilities, and limitations associated with this authority mandate. Thus, while the Zambian state acknowledges and even subsidises customary authority, state law does not provide clear legal procedures or support for customary rulings, including those related to land administration and governance, as they are considered 'beyond the state.' The perspective is that customary authority is an accepted, legitimate, and functioning part of state regulations processes that also operate largely without any documentation, rules, or legal support. These findings align with the assertion that several land allocation and dispute resolution processes employed in chiefdoms represent broadly accepted traditional customary practices, while others are based on ad hoc decision-making or the whims of leaders (Sommerville et al., 2018: 1). This thesis demonstrates that in the existing legal framework of the 1995 Land Act, customary land rights have yielded to the needs of investors.

Due to the absence of a clear legal framework for registering rights on customary land, several lessons can be drawn regarding the nature or type of rights being registered, such as registering households in the village registers. For example, there are concerns about the security and efficiency of the current land allocation system. Smallholder(s) farmers bear the brunt of the risk associated with maintaining the status quo in land policy. They argue that smallholder farmers have limited legal or institutional recourse in the current system due to the lack of recognition of land sales on customary land and outdated, non-comprehensive land policies (Interview with MP, Monze, 20 December 2021). One potential solution may involve vesting land rights in individual members of group systems rather than in the group or its institutions and making socially legitimate existing occupation and use, or de facto 'rights', the primary basis for legal recognition. These claims may or may not be justified by reference to 'customs' (Cousins & Claassens, 2008: 133). As a result, land continues to be the source of frequent social upheaval, and in Zambia, secure property rights are undermined by a weak legal framework and practices. Overlapping laws and regulations, weak institutions, limited accountability, and incomplete property

registration systems contribute to a lack of transparency and create an environment conducive to petty corruption, misuse, and/or misappropriation of public resources. For instance, the MLNR issued a statement notifying the public of an illegal allocation, where people claimed to have bought land from village headmen, and warned them not to engage in these illegal transactions under threat of prosecution (Quoted in a Press Statement by Barnaby B Mulenga, Commissioner of Lands, Times of Zambia, 18 March 2015). Weak governance is likely to impact rural people significantly since there appear to be no clear regulations on land use and alienation, and traditional authorities lack adequate knowledge for administering land. Legally, the marginalised are protected by the law. The preamble to the Amended 2016 Constitution states: ‘to uphold the principles of democracy and good governance; uphold the human rights and fundamental freedoms of every person; and to uphold the principles of democracy and good governance; confirm the equal worth of women and men and their right to freely participate in, determine and build a sustainable political, legal, economic, and social order.’ In fact, Human rights based governance promotes equitable and secure tenure to land (Wisborg, 2013: 1226). However, in reality, the poor are marginalised and excluded from legal protection (Interview with MP, Monze, 20 December 2021).

6.10 INADEQUATE MONITORING OF LAND USE AND POOR LAND RECORD MANAGEMENT

Land institutions, particularly the Ministry of Lands, Natural Resources, Environmental Protection, and local authorities, have failed to conduct site inspections to monitor land use effectively, leading to delayed identification of land-related issues. For instance, there is a significant problem with record-keeping within these land institutions, including the Ministry of Lands Natural Resources and Environmental Protection, the Department of Physical Planning, and local authorities, namely city, municipal, and district councils (Sikazwe, 2005; UN-Habitat, 2012b). The issue of poor record-keeping within councils was highlighted by the then Central Province minister, Davies Chisopa, as reported by The Post in 2015:

"Poor record keeping by Local Authorities has compounded the illegal land challenges being faced by councils countrywide. Without addressing the challenge of record keeping in councils, illegal land allocation continues,

which is the loophole people continue to use." (The Post, 18 March 2015, paras. 1 and 2.)

Zambia's decentralised land administration systems have typically operated as isolated local registry offices, often relying on manual record-keeping systems, each overseeing its specific jurisdiction. While decentralised systems can offer efficient local registration services, they come with potential disadvantages, including:

- The necessity of physical presence at local registration offices for registrations.
- Limited capability to integrate local registers into a national system, hindering the enforcement of landholding limits, support for land reform initiatives, or tax collection.
- Limited capacity to provide copies of, or access to, land administration records to users like national and local government agencies.
- Vulnerability to undue influences and a lack of transparency.
- Insufficient institutional capacity at the local (decentralised) level and inadequate oversight. Land administration encompasses activities related to demarcating and surveying land boundaries, registering and record-keeping, adjudicating rights, resolving conflicts, and managing land' (UNECA 1996).

However, land administration essentially involves applying and making operational the rules of land tenure, comprising a wide range of systems and processes, such as allocating rights to use, lease, or sell land, land-use regulation, better-managed environmental impacts, and land valuation and taxation (Byamugisha, 2023: 3).

The major impediment to effective land administration is the poorly maintained land records, which have contributed to inconsistencies in information management. Insights from staff managing the land registry in Lusaka's National Ministry of Lands and Natural Resources (MLNR) revealed that most records were still maintained in manual form, hardcopies, and there were inadequacies in physical

storage and staffing levels (Key informant interview: Zambia, Ministry of Lands and Natural Resources, Records Department, 10 March 2022). This fragmented land management system fails to facilitate decision-making regarding land planning and oversight effectively. In particular, inadequate land-information management hinders transparency and accountability in land governance (Key informant interview: GIS Specialist Interview, Zambia, Ministry of Lands and Natural Resources, 30 March 2022). This deficiency highlights that the Ministry of Lands officers lack information to monitor the extent of land under customary or state tenure regimes, rendering the MLNR ineffective.

The Minister of Lands and Natural Resources has acknowledged this impediment in land management and emphasised the need to regard protected land as a core natural resource, urging owners not to sell it to foreigners but to preserve it for future generations. He called upon stakeholders to review the short, medium, and long-term activities of the 8th Zambian National Development Plan and provide feedback to the Ministry (See also ‘Minister of Lands and Natural Resource, “slams” Lands Ministry officers’, speaking during the launch of the multi-stakeholder 2022-2026 National Land Policy Implementation Plan in Lusaka, Times of Zambia, 1 June 2022). Furthermore, he drew attention to the government's alignment with the strategy of the 7th National Development Plan (2017-2021) to ‘Promote Small Scale Agriculture,’ emphasising that small-scale agriculture has the potential to create jobs and enhance the living conditions of rural communities, provided key actions are implemented to improve the income, rights, and status of farmers. Zambia’s 7th Republican President, Hakainde Hichilema, assured chiefs that their chiefdom boundaries would not be changed with the planned creation or restructuring of new districts in the country. He explained that the government still relies on the 1958 maps to define chiefdom boundaries (Zambian President Hakainde Hichilema, Statement on Chiefs' Boundaries, Zambia Daily Mail, 21 June 2022).

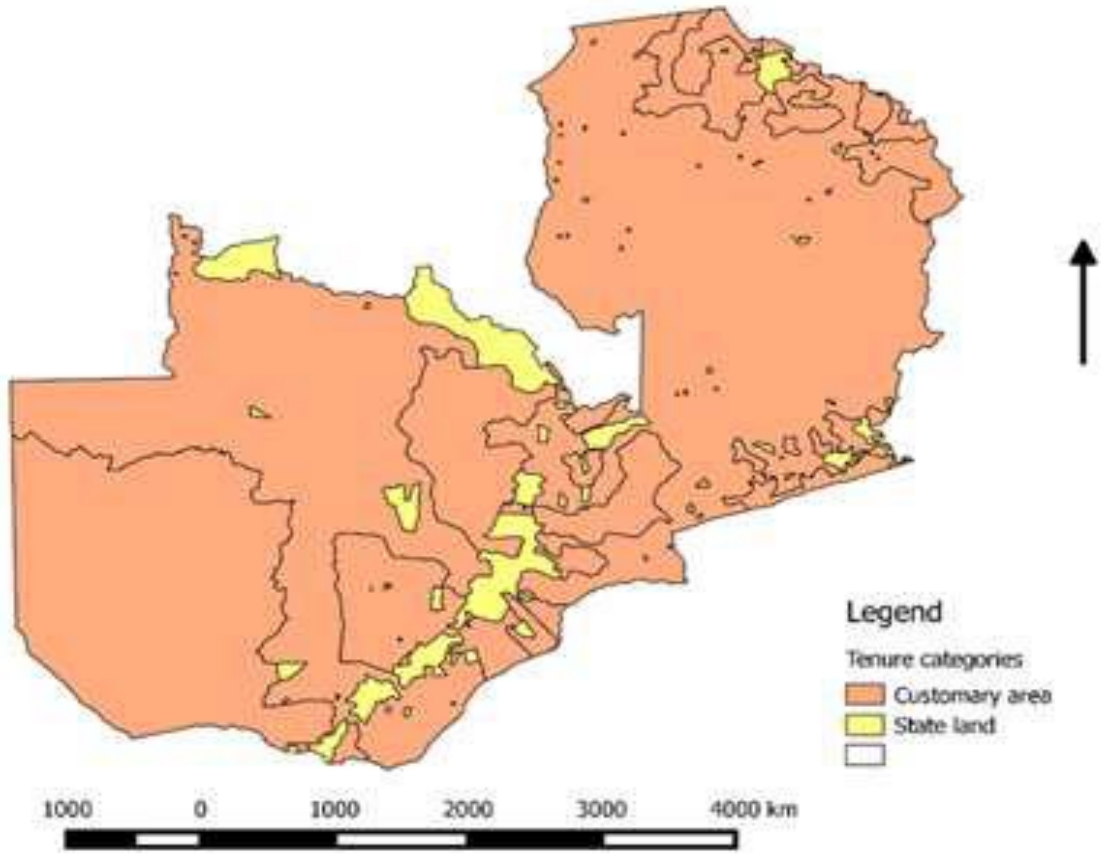


Figure 6.2: Shows map of Zambia showing land tenure categories (adapted from Siddle 1971).



Figure 6.3 See: Photograph One: *Shows pictures of fieldwork during the Chembe FGDs, 18 February 2022.*



Figure 6.4 See Photograph Two: *Shows pictures of fieldwork during the Chembe FGD, 22 December 2021.*



Figure 6.5 See Photograph Three: *Shows another picture of fieldwork during the Chembe FGD, 12 January 2022.*



Figure 6.6 See Photograph(s) Four: *Shows pictures of fieldwork during the Monze FGDs, 25 November 2021.*

6.11 FOCUS GROUP DISCUSSIONS (FGDS)

One main theme that emerged from the focus group discussions (Interview with smallholder farmers, 25 November 2021) was that the governance of customary land in both Monze and Chembe was poor, and reported that both:

English:

Traditional leaders and government are selling land to investors without consulting us, the occupants/families, which leads to us being displaced from our land permanently, despite it being clan land (FGDs, Smallholders in Chembe 22 December & Monze 25 November 2021).

Lay Bemba:

Ba shamfumu elyo no buteko baleshitisha impanga kuli ba mwinsa abacuma ukwabula ukwipusha fwebekala calo,ico icilelenga ukututanya pamushili nanguline wafikolwe fyesu. (Interview with smallholder farmers, Chembe, 22 December 2021, January 12 2022).

Lay Tonga

Ba Mami, ba Masimabbuku a Mfulumende basambala nyika kubantu baboola kuzya kubikka mpindu zyabo kakunyina kutubuzya tomikwashi notukkede mpawo. Echi chalo chipa kuti swebo tugwisyigwe anyika naa amasena eesu chakutayoopiluka limbi nokuba kuti eeyi nyika naa busena oobu mbwamukowa wesu. (FGD, Smallholders in Monze, 25 November 2021).

Several villages in Monze and Chembe, characterised by smaller land areas but larger populations, grapple with land-related conflicts. This issue is exacerbated by weak land administrative capacities at the village level and instances of reported corruption. These challenges have been attributed to the overlapping allocation of land within chiefdoms (Key informants, interviews: senior village headperson (2 & 3 November, Monze) and interviews: Staff (District Land Alliance) Chembe, December 2021). Chiefs and headmen often allocate land to new settlers, thereby diverting it away from existing farmers. In regions with land scarcity, such competition among former, current, and immigrant village residents or settlers significantly contributes to conflicts. Without a comprehensive land-holding records within customary tenure systems, coupled with the passing of traditional holders possessing institutional and oral knowledge of land-holding entitlements and boundaries, has given rise to increasingly complex land disputes (Key informant, interview, Ministry of Agriculture, 19 & 20 January 2022). Those without title deeds in their jurisdictions are typically treated as 'illegal settlers' or 'squatters' by the state or its agents, with no entitlement to rights.

My interviews with stakeholders underscored the prevalent confusion in land governance and a lack of consensus between the state and chiefs. Moreover, it was evident that within villages, a group of influential rural elites often secures parcels of customary land, converts them into leasehold titles, and subsequently sells the land at exorbitant prices. Additionally, some chiefs are uncertain about the boundaries of land in their chiefdoms, relying on information from their subjects instead (Interview with Chief Monze and Chief Kasomalwela of Chembe, 18 January and 08 February 2022). The study also revealed a historical tendency for headpersons to arbitrarily permit individuals to clear new land they deemed vacant and unused. Such practices result in boundary ambiguities, especially as land clearing is a multi-year process, and virtually all land parcels have rightful owners. Customary rules and land allocations are typically not formally documented. Chiefs and headpersons rely on oral knowledge and historical allocation records, often receiving guidance from indunas in land administration (Focus Group Discussions (FGD) interviews in both Monze and Chembe, 2021 & 2022). However, data from the 2015 Rural Agricultural Livelihood survey indicated that over 110 chiefs use some form of documentation, albeit usually limited to certain property types like roadside shops and community schools, and rarely for recording explicit spatial information. Despite the overarching authority of chiefs in land administration matters, most respondents expressed confidence in their land tenure security, especially concerning agricultural fields often inherited from their parents. The boundaries of these fields are well-established, and they have been using them for generations, making it difficult for others to assert ownership claims. Nevertheless, conflicts over boundaries, encroachments, and unauthorised clearing of forested bushland remain annual challenges (Group interviews in both Monze and Chembe, 2021 & 2022).

6.12 CUSTOMARY LAND CONFLICTS AND TENURE INSECURITY

This chapter delves into the intricacies of land tenure insecurity within customary land systems, analysing their governance and the resulting adverse ramifications for rural communities, their livelihoods, and overall rural development. Tenure insecurity is on the rise among local smallholder farmers due to the expanding influence of state leasehold tenure. As most farms or fields operate under customary tenure, where registration is rare, the potential loss of tenure rights looms large. In customary tenure,

land rights are often regarded as a communal matter, secured through community recognition and approval by the village council. Research and academic literature demonstrate that Zambia's existing land governance framework struggles to contain conflicts related to state land. These conflicts include land invasions on idle or undeveloped private or public land, illegal land allocations by politicians and government officials, violent land acquisition by political factions, boundary disputes, multiple land allocations, eviction by private landlords, and evictions by government bodies (Key informants, interviews with academics, Copperbelt University and University of Zambia, 2022). These conflicts result in dysfunctional legal and institutional frameworks and inefficient operational systems. While Zambia has made progress on paper, there is a need for effective implementation of land-related policies and regulations.

This study uncovers a prevalent pattern of state and customary land conflicts and disputes within Zambia, particularly in the Monze and Chembe districts under examination. Statutory land, protected by statute law, carries significant value and falls under a legal framework emphasising planning and development. It is also subject to various other land legislations, such as the Town and Country Planning Act and the Mines and Mineral Act. Conversely, customary land tenure is of lower value and is less secure. State regulations do not explicitly address customary law and the rights emanating from it, leaving these rights beyond the scope of statutory regulation. Chiefs often resist relinquishing their authority over land to the government, reluctant to formalise customary land under statutory law. Both Chief Monze and Chief Kasomalwela of Chembe assert that statutory tenure poses a threat to customary land by eroding traditional leaders' control over it. This view emphasises the significance of custodianship of land to chiefs, which earns them respect and social authority (Interview, Monze District Land Alliance, 21 February 2022). In both Monze and Chembe districts, customary disputes are typically settled through negotiation, mediation, arbitration, judicial recourse, and avoidance, both within and outside the formal court system. Traditional systems rely on negotiation and mediation processes to reconcile individuals or groups with conflicting claims. Negotiation seeks to resolve disputes and restore relationships through consensus, while mediation involves an independent third party mediating between the disputing parties (Key informants, interviews with paralegals in Monze & ZLA District Coordinator, Chembe, 2022). In

customary systems, mediators can be headpersons, chiefs, or village elders. When negotiation and mediation fail, the dispute can be escalated to traditional courts for resolution.

Traditional courts operate under the chiefdom's traditional governance system. The Chiefs Act recognises the legitimacy of traditional rulers and, by extension, traditional courts. When a case is brought before a traditional court, all parties are encouraged to be present with their witnesses during the hearing. If any party is dissatisfied with the court's decision, they can escalate the matter to the local court, Magistrate Court, or even the High Court if it involves constitutional issues. In traditional courts in Zambia, the burden of proof rests on the accused party or parties. These courts conduct hearings publicly, with proceedings being oral and informal. Notably, traditional courts have begun acknowledging the importance of written records, particularly case documentation. Effective enforcement and monitoring mechanisms are crucial to safeguard individuals' land rights. Several laws, including the Lands Act of 1995, the Lands Deeds and Registry Act, the Zambia Environmental Management Act of 2010, and the Urban and Regional Planning Act, provide systems and mechanisms for enforcement. The Lands Tribunal plays a vital role in monitoring and enforcing land-related matters, although it lacks proper mechanisms for resolving land disputes.

This study reveals that customary land tenure, being informal and without prescribed tools, is relatively easy to access and administer, whereas statutory tenure is subjected to formal procedures and strict rules of procedure. However, the research also highlights that customary land systems in Zambia, specifically in Chembe and Monze, are unstructured, haphazard, and lack proper administrative procedures. Land disputes related to state land are primarily resolved through litigation within the formal court system, including Subordinate Courts, the Lands Tribunal, and the High Court. The Subordinate Court has jurisdiction over land disputes involving title deeds. While the Lands Tribunal was established as a specialised land court, it faces challenges due to limited capacity, lack of awareness, and its centralised location in Lusaka. Cases heard in Subordinate Courts or the Lands Tribunal can be appealed to the High Court, Court of Appeal, and ultimately to the Supreme Court of Zambia, whose decisions are final. Alternative dispute resolution mechanisms, such as

arbitration and mediation, exist alongside the formal court system. These mechanisms aim to resolve disputes informally, promptly, and cost-effectively and are available for customary land disputes. However, it's worth noting that the effectiveness of these mechanisms can be undermined in areas with increasing land pressure, potentially leading to corruption and conflict (Chimhowu & Woodhouse, 2006). Traditional courts, although not formally recognised within the formal court system, effectively resolve numerous disputes related to customary land through negotiation, mediation, arbitration, judicial recourse, avoidance, and self-help. This underscores the need for land tenure concepts to align with the population's preferences, as the current system is often incompatible with established legal mechanisms governing land. Customary systems are adept at resolving conflicts within communities but face challenges when addressing conflicts across different groups, ethnicities, or land use categories, such as sedentary agriculture (Deininger & Feder, 2009: 242).

6.13 GENDER DISTRIBUTION CHARACTERISTICS OF HOUSEHOLDS

To gain insights into the gender dynamics of land access within the case-study area, an analysis of the gender distribution among household respondents was conducted, as presented in Table 4.2 in Chapter 4. The focus on economic, social, and cultural rights has given rise to methods for examining human rights in both theory and practice. This field has evolved significantly on a global scale and within Zambia over recent decades (United Nations, 2015, Universal Declaration of Human Rights, from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>). In the context of socio-economic development, equitable land governance can contribute to gender equality by empowering both men and women to identify and address power imbalances stemming from differential land ownership and utilisation. The analysis notably reveals that women hold a relatively strong economic position within the family. They serve as the primary food producers and play a vital role in the collective family farming enterprise and livelihoods (FGD, Chembe 12 January 2022). It is worth noting that both land governance and gender equality are critical components of the global development agenda aimed at achieving sustainable development in Zambia.

6.14 CONCLUSION

This study has established a clear link between land tenure management, governance, and sustainable development, shedding light on the roots of most of Zambia's land tenure issues, which can be traced back to the colonial period. Colonial regimes introduced common and statutory land systems alongside existing customary law systems, a move that arguably relegated customary law to a secondary status.

This chapter further reveals that political and social factors have influenced the evolution of land tenure systems over time. However, discrepancies between formal and informal tenure rules and institutions often lead to conflicts and inefficiencies. By illustrating practical cases, this thesis analyses the advantages of incorporating equity considerations into the evolving land rights framework in Zambia to respond to changing political, social, and economic conditions (Feder & Noronha, 1987). The study emphasises that an account of land tenure rules falls short if it neglects to consider practical implementation and the dynamic forces that shape, challenge, and transform these rules. Using Western legal constructs to discern and codify these rules can compound the problem when they fail to capture the underlying dynamics. Moreover, disparities exist between archaic land laws and land administration practices. The operation of formal structures and procedures is poorly understood, relying on rules and frameworks that are unfamiliar to ordinary citizens. Furthermore, the system is susceptible to corrupt practices, primarily benefiting a small elite. Consequently, local smallholder communities are often left powerless, unable to assert their legitimate land rights. Additionally, the analysis of case studies in this chapter reveals disputes between chiefs and the state over land issues, highlighting the dysfunctionality of Zambia's state-land governance framework, which leads to land conflicts and tenure insecurity. The thesis also addresses the challenge of conflict arising from the coexistence of unregistered customary land rights and leasehold tenure rights in Zambia.

Case studies in Chapter 5, conducted in the Monze and Chembe chiefdoms, illustrate the persistence of customary norms and practices within a nominally private property regime spanning 59 years within Zambia's land system. Furthermore, the analysis reveals that the status of customary land is integrated into a flawed legal and institutional framework in Zambia, where the current legal framework fails to

guarantee equity and non-discrimination in land acquisition and decision-making processes for statutory land. However, the study suggests that by effectively integrating statutory and customary institutions, land administration can be strengthened while upholding fundamental principles of social, political, and governmental relations. This complements the findings of Arko-Adjei (2011) and Akaateba et al. (2018), revealing that interactions between customary and statutory institutions do not always yield beneficial outcomes and can result in negative effects on land administration.

The 1995 Land Act seeks to "legally recognise and formalise the traditional African system of community-held land within the framework provided by the Constitution" (GRZ, 2016). However, the need to restate the Lands Act of 1995 indicates that it inadequately addresses procedures for land allocation and sale. Consequently, groups such as women, the disabled, and young people are often excluded from participating in land acquisition and decision-making processes. These archaic land laws, enacted at the start of the post-colonial era, have fragmented regulations governing land administration and governance, necessitating consolidation and codification. Some land laws in Zambia may require revision to recognise and provide equitable rights to women and individuals residing on customary land, incorporating them into the legal framework and ensuring equitable access to justice. The underlying causes of the situation are as a result of having unclear delineation of land rights, overlapping land rights and the inability to enforce existing land governance regulations.

Challenges in Monze and Chembe, which are prevalent throughout Zambia, include traditional leaders losing control over land, displacements, land disputes, corruption, inequality, tenure insecurity, encroachments, and illegal large-scale land allocations by chiefs. This corroborates Ubink's (2007) findings that chiefs wield authority that they can use to discriminate against other village members for their gain. It contrasts with the findings of Mugenyi (1988), Kalabamu (2000), and Mahama (2009), which suggest that conservative elders in customary areas resist controlling the creation and implementation of modern land administration policies. These findings also support the notion that institutional interactions between statutory and customary actors manifest through the amalgamation of state and community laws

and processes (Lindemann & Goodfellow, 2013). Despite linkages between customary and statutory institutions, the study indicates that local communities are not adequately involved in land use and ownership decisions.

This chapter underscores the ineffectiveness of enforcement systems and mechanisms for regulating land administration and management in Zambia. Illegitimate land transfers have occurred under customary and statutory law, disadvantaging the indigenous rural population. Addressing this irregularity in Zambian society and aligning policies and procedures with local circumstances is essential. The case studies highlight competing interpretations of customary land rights and, in particular, the extent of chiefly authority over land (Claassens & Cousins, 2008: 282). As documented in recent literature that among smallholders and local communities solve common problems, regulated not by formal coercive institutions but by informal, culturally evolved moral norms, and Zambia's inability to effectively monitor land resources inhibited the enforcement of its own land laws and made upstream users the de facto beneficiaries and left downstream users vulnerable in times of land shortages (Robert et al, 2018: 1236).

Furthermore, it has been established that the Lands Act of 1995 fails to provide customary tenure security and protection of entitlements. This Act primarily serves a formal purpose, and the land market remains underdeveloped. This has impacted the recognition, protection, and realisation of land property rights under customary tenure in the Monze and Chembe chiefdoms. Consequently, customary land inhabitants, who often find it challenging to access credit or loans using their land as collateral, face economic disadvantages, hindering their participation in the global market and the country's economic development. Empirical evidence and literature reviews reaffirm that Zambia's present state-land governance framework is dysfunctional. This dysfunctionality arises from an inconsistent legal framework, institutional failures, and deficiencies in the operational system. As a result, insecurity extends beyond customary land institutions to encompass the entirety of Zambia's land governance. These shortcomings are attributed to outdated and inadequate land laws, limited participation of local communities in land policy formulation, weak enforcement of land laws, decentralisation and coordination challenges among land institutions, corruption in land acquisition, inadequate land allocation and registration

procedures, insufficient land use monitoring, subpar land record management, inadequate cadastral surveying, and limited capacity among land administrators.

In summary, the two primary land use controversies in Zambia persist between private and communal ownership, seeking to bring security to all land users. The Evolutionary Theory of Land Rights, suggests that the reform should lean towards private ownership as people grapple with land issues. Regulatory theory, on the other hand, advocates for government-set agencies to design land market theories. The central debate revolves around whether land should be owned individually or communally, to achieve more efficient and commercial utilisation to maximise benefits. This thesis supports the implementation of Elinor Ostrom's (1990) principles for managing common resources in land governance in sub-Saharan Africa, particularly in Zambia. These principles address land tenure and governance without distinguishing between individual and communal land ownership. It is emphasised that local common property institutions are effective, if not essential, components for successfully managing resources for a significant portion of the population (Elinor Ostrom, 1994). Access to assets, particularly land, is fundamental to ensuring that people do not go hungry despite abundant resources. The denial of access to land is institutionally determined within quantitative limitations. This is at the core of agrarian conflict and the focus of efforts to alter access patterns. Finally, the thesis highlights the need to shift towards recognising the significance of appropriate land administration institutions and systems of authority, as secure tenure in customary land is a crucial goal in Zambia.

CHAPTER 7: FINDINGS AND ANALYSIS: LAND TENURE AND AGRICULTURE - REASSESSING ITS ROLE IN POVERTY REDUCTION

7.1 OVERVIEW

The primary aim of this study was to empirically examine the relationship between land tenure security and agricultural productivity in small-scale agriculture, to provide insights into proposed land reforms in Zambia. The empirical results, as presented in Chapter Six, reveal that tenure security has a significant and positive impact on investment incentives and agricultural development within Zambia's small-scale farming sector. To fully understand the implications of these findings for land reform policies in Zambia, it is essential to explore the historical context of land policy that has influenced the evolution of land tenure institutions in the country. The empirical findings from Zambia also suggest that communal land tenure systems in rural areas are acting as constraints on agricultural productivity. This chapter delves into various options for land reform in Zambia, encompassing the legal framework and reform policies. Furthermore, this chapter addresses the question of how Zambia's smallholder farmers are affected by prevailing land tenure systems and how governance reforms can positively impact rural communities. This question is approached from multiple angles, with a focus on the effects of market-oriented reform policies on smallholder agricultural development.

According to Aswani (2020: 131), incorporating a detailed ethnographic account (lived experience and values) of indigenous polycentricism provides a more nuanced understanding of local-scale processes, which are generally more challenging to uncover than those of more institutionalised formal structures, such as district, provincial, and national governing bodies. This local understanding is particularly crucial for any attempts at community-based land resource management. This study probes the impact on smallholder farmers, as agricultural policies, including subsidy policies, are devised at the national level by the Ministry of Agriculture. The key players in agriculture are, therefore, the smallholder farmers across all districts and chiefdoms. The findings and discussions from Monze and Chembe are analysed in conjunction with the reviewed literature, with a specific focus on identifying the factors contributing to shortcomings in customary land governance concerning land use, access, and ownership. There is a consensus that the nature of customary land has

been broadly misunderstood. This study supports the assertion that customary tenure is a system in which land is held collectively by a group or community, with each member granted rights of use. Private ownership of land is absent, but every community member is guaranteed access to land (Gershenberg, 1971). The findings on land tenure and agriculture, its role in growth, investment, and poverty reduction, shed light on trends in land use, access, and ownership in Zambia.

This thesis aligns with the long-standing consensus among scholars in the 1980s that customary land tenure efficiently supported market-oriented agriculture and met the needs of smallholder farmers in Africa. In support of this, scholars from the World Bank recognised the advantages of flexible land use under customary tenure and stated that "as long as there is effective governance, communal tenure systems can constitute a low-cost way of providing tenure security" (Deininger & Binswanger, 2001: 419). However, as outlined in the literature review, land reforms in the mid-1990s primarily focused on liberalising land markets. Zambia's post-mid-1990s land reforms, particularly the Lands Act of 1995, facilitated the sale of unproductive land, which was previously held under customary tenure and considered of little economic value. These reforms incorporated customary lands into the market economy, where land became subject to speculation. Non-local and foreign entities and individuals are increasingly invested in land. The findings demonstrate and corroborate interactions with a systematic review of 20 studies, suggesting that tenure reform tends to increase land productivity and farmer income. However, this same review highlighted negative social effects, including adverse impacts on women's land access, displacement of the poor, or hindrances faced by marginalised individuals in participating in the reformed regime (Lawry et al., 2017: 76). These results have adverse implications for titling policies, which can exacerbate tenure insecurity among poor rural farmers. Additionally, a lack of attention to land registration has led to unplanned settlements and inadequate monitoring and enforcement of lease conditions, resulting in land hoarding activities (See: Republic of Zambia, Ministry of Lands, Natural Resources and Environmental Protection (2021) National Land Policy. Lusaka, Government Printers. May 2021:12).

The monetisation of customary lands in global exchange markets has further transformed the landscape. According to No.12 of 2011, Zambia's Environmental

Management Policy, 'land use' encompasses any activity impacting the environment, and the Zambian government is responsible for regulating and implementing this policy. In its wake, economic growth objectives have been achieved at the expense of gender equality, poverty reduction goals, and sustainability. This trend has given rise to classic land grabbing, leading to population displacement, conflicts within local communities, and deepening commercialisation in rural areas. For instance, Zambia has offered Kenyan farmers land for maize cultivation with the condition that they export their yields back to Kenya to enhance food supply and security (Zambia Daily Mail Newspaper, March 7, 2023). This form of governance beyond government has had far-reaching consequences.

The major issues emerging align with our literature review chapter, with prominent works such as Kaag et al. (2014) arguing that investments in land have resulted in significant changes in land usage, often involving the conversion of forests and agricultural land. However, little research has delved into understanding the underlying factors enabling these land-use conversion processes. This underscores the significance of this thesis, which seeks to address land use and governance issues, particularly the debates from the 1990s, to comprehend contemporary dynamics and contribute to the ongoing discourse on land grabbing. It extends the arguments put forth by international donors like the World Bank, which advocated for governments to liberalise land markets, often in tandem with decentralisation policies. Simultaneously, the international development agenda emphasised the importance of creating an enabling business environment to attract foreign investment as a means of poverty alleviation (Kaag et al., 2014: 205). Zambia's 1995 Lands Act presents a compelling case study of the tension between chieftains, whose authority is vested in customary land tenure, and the state, which operates on the principles of private land ownership. The Act's most intriguing impact has been the empowerment of traditional leaders, particularly chiefs, who were given the authority to allocate customary land to individuals and companies, including foreign investors. This illustrates that attributing clear ownership through statutory title deeds tended to release these lands into global land markets, either as collateral for loans or for outright sales. This, in turn, encouraged local economic activities by companies and individuals, transforming both the landscape and the local perceptions of the economic value of land. While land may be abundant, its economic potential can be limited due to

insufficient infrastructure or other factors. In contrast, the presence of such infrastructure can significantly enhance the value of scarce land. In the Focus Group Discussion held on 25 November 2021 with Monze smallholders, it was strongly emphasised that land holds little value in the absence of demand. Land in remote areas serves as poor collateral, and the lack of infrastructure hampers productivity, limiting the potential benefits of land titling and registration.

Historically, in 1975, land tenure reforms were initiated, leading to the nationalisation of land and the departure of foreign investors. However, in 1995, the Lands Act reversed this policy, reintroducing capitalism and allowing greater foreign investor access. This shift aimed to stimulate economic involvement through land use. Effective land administration and management play a crucial role in enhancing tenure security and improving land management, thereby facilitating the development of an efficient land and property market. This thesis underscores the profit-driven nature of investors. It raises the important question of how Zambia can protect its economic interests when outdated and non-inclusive land laws, such as the Agricultural Lands Act of 1960, still prevail. This act, last amended in 1994, lacks clarity and serves limited purposes. Notably, it only covers statutory land, excluding customary land, which is predominantly used by smallholder farmers. This situation is not unique to Zambia but is prevalent in several Sub-Saharan African countries. The focus on personal rather than national interests by governments presents a new perspective on enhancing land tenure security and agricultural productivity through legal frameworks and judicial reviews of the Agricultural Land Act. This thesis employs two case studies to demonstrate how state actors and chieftains have redefined their roles in contemporary land governance, impacting land use, access, and ownership systems. Smallholders, defined as those operating on less than 1 ha up to 10 ha, face challenges despite their diversity, innovation, and resilience. Food insecurity persists due to structural challenges and vulnerability to external shocks like market disruptions or climatic changes.

A key finding is that both past and present Zambian governments have identified agriculture as a vital driver of the economy alongside mining. Agriculture contributes significantly to GDP and employment. However, income inequality remains a pressing issue, with growth primarily benefiting the wealthiest households,

particularly in urban areas. Agriculture's potential for inclusive growth is hampered by low productivity among smallholder farmers, who face barriers such as small land holdings, lack of land titles, and limited access to advanced farming methods. The Zambia Land Alliance, an organization advocating for the rural poor's land rights, highlights these issues:

Once land is converted from customary land tenure to statutory (leasehold), the land does not revert to customary tenure at the expiry or cancellation of the lease. This implies that there exists a net loss of customary land with no corresponding benefits to local communities'. There is insecurity on customary tenure, as some people are displaced from their land due to large-scale land acquisition without regard to their land rights To ensure tenure security, some chiefs are issuing or giving documents to ascertain (and/or attest) user rights and ownership of pieces of land by families. However, such documents' are not currently recognised by the government (ZLA 2008).

The government, in collaboration with local chiefs, has initiated large-scale agricultural blocks, each spanning over 100,000 hectares, under leasehold tenure in every province. This initiative aims to promote extensive agricultural investments while also providing leasehold titles to thousands of smallholder farmers (Sommerville et al., 2016: 1).

The global discourse surrounding transnational land deals for agriculture underscores the potential of large-scale agricultural investments in local development. While this aspect falls outside the scope of this study, it remains a significant topic of debate. Globally, improving land access for smallholders is a complex challenge. For instance, the establishment of Mansa Sugar Limited, a commercial agricultural company, in the urbanised Chembe district on customary land resulted in the long-term displacement of small-scale farmers, despite creating local employment opportunities (Key informant, interview, Ministry of Local Government, Town, and Council Planning, Chembe, 14 January 2022). The Luapula Provincial Local Government underlines its policy direction to diversify the economy through advancements in the agricultural sector and investments. This situation highlights the gradual shift of control over customary land from traditional authorities/institutions to

the state and private companies. On another note, it is possible to perceive that the statutory recognition of customary tenure is gradually proving effective in safeguarding the rights of customary landholders against attempts by government agencies and private interests to convert customary use rights into state-owned or private, freehold tenure.

While government policy aims to open customary land to investors, it acknowledges the customary authority of chiefs. For example, in December 2012, President Michael Sata of the Patriotic Front party emphasised the role of chiefs in promoting rural development, affirming that traditional leaders play a pivotal role in regional development (Times of Zambia newspaper, 15th December 2012). Chiefs possess acknowledged autonomy and authority over land, but their role in regional development has sparked some controversy. They must balance preserving customary land for community agriculture with opening it for investment. Notably, customary land management practices differ among chiefdoms. During site visits to areas under Chief Monze and Chief Chembe, a common trend was observed, characterised by transparency in land allocation, management, and conflict resolution. These changes, along with evolving socioeconomic and political conditions, have contributed to increased tenure security.



Figure 7.1 Photographs : the first, Chief Monze and the Researcher, Monze District, 18.01.2022; the second, Chief Kasomalwela and the Researcher, Chembe District, 08. 02.2022.

The findings indicate that the 1995 Lands Act was designed to stimulate investment and agricultural productivity while recognising the power of traditional leaders in allocating customary land. Consequently, land and its associated policies are not merely economic matters but are intrinsically tied to political, social, and cultural identity, and the dignity of the people.

The cases of Monze and Chembe underscore the impact of local farmer investments in land productivity, including climate-smart agriculture, social and demographic pressures, and land scarcity. The commodification of land in these areas,

through the registration and monetisation of customary land as loan collateral or for sale, is often accompanied by increased commercial investments in agriculture and diversification of the rural non-farm sector. These changes have expanded livelihood options for some impoverished rural residents. Farm size distribution is also changing, with medium-scale farms, ranging from 5 to 100 hectares, gaining significance in many areas, alongside larger commercial investments.

Globally, smallholder farmers, including those in Zambia, continue to face numerous challenges that hinder their ability to transform farming into a sustainable livelihood source. These challenges encompass low farm productivity, limited access to inputs, credit, and markets, as well as vulnerability to climate change-induced shocks, such as extreme weather events (UNDP, 2021). The findings in Monze and Chembe corroborate the observations made in the UNDP 2021 report. In line with the current results, previous studies have shown that around ninety per cent of the world's farmers are smallholders, owning less than two hectares of land. Farming often constitutes their primary, if not sole, source of household income, rendering them participants in the global market with unequal access to power and information:

Access to technology and inputs: through reducing the yield gap by half by 2025 while enhancing resilience to climatic shocks through the dissemination of climate-smart agricultural technologies. One key element will be increasing availability and reducing the cost of productivity-enhancing inputs. A priority in the Bank's support of technology generation and diffusion will be mainstreaming climate-smart agriculture, focusing on water management, agricultural risk management, and conservation farming. Climate-smart agriculture (CSA) is about strengthening farmers' resilience to climate change; climate-smart agriculture relies on the limitless ingenuity of farmers and includes proven techniques such as mulching, low- or no-till production techniques, and developing drought- or flood-tolerant crops to meet the demands of a changing climate (World Bank, 2013:16).

This underscores the significance attributed to advancing agriculture and production for the improvement of rural livelihoods. The findings reveal that leading economists now acknowledge that previous endeavours to address such issues through capitalist-oriented land reforms, which included the establishment of collective farms, have

often resulted in institutions with customs, rules, regulations, laws, and structures that hindered rather than promoted the economic efficiency and competitiveness of individual farmers. These reforms also impeded the emergence of more dynamic land markets. Consequently, economists and other experts advocate for a comprehensive review of these institutions and overarching policy frameworks, such as Zambia's National Agricultural Policy, to determine their relevance in the context of prevailing climatic, social, and economic conditions in the country and the region (See: Deininger, 1995; Spoor 2003; 'Policy statement arrived at by consensus of all key stakeholder categories in the sector and contained in Zambia's Sixth National Development Plan' (2011-2016), in Zambia CAAP (2011), and in Ministry of Agriculture, Zambia, (2016), National Land Policy).

According to a Ministry of Agriculture official (Key informant, interview Ministry of Agriculture, Monze, 08 February 2022), Zambia's agricultural sector is primarily guided by the National Agriculture Policy (NAP) of 2016. The Agricultural Policy aims to address the sector's challenges through a comprehensive set of strategies, including (a) increasing production and productivity; (b) enhancing agricultural-extension service delivery; (c) expanding land under irrigation and levels of mechanisation among smallholder farmers; (d) improving the efficiency of agricultural markets for inputs and outputs; (e) promoting access to financing and credits; (f) boosting the participation of the private sector; (g) enhancing food security; and (h) implementing environmentally friendly practices (NAP, 2016: 7). This commitment aligns with Zambia's dedication to productive and sustainable agriculture, as "agricultural policy at national, regional, and local levels and institutional reforms must be designed to benefit food security, poverty reduction, and income growth at the household level" (Ademola et al., 2018: 411-433). However, this thesis's findings also shed light on certain challenges in the two areas, Monze and Chembe. Specifically, it was observed that storage facilities used by farmers are underdeveloped, resulting in post-harvest losses. Furthermore, issues related to pest control, record-keeping, fire-safety arrangements, etc., were documented (Key informants, interviews, District Extension Agriculture Officers, in both Monze, 01 November 2021, & Chembe Districts, 14 January & 22 February 2022). Similarly, the study revealed a desire among beneficiaries for government policies to extend support

beyond maize production, aiming to maximise the benefits of government spending and achieve meaningful yields and poverty reduction.

This thesis highlights that smallholder farmers continue to remain isolated from the agribusiness sector, which is thriving elsewhere in Zambia. This isolation is due to an inadequate legal framework regulating resource use by smallholders. Therefore, an analysis of how land reform and agricultural intensification intersect with farmers' control over their lands can make a substantial contribution to the development of contemporary and future land policies (See: Why women are key to better nutrition and global poverty eradication. International Fund for Agricultural and Development (IFAD), Report, 2016).

The agricultural sector remains a vital driver of economic growth in Sub-Saharan Africa. Consequently, the following section provides a more in-depth examination of fieldwork conducted in Chembe and Monze to ascertain whether sustainable agriculture can alleviate poverty and food insecurity among African smallholders.



Figure 7.2 Photograph : Smallholder Farmers from, Monze District, 25.11.2021.

7.2 CHARACTERISTICS OF HOUSEHOLDS

7.2.1 Gender Distribution

The household surveys conducted in Monze and Chembe districts encompassed 111 smallholders in each household. Each household was represented by one individual who participated in an interview based on a structured/semi-structured questionnaire, which had been translated into Tonga and Bemba, the local Zambian languages spoken in the two areas. Out of the 57 males and 54 females interviewed, the results revealed that males tend to have greater access to and ownership of land compared to their female counterparts, aligning with the expectations of a highly patriarchal society. An analysis of land ownership by gender and marital status, as depicted in the tables below, highlights significant disparities in land ownership between married and unmarried rural women. Key informants also confirmed the existence of gender disparities in terms of land access and ownership. Table 1 presents the distribution of the sample by ward across the two districts. This disaggregation of gender compositions within households was essential in gaining deeper insights into the gender dimensions within the case study area. It is noteworthy that the predominance of approaches and case studies adopting a qualitative methodology mirrors both the use of case studies within this thesis and the prevalence of this approach in research on natural resource governance. These approaches include strategies for generating comparative data for large sample sizes, the development of meta-databases, and the utilisation of partnerships and networks to collect data that can subsequently be employed in quantitative analyses while maintaining a foundation in qualitative data collection (Potee & Ostrom, 2008: 177).

District	Ward	Male	Female	Total
Chembe	Kapwepwe	16	14	30
	Kasoma Lwela	4	8	12
	Luapula	5	8	13
	Lwiilu		1	1
Sub-total		25	31	56
Monze	Hufwa-Hamapande	16	11	27
	Mayaba	13	15	28
Sub-total		29	26	55
Total		54	57	111

Table 7.1: Smallholder Farmers Segregated by Gender

7.2.2 Marital Status

Among the surveyed adults, the largest proportion, 42%, were in monogamous marriages. A significant portion, 17%, were widowed, while 12.8% were cohabiting. Additionally, 11.71% had never married. A small minority, only 5.4%, were engaged in polygamous marriages.

Marital Status	Frequency	%
1. Never married	13	11.71%
2. Monogamously married	47	42.34%
3. Polygamously married	6	5.41%
4. Living together	14	12.61%
5. Separated	1	0.90%
6. Divorced	11	9.91%
7. Widowed	19	17.12%
Total	111	100.00%

Table 7.2: Marital Status of Smallholder Respondents Monze (Household Survey based on structured/semi-structured questionnaires in Bemba and Tonga. Data collected October – November 2021.

The results reveal that a significant proportion of smallholder respondents possess a relatively high level of literacy. This high literacy rate is a crucial prerequisite for comprehending land laws and the intricate procedures associated with formalising land rights and ensuring tenure security. Notably, a larger percentage of men, constituting 54%, have completed secondary education in contrast to their female counterparts, of whom only 37% have achieved this level of education. While most community members have received basic primary-level education, enabling them to comprehend land-related matters to some extent, a clear gender disparity in educational attainment is evident. Furthermore, the study found that women farmers exhibit a limited understanding of land rights, particularly concerning statutory tenure, when compared to their knowledge of customary tenure.

Education	Male		Female		Total	
	Freq.	%	Freq.	%	Freq.	%
1. Never been to school	4	7.4	14	24.6	18	16.2
2. Primary education	20	37.0	29	50.9	49	44.1
3. Secondary education	29	53.7	12	21.1	41	36.9
4. College Education	1	1.9	1	1.8	2	1.8
5. University education		0.0	1	1.8	1	0.9
Total	54	100	57	100	111	100

Table 7.3: Educational Attainment of Household Heads (n=111), (Household Survey in Chembe and Monze)

	Data of Land Owned					
	Yes		No		Total	
Education	Freq.	%	Freq.	%		%
Not Been to School	17	16%	1	17%	18	16%
Primary	44	42%	5	83%	49	44%
Secondary	41	39%		0%	41	37%
College	2	2%		0%	2	2%
University	1	1%		0%	1	1%
Total	105	100%	6	100%	111	100%

Table 7.4: Access to Land by Different levels of Education, Author field data for Chembe, 2022.

These results can be explained by the fact that 84% of smallholder respondents own land. Surprisingly, educational attainment does not seem to be a determining factor in land ownership. The data indicate no significant difference in land ownership rates between respondents who have received formal education and those who have not. This finding contradicts other studies that have found a positive relationship between the education level of the most educated household member and the size of land held by the household (Jayne et al., 2008: 23). Typically, better-educated or trained farmers have a greater capacity to absorb information and demonstrate improved allocation skills, enabling them to adapt more effectively to changes affecting agricultural production (Feder et al., 1982: 32).

Upon closer examination of the table, it becomes evident that the majority, 77% of the respondents, possess documentation that confirms their perception and understanding of land ownership. This documentation includes various forms such as title deeds, lease agreements, and certificates issued by traditional authorities, like a letter from the chief or a notice of village registration. This finding reflects the smallholders' interpretation of land ownership. Follow-up questions further clarified legal ownership by inquiring about how the land was acquired and whether the 'owners' held title deeds or other legal documents demonstrating their land ownership. The findings demonstrated that most households obtained records of land access, use, or ownership through traditional leaders, followed by land purchases from individuals. The documentation in the customary context regarding land ownership or use underscores the role of chiefs and traditional leaders in the emerging land markets. The results indicate that the primary sources of land acquisition for most households are traditional leaders, headmen, and chiefs, followed by purchases from individuals.

7.3 MODEL OF LAND ACQUISITION AND TENURE STATUS

The question of customary land classification and acquisition is illustrated in Table 7.5:

How land is acquired	Female (%)	Male (%)
Through buying from individuals	26	35
Through free allocation by the head person	23	14
By applying to the chief	21	17
Through inheritance from relatives	11	15
Through buying from traditional leaders	8	6
Rent	3	2
Through male members of the family	2	2
Through established village committees	1	1
Through application to the Council	1	6
Others	1	0
N/A	1	2
Total	87	100

Table 7.5: Access to Land Ownership by Category (n=111), (Household Survey in Chembe and Monze)

The table above presents findings regarding land acquisition in Monze and Chembe. The fundamental principle of land ownership in these areas is that holders of statutory land titles are required to use the land following the stipulations of the law or follow the model of leaseholding as outlined in their lease agreements. Conversely, individuals who hold land under the customary land tenure system are expected to use the land and other natural resources following local community practices. Users of public land, such as designated forests and national parks, must adhere to statutory laws and, in some cases, traditional usage standards that impose restrictions on access to and utilization of natural resources (Key informant, Ministry of Lands, Interview, 22 September 2021; Government Republic of Zambia, 2021 National Land Policy, Zambia, Lusaka, May 2021).

The evidence suggests that limited access to land for rural people is influenced by factors like restricted access to capital, labour, machinery, and/or farming experience. These factors, to a certain extent, account for the smaller farm sizes observed among households headed by young individuals and serve as the basis for this assertion. Even if access to land were unrestricted, these other factors would likely continue to constrain the farm sizes of younger households. Consequently, farm size

should not be regarded as direct and unequivocal evidence that rural people's farming activities are restricted solely due to land access issues. Instead, it is plausible that they face challenges related to agricultural inputs and access to markets. In Zambia, customary land tenure is directly overseen by chiefs and traditional leaders. Customary land in both Monze and Chembe falls into several categories: communal land, which is collectively owned and under the direct control of chiefs or head persons and is accessible to all villagers; clan land, which belongs to all kinfolk within a tribe; and family land, which represents a specific area within a village where people mainly reside and engage in agricultural activities (Interviews, 08 February 2022 Chief Monze, Chief Kasomolwela 18 January 2022, and head persons, interviews, 04 November 2022). While village members may collectively manage a designated piece of land, villages often consist of individuals from various tribal groups who maintain parallel and hybrid identities. Typically, central figures with significant authority include Mwami or bashamfumu chiefs and village headpersons, known as masibuuku or bamwinemushi. While these individuals are integrated within extended families and tribes, they can exercise their power independently, even if it conflicts with the wishes of close relatives and tribes (Nunan, 2020: 135).

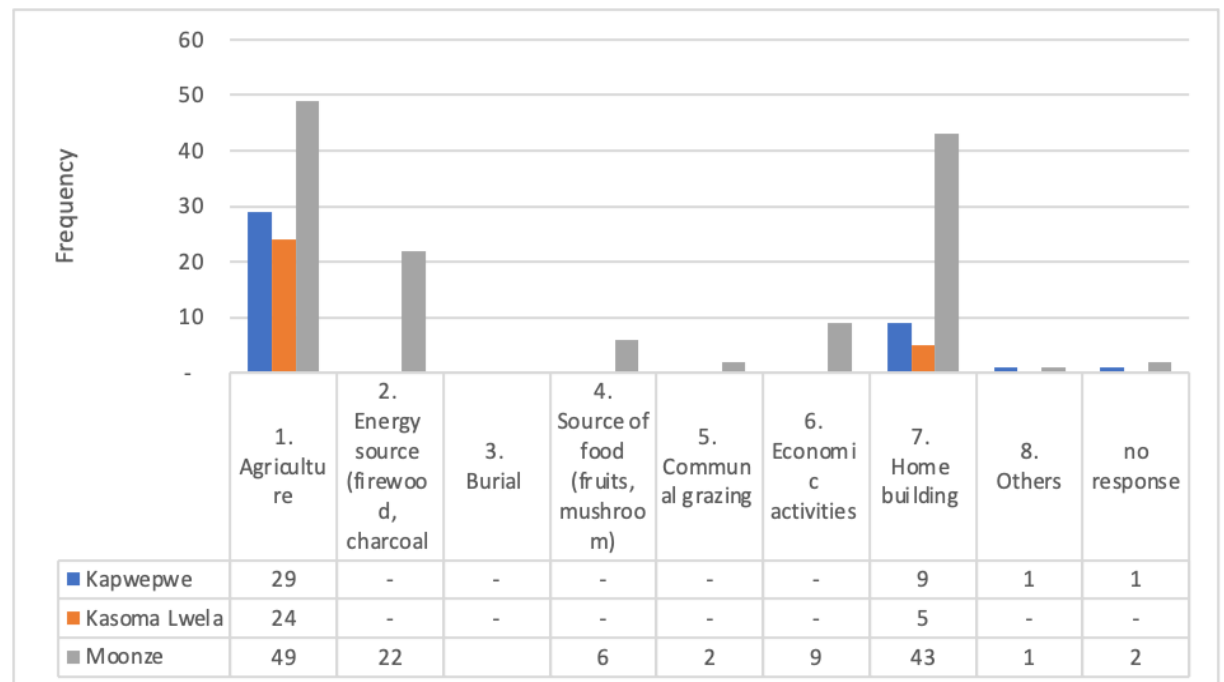


Table 7.6: *Distribution of Land-Use by Households (n=111), (Household Survey in Chembe and Monze).*

The table below illustrates that 50% of households primarily allocate their land for agricultural purposes, with another 43% allocating it for housing. This underscores

the vital role of land in sustaining agriculture as a crucial source of livelihood. However, in Monze, a minority of households, 16%, utilise their land for energy purposes, while an even smaller number employ it as a source of forest foods, including mushrooms and wild fruits (IAPRI, 2019) Report, p. 13).

District	Chiefdom	Agriculture	EnergySource	FoodSource	Communal Grazing	Economic Activities	Home Building	Others	No Response	Total (%)
Chembe	Kapwewe	73					23	3	3	100
	Kasoma Lwela	83	0				17	-	-	100
Monze	Monze	37	16	4	1	7	32	1	1	100
	Total	50	11	3	1	4	28	1	1	100

Table 7.7: Allocation of Landholding for Various Land Uses at the Household Level (n=111), (Household Survey in Chembe and Monze).

Evidence regarding land use in Chembe and Monze suggests that 65.9% of the land controlled by farmers was used for self-cultivation, while 12.3% lay fallow in its natural state. A further 8.2% remained undeveloped or virgin land, 7.3% was utilised for gardening purposes, and the remaining 6.4% fell under the category of 'other land use,' which includes cultivated fields or land managed on behalf of absentee owners (Also, refer to The Indaba Agricultural Policy Research Institute (IAPRI) 2019 Report, p. 13). This diversification of land use patterns, along with overlapping institutional functions, underscores the necessity for collaboration among organisations involved in effective land administration. Throughout the land administration process, various institutions play different yet interconnected roles in transactions. However, in the administration of customary land in the Monze and Chembe areas, these functions and operations of institutions often overlap and conflict. For instance, there may be limited access to statutory leasehold land, inadequate information on land issues, inefficiencies and delays in processing title deeds, and insecure land tenure systems. To address this complex land administration system and promote equitable access to land, Civil Society Organisations (CSOs) emphasise the importance of strengthening institutional capacities, decentralising land acquisition systems, establishing sustainable customary land tenure systems,

preventing large-scale land acquisitions or land grabs, and developing effective town and country planning systems (NDP, 2007: 12-63).

In the Zambian context, landholding encompasses land that households have the right to use regularly. This includes rented land and various uses of different land types, such as cultivated land, woodlots, fallow land, land with tree crops, gardens, and rented land. Land's significance extends beyond being a tradable and mortgageable commodity; it is also deeply intertwined with agricultural activities and the cultural identity of communities. Traditionally, people transform space into place through their occupation and interaction. Without people, space remains devoid of identity. Spaces are thus hubs of human activity. This perspective supports the argument that restructuring farmland can be justified from an equity standpoint and to enhance agricultural productivity. Ownership of land, rather than renting, even in small quantities, provides a crucial safety net and strong incentives for investment. Such ownership often justifies land reform's role in reducing poverty (Deininger, 2003: 155). Farmers who have invested more in human capital are expected to make greater investments in long-term land improvements and complementary short-term inputs, resulting in higher yields. The study focused on Zambia's small farm sector, and the limited scale of physical farm sizes observed and examined was unlikely to significantly affect agricultural investment and productivity. Furthermore, Zambia's 1995 Lands Act transformed customary land tenure into statutory leaseholds, aiming to liberalise land administration and bolster property rights to attract foreign investment and promote national economic development. The Act succeeded in boosting agricultural productivity and output, primarily benefiting commercial farmers. Agriculture in Zambia continues to be a major source of employment, outperforming other sectors in the economy (CSO & GRZ, 2018: iv). Another issue highlighted by the data is that privatisation often excluded rural smallholders and inadvertently led to resource exploitation of the land (Refer to the Fifth National Development Plan, 2006-2010, August 2007, International Monetary Fund. Republic of Zambia, Ministry of Finance and National Planning. (2005). Fifth National Development Plan 2006-2010. Broad-Based Wealth and Job Creation Planning through Citizenry Participation and Technological Advancement. Government Printing Office). To date, registration initiatives have denied rural smallholders access to collateral through land titles, leaving them vulnerable to unscrupulous chiefs,

domestic, and international land investors and speculators. Demand for land reform by the rural poor has been diffuse and weakly articulated, resulting in limited advocacy on the issue. Land reform remains a politically sensitive topic, intending to establish or create an efficient and accessible land administration system that can bring about transformative impacts on the economy, society, and agricultural productivity (Key informant, USAID, Lusaka interview, 16 May 2022). This aligns with a 2013 report titled 'Unlocking Africa's Agricultural Potential: An Action Agenda for Transformation' by the World Bank:

Transforming agriculture in Africa is not simply about helping or assisting Africa; it is essential for ensuring global food security. Reducing poverty in Africa is the world's supreme development challenge, and growing the agricultural sector is key. This sector employs 65–70 per cent of Africa's labour force and typically accounts for 30–40 per cent of GDP. More than 70 per cent of the continent's poorest populations live in rural areas, and agriculture is their most important economic activity.

Furthermore, improving agricultural performance is essential for Sub-Saharan Africa's growth and for achieving the Millennium Development Goal of halving poverty by 2015 (World Bank, 2013: 20).

However, while income does not encompass all of a household's economic activities, it is nevertheless acknowledged as a key indicator of household welfare. Nevertheless, breaking down income by source reveals that the composition of household economic activity, such as farm income versus non-farm income, varies with household landholding size. The implications of these findings for rural growth, and poverty alleviation strategies in Zambia depend, in part, on the extent to which land allocation patterns exclusively influence household income and poverty. This is because much depends on how farmers utilise their land, including their crop choices and livestock rearing. If non-farm activities can compensate for limited farmland and offer land-poor households viable alternative income sources, then disparities in land ownership may not necessarily pose a policy problem. Given that 48% of Zambia's population resides in urban areas, and a significant portion of rural households derive part of their income from non-farm sources, one might expect a weak relationship between land size and income (Jayne et al., 2008: 3).

Findings from both Monze and Chembe reveal that a variety of socioeconomic and institutional factors influenced smallholder farmers' choices regarding farmland management practices. Socioeconomic factors, primarily the number of livestock, household size, and farming experience, had a significant impact on agricultural practices. Additionally, the findings confirm that Zambia reduced fertiliser subsidies in the early 1990s, resulting in increased fertiliser prices and decreased availability. Several studies documented farmers' complaints about the lack of fertiliser, exacerbated by the absence of credit even for those with cash. Consequently, this affected both cash and food crops, particularly the production of hybrid maize, which relies on fertilisers. Expensive or unavailable fertilisers pose a threat not only to agricultural productivity and economic growth but also to basic food security. The suggestion is that privatisation of the agricultural sector, coupled with infrastructure investments in remote areas, can address the same problems at a lower cost (Jayne et al., 2008: VII). Institutional factors, primarily access to credit and extension services, are lacking in both Monze and Chembe (Interview with Agriculture District Coordinator, 22 February 2022, Monze). The findings imply that these factors need to be considered in the development of institutional support and policy initiatives aimed at encouraging farmers to adopt additional land management practices to improve sustainable agricultural development. However, smallholder farmer respondents emphasised that they have limited knowledge of these practices and would welcome organised workshops to learn more. This necessitates awareness-raising efforts, for instance, about organic practices such as the use of manure and/or compost to improve crop yields. Furthermore, the findings indicate that sustainable agricultural productivity has not been achieved or does not exist in the study areas. These results are particularly valuable as they can help smallholder farmers, especially those facing knowledge uncertainty, organise, identify shared priorities, and collectively address local challenges. What is required is enhancing and providing them with access to information, appropriate capacities and skills, and some financial assistance (Group interviews with smallholder farmers in Monze and Chembe were conducted on 10 November 2021 and 11 December 2021, respectively).

7.4 AGRICULTURAL PERFORMANCE AND LEGAL FRAMEWORK SINCE THE MID-1990S

The trends in partial land productivity and total production per household, as per the available data, do not exhibit a clear upward trajectory (Jayne et al., 2007). More comprehensive data is imperative. Zambia's agriculture sector suffers from a dearth of robust information concerning total factor productivity. However, trends in partial land productivity and total production per household, based on existing data, fail to indicate a significant upward trend. Smallholder agriculture holds the potential to alleviate poverty in Zambia. Nonetheless, it encounters significant hindrances, including inadequate market functionality and limited access to credit. Fundamentally, this thesis highlights a critical issue: Zambia lacks a functional agricultural legal framework to support and safeguard smallholder farmers. The country relies on the outdated Agriculture Lands Act of 23rd December 1960 — Chapter 187 of the Laws of Zambia, which states:

An Act to provide for the establishment of the Agricultural Lands Board; to prescribe the composition and membership thereof; to prescribe its powers and functions; to provide for tenant farming schemes; and to provide for matters incidental to or connected with the foregoing; Dated as 57 of 1960 42 of 1963 13 of 1994 Government Notice 227 of 1964 Statutory Instrument 65 of 1965 23rd December 1960 This Act defines state land as “means any land included within state Lands as defined in the Orders dealing with state Lands other than land which, before the 14th March 1957, had been and which at that date was and thereafter has remained granted in perpetuity to any person; “state lease” means a lease of state Land and includes any lease granted before the 24th October 1964, by the Crown. (As amended by S.I. No. 65 of 1965) Any lease made or state Grant issued under the provisions of the Agricultural Lands Acts, Chapter 101 of the 1958 Edition of the Laws, shall be deemed to have been made or issued under the provisions of this Act and shall have effect accordingly as if this Act had been in force at the date of such lease or grant: ALIENATION OF AGRICULTURAL LAND 10. (1) The Minister may, by statutory notice, declare any state Land and, with the consent of the registered owner thereof, any freehold land to be subject to the provisions of this Part and may at any time, by like notice, declare that any such land that has not been

alienated under the provisions of this Part shall cease to be subject thereto. TENANT FARMING SCHEMES 38. The Minister may, after consultation with the Board, make schemes for the settlement of tenant farmers on the land. (As amended by G.N. No. 227 of 1964); 39. In this Part, unless the context otherwise requires- The interpretation of holding means a holding allotted to a tenant farmer under the provisions of a scheme; “scheme” means a scheme for the settlement of tenant farmers on the land approved under the provisions of section thirty-eight; “tenant” means a person holding land under the provisions of a scheme, and “tenancy” shall be construed accordingly (The Zambian 1995 land Act).

The Agriculture Lands Act of 1960, albeit with its last amendments dating back to 1994, continues to be in effect and governs the allocation of agricultural leases on state land. This legislation exclusively pertains to state or statutory land, focusing on formal land governance and agricultural development initiatives. It fails to adequately address customary land, regarded as informal. Consequently, there exists a substantial gap in the agricultural sector, impeding support for rural smallholders who predominantly occupy customary land. Precisely, rural smallholders find limited legal recognition within the land legal framework. They are primarily acknowledged within agricultural policy segments that impact agricultural development. The central finding of this thesis underscores that land reforms in Zambia differ from those in many Asian or Latin American countries. Here, the emphasis is less on redistributing land from large to small-scale farmers and more on enhancing tenure security for existing small-scale farmers, thus improving their well-being and agricultural productivity. Nonetheless, maize and most other crops in Zambia exhibit low productivity, attributed to factors such as erratic rainfall patterns, suboptimal farming practices, inadequate extension services, and limited research and technology transfer. Smallholder farmers in Zambia utilise fertilisers sparingly, with an average application of less than 100kg per hectare. Furthermore, despite the existence of numerous fertiliser types suitable for different agro-ecological zones, farmers predominantly rely on a restricted range of nutrient sources (Republic of Zambia, Ministry of Agriculture and Ministry of Fisheries and Livestock, 2016, Second National Agricultural Policy, Lusaka, Government Printing Office).

This thesis sheds light on a significant misconception surrounding Zambia's agricultural policy environment. Despite years of economic liberalisation, Zambia's food marketing policies closely resemble the controlled marketing systems of the 1980s, when the government exercised complete control through the National Agricultural Marketing Board. The present Food Reserve Agency (FRA) is tasked with procuring Zambia's primary cash crop, maize. However, the quantities traded by the FRA are smaller than those handled by its predecessor, the National Agricultural Marketing Board, during the regulated market era of the 1980s. Both the National Agricultural Marketing Board (NAMBOARD) (1969-1989) and the current Food Reserve Agency (FRA) were assigned the responsibility of marketing agricultural inputs and products, as well as managing strategic food reserves for national security. While private maize crop trade is permitted and legal, it is seldom regulated to ensure support for rural smallholders (Refer to: Indaba Agricultural Policy Research Institute (IAPRI), "E-Voucher Performance and Recommendations for Nationwide Rollout during 2017/2018 Farming Season," Policy Brief No. 89, April 2017, Kuteya Auckland, N., & Chapato, A. (2017), "E-Voucher Performance and Recommendations for Nationwide Rollout during 2017/2018 Farming Season," Indaba Agricultural Policy Research Institute, Policy Brief No. 89, Lusaka). Furthermore, the thesis highlights that deep-rooted structural issues persist in Zambia's land and agricultural sectors. Matters like land reform, the liberalisation of fertiliser markets, and improved infrastructure must be integral components of a comprehensive rural development strategy (Refer to: IAPRI (Zambia), "Rural Agricultural Livelihoods Survey 2019," Report, p. 38). One informant concurred with the assertion that the factors contributing to the poverty of rural smallholders are multifaceted; the rural poor do not merely lack land, but also suffer from issues such as overuse of marginal agricultural lands or overgrazing of grasslands. Nevertheless, various constraints plague smallholder agriculture, presenting significant short-term challenges. Creative short-term policies and investments have the potential to stimulate efficient and equitable production systems without necessitating a return to a more centrally managed agricultural sector (Key informant, Interview, Monze District Agricultural Coordinator, 22 February 2022).

7.5 CHANGES IN THE AGRICULTURAL SECTOR SINCE THE 1990s: SMALLHOLDERS IN PERSPECTIVE

The agricultural reforms commenced in the early 1990s. The findings presented here align with Evan (2001), who suggested that the reforms, primarily aimed at market and trade liberalisation, were anticipated to benefit smallholders. However, the evidence indicates that these reforms adversely affected many such households, especially those residing in remote rural areas. This had a discouraging effect on private sector involvement, preventing many impoverished farmers from fully realising their agricultural potential (McCulloch, Baulch, and Cherel-Robson, 2000: 31-32).

District	What major land reforms/changes took place	Total
Chembe		
	The need for land titling	5.4%
	Restrictions on illegal cutting down of trees for charcoal	1.8%
	Respect for the procedure for land acquisition in customary areas	0.9%
	No response	1.8%
	N/A	40.5%
Monze	N/A	49.6%
Total		100.0%

Table 7.8: Impact of Major Land Reforms or Changes in the mid-1990s on Rural Smallholders of Chembe and Monze (n=111), (Household Survey in Chembe and Monze).

Nevertheless, when participants were asked about the impact of land reforms post the mid-1990s on their farming activities, the results were as follows: 85.7% of households in Chembe answered 'yes,' while only 3.6% of households in Monze responded 'yes.' Refer to Table 7.9 below.

Has a change in land administration affected your farming?	Chembe	Monze	Total
Yes	85.7%	3.6%	45.1%
No	12.5%	96.4%	54.9%
N/A	1.8%	0.0%	0.9%
Total	100%	100.0%	100.0%

Table 7.9: Responses Regarding the Influence of Land Reforms on Farming Activities, Author (field data for Chembe, 2022).

Further interrogation on specific aspects of farming activities which were demonstrated to have been affected by the introduction of land reforms or changes in the mid-1990s indicated the following results, as outlined in Table 10:

	Chembe %	Monze %	Total %
Number of Farming Households			
Increased	66	-	33
Decreased	23	4	14
No Change	-	02	01
N/A	11	95	52
Number of Non-Local Investors			
Increased	8	06	43
Decreased	09	-	05
N/A	11	95	52
Livestock Production			
Increased	23	-	12
Decreased	66	-	33
No Change	-	05	03
N/A	11	95	52
Harvests/Crop Yield			
Increased	48	-	24
Reduced	39	-	2
No Change	-	04	02
N/A	13	96	54
Land Size under Cultivation			
Increased	59	-	3
Reduced	29	02	15
No Change	-	02	01
N/A	13	96	54
New Crop Varieties			
Increased	43	-	22
Decreased	29	-	14
No Change	13	0.04	0.08
N/A	16	96	56
Sustainable Land Use (SLU) Practices			
Increased	57	-	29
Decreased	25	-	13
No Change	02	04	03
N/A	16	96	56
Agriculture Markets			
Increased	57	-	29
Decreased	3	02	16

No Change	-	02	01
N/A	13	96	54
Agricultural Profitability			
Increased	57	-	29
Decreased	29	02	15
No Change	-	02	01
N/A	14	96	55
Land Disputes			
Increased	77	-	39
Decreased	09	-	05
No Change	-	04	02
N/A	14	96	55
Land Dispossession/Grabs			
Increased	8	-	41
Decreased	07	-	04
No Change	-	04	02
N/A	13	96	54
Grand Total	100	100	100

Table 7.10: Perceived changes induced by land reforms in the mid-1990s in Chembe & Monze,

(Author field data for Chembe, 2022).

The results presented in Table 7.10 above indicate several significant changes, including a surge in non-local investors, an increase in land dispossession and household displacements, as well as a rise in land disputes. These impacts were most prominently observed by households, with over 75% of respondents reporting their effects, particularly in Chembe District. These outcomes may stem from persistent macroeconomic instability over the past 15 years. For instance, over the past 15 years, Zambia has grappled with significant "macroeconomic instability." In terms of the macroeconomic framework, growth has averaged 4% per annum since 2000. In 2002, despite challenges in the mining sector and the impact of a severe drought, real GDP still managed to grow by 3.3%. The following year, in 2003, GDP growth reached 5.1%, primarily due to the recovery of the agricultural sector. However, the Poverty Reduction Strategy Paper Report acknowledges that the average GDP increase in 2002-2003 fell short of the rates necessary to accelerate poverty reduction, which is typically between 5-8%. This reflects the fragile and heavy reliance on robust fiscal discipline for macroeconomic stability. Moreover, the agricultural marketing policy in Zambia up to the early 1990s was marked by stringent governmental control and subsidization (PRSPR, 2014: 3). Zambia's public institutions responsible for

agricultural development, notably the Ministry of Agriculture and Cooperatives (MAC), suffer from weaknesses and fragmentation. These findings align with the observations of the World Bank (2003b), which argues:

Changes in the agricultural sector during the 1990s resulted from policy reforms and from, changing conditions in the international commodity markets and because of recurring droughts. The nature of these changes each affected differently technology adoption, enterprise mixes, profitability, and market orientation on different types of farmers — The major policy shifts in the 1990s dismantled state institutions for marketing and distribution of agricultural outputs and inputs and abolished producer subsidies; they liberalised trade in food items and introduced market-determined input and output prices (see GRZ, 2001; World Bank, 2003b: 64-66, for details).

To reinforce the previous statement, this aligns with the findings of the thesis that, across Zambia, the absence of private service providers, along with structural constraints, has hindered smallholders from participating in commercialised agriculture (Smale & Jayne, 2004).

7.6 STATUS OF SMALLHOLDER AGRICULTURE IN ZAMBIA

Agriculture carries significant poverty-reducing potential, particularly in low-income countries such as Zambia (Christiansen & Martin, 2018). In both Monze and Chembe districts, maize is the predominant crop, followed by cassava in Chembe. Assessing cropland estimates aids in comprehending a community's food production capacity to meet demand. This is pivotal in the study of sustainable agriculture, given the rising populations and the escalating recognition of agriculture's impact on the environment. The justification for this lies in the fact that smallholder farmers' households contribute 50 to 80% of the world's food and play a crucial role in achieving 'Sustainable Development Goal 2' (SDG2) of 'Zero Hunger.' Nevertheless, they remain among the poorest and most food-insecure populations in the Global South. Augmented agricultural growth is pivotal in diminishing rural poverty (IFAD, 2020). This study also confirms that while land reforms may not immediately eradicate rural poverty, they do provide crops for household consumption, income sources, and insurance against shocks. Smallholders have showcased initiative and capability in

making productive investments. The case studies presented herein elucidate how smallholder agriculture can enhance food security and nutrition for all (Betge et al., 2020). However, it was equally observed that agricultural productivity in both districts remains low, and factors beyond tenure security have contributed to small farm sizes and off-farm incomes of rural households.

7.7 TENURE SECURITY AND FARM PRODUCTIVITY

This study has aptly demonstrated that land tenure security, specifically concerning property rights, revolves around households and communities striving to gain land access and define related systems and procedures. This aspect of the typology pertains to the definitions of land rights and the struggles over tenure rules (Manji, 2020: 21).

Some respondents expanded on the prevailing view regarding the significance of land titles within the 'hierarchy of needs': 'We don't necessarily need titles for development. What we require is a deliberate government policy to provide oxen and timely inputs; then we can commence production as before.' (Smallholder Farmer Interview, Monze, 21 November 2021). Another interviewee articulated, 'With or without a title, production cannot occur on the land without animal traction, inputs, or other forms of support.' (Smallholder Farmer Interview, Monze, 22 November 2021).

'Farmers wish the government could make titles more affordable because the proceeds from produce sales are insufficient. The government should ensure the availability of inputs and intervene in the marketing of produce—prices are too low, leading to a lack of incentives for farmers.' (Smallholder Farmer Interview, Chembe, 4 December 2021).

'We need or require fixed improvements like fencing and poultry houses, but even with titles, accessing credit isn't straightforward. You need to know someone or even bribe someone to secure a loan or fertiliser. Extension officers often end up becoming farmers themselves, neglecting their advisory role. To have them visit your farm, you often have to bribe them, as they receive double salaries.' (Smallholder Farmer Interview, Chembe, 10 December 2021).

Furthermore, Zambia's farming systems exhibit variations based on agro-ecological conditions but are predominantly focused on maize, Zambia's most important crop (FAO, 2019), cultivated by 80% of farming households (IFAD 2016 report). On average, all smallholder households cultivate 2.1 hectares of land, relying primarily on low inputs, hand-hoe technology, and family labour. Rain-fed agricultural production is the norm, posing challenges in the face of climate variability and change. Smallholders also engage in livestock farming, with an average holding of 2.46 tropical livestock units. The survey indicates that few smallholder farmers cultivate other crops such as sorghum, rice, millet, beans, groundnuts, sugar cane, vegetables, and cassava, or practice extensive small-livestock production (IFAD, 2016: 2). Many smallholders do not perceive themselves as conventional farmers. For instance, some in Monze and Chembe engage in farming merely to supplement their earnings from non-farm activities. One respondent explained that she works her land because she does not want to sit idle (Smallholder Farmer Interview, Chembe, 16 December 2021):

I can't just sit around the house all day, so I like to plough the garden. On the other hand, my monthly sales from my makeshift shop are supplemented by the food from this garden. I grow my own cabbages and maize, so I don't need to buy them from the store.

During this investigation, it became evident that many locals do not identify themselves as farmers, even though some sell their produce. Instead, they engage in subsistence agriculture to ensure an adequate food supply for household consumption.

	District	Data					
	Chembe			Monze		% HH	Total (ha)
Crop	% HH	Average (ha)		% HH	Average (ha)		
Cassava	59%	0.7	-	-	30%	0.7	0.2
Maize	41%	1.4	98%	1.1	69%	1.1	1.1
N/A	-	-	2%	-	1%	-	0.5
Total	100%	1.00	100%	1.1	100%	1.02	0.5
Maize	39%	0.7		0%	-	20%	0.7
Sunflower	-	-		4%	0.3	2%	0.3
Sweet potatoes	-			7%	0.4	4%	0.4
N/A	21%			62%		41%	-
Total	100%	0.9		100%	0.4	100%	0.7

Table 7.11: Main Crops Grown in Chembe and Monze in 2021, (Field Survey 2022, and sample (n=111) smallholder farmers reached during the Household field visits).

Upon closer inspection of the table, it becomes evident that the most common livestock kept by households in Chembe and Monze is poultry, accounting for 43% of households, followed by goats at 23.4%, cattle at 4.5%, and pigs at 1.8%. However, a marked difference exists in the number of households keeping cattle and goats between Monze and Chembe. In Monze, more households keep cattle and goats, with percentages of 7.3% and 43.6%, respectively, compared to Chembe, where the figures are 1.8% for cattle and 3.6% for goats. This disparity is attributed to the fact that in Monze, most rural people are pastoralists, whereas in Chembe, they are peasant crop-growing farmers. These differences significantly impact household assets and vulnerability to climate or economic shocks.

	District		Data		Total No. HH	Total (%)
	Chembe		Monze			
Type of livestock	No. HH	%	No. HH	%		
Cattle	1	1.8%	4	7.3%	5	4.5%
Goats	2	3.6%	24	43.6%	26	23.4%
Pigs	-	-	2	3.6%	2	1.8%
Poultry	28	50.0%	20	36.4%	48	43.2%
N/A	25	44.6%	5	9.1%	30	27.0%
Total	56	100.0%	55	100.0%	111	100.0%

Table 7.12: Livestock Reared, Author field data for Chembe, 2022).

7.8 RURAL AGRICULTURE: LINKAGE WITH AGRICULTURAL PRODUCTIVITY

This study highlights the fundamental importance of improving agricultural sustainability for food security and poverty reduction. It underscores the need for increased efforts from the Zambian government and civil society to address challenges such as conflicts, political instability, and disease. Consequently, agricultural policies at the national, regional, and local levels, along with institutional reforms, should be crafted to enhance food security, reduce poverty, and promote income growth at the household level. Recognising that farmers' control over land is a key objective in shaping land reform, it is crucial to prioritise increased land tenure security. This, in turn, enables farmers to access credit for greater investments in land and provides socio-psychological benefits to individual farmers and household members. The state has made policy-driven investments to alleviate poverty and boost agricultural production. However, the findings from Monze and Chembe reveal that farmers lack

agricultural extension education. Since gaining independence in 1964, the state has failed to adequately provide institutional and technological capital, particularly for irrigation schemes, marketing cooperatives, and crop research facilities. The market-based productivity promoted by these initiatives has diminished farmers' control over what and how they produce. Specific examples illustrate the need for addressing the cost of production, high farm input costs, access to land, and other productive resources, as emphasised by the Small Farmers Development Agency (SAFADA). Additionally, areas of concern include the under-studied issue of displacements, access to financial services, and the necessity for regular government policy reviews to assess their suitability for diverse beneficiary groups in various contexts. It is acknowledged that providing Zambians with land titles alone does not inherently promote agricultural activity. Other forces like urbanisation and industrialisation are gradually displacing agricultural activities (See also: Executive Director SAFADA, Press statement, 17 August 2021. Lusaka, Zambia). Interestingly, Zambian smallholding farms are evolving to incorporate off-farm non-agricultural economic opportunities. This thesis aligns with the suggestion:

That the productivity of privately owned land is only successful under certain conditions and within a specific economic orientation, meaning Economists and policy analysts widely recognise that low production and productivity in rural economies persist because of market distortions, specifically in the land market where inefficient producers own and control lands while the more efficient ones (and those that have the potential to become efficient producers) could not access land (World Bank, 2003).

For instance, these distortions have arisen due to land reform-related laws that restrict land rental and sales transactions in the market. Such policy-driven interventions aim to promote non-coercive reform through statutory leasehold arrangements and sharecropping, to achieve economically efficient land use and allocation. These initiatives do not impose significant fiscal requirements on the state. The underlying idea is that as landowners achieve economic success, they become more inclined to rent out their land (Group interview, Chembe, 12 December 2022).

Klaus Deininger of the World Bank's Land Policy Unit echoes this perspective, asserting that land reform through land sales should only be considered

in situations where rental arrangements are not viable (1999: 666). The findings from group interviews with smallholders in Monze on 1 November 2021 and Chembe on 12 January 2022, as well as insights from the Provincial Agriculture Coordinator in Luapula on 12 January 2022, support this view. This study establishes a direct connection between land reform and agricultural development, particularly for land reforms that address the adverse impacts of short-sighted policies. For example, communal land tenure has presented challenges inhibiting productivity. Interviews with Ministry of Agriculture Extension Officers in both Monze and Chembe Districts on 21 and 25 February 2022 confirmed these impediments. This implies that land reform favouring deeded ownership over lands governed by customary laws creates conditions conducive to agricultural productivity investments (See: Gottlieb, C. and Grobovsek, (2019) "Communal land and agricultural productivity." *Journal of Development Economics*, vol. 138: 135-152). Smallholder farmers in Monze contend that their inability to access suitable land for farming constrains their efforts to increase food production. According to a respondent representing this viewpoint:

We are working to maximise our products to sell more to other community members; however, our efforts are hampered by the lack of land suited for farming and, occasionally, the knowledge needed to grow particular crops. Our access to land and potential skill-building assistance from the government are both necessary (Smallholder farmer, interview, Monze, 21 November 2021).

As a result, rural communities benefit from policy intervention, as argued by Siegel and Alwang (2005):

Land reform that increases access to land cannot be expected to help most smallholders. The "land as collateral" argument, whereby access to land helps guarantee loans, needs to be examined, and alternative means of financing (e.g., micro-finance, contract farming) should be considered. The absence of affordable transport and more dependable markets are interrelated and make fertiliser reform per se a questionable exercise. How would the reform of fertiliser markets affect the price and availability of fertiliser? Access to fertiliser appears to be more important than its price. Improving transport and access to markets is necessary for improving rural welfare, but complementary investments in labour and financial markets are equally required. New

opportunities from higher-value crops and conservation farming hold out some promise for smallholders, but high costs of entry are a constraint (Siegel & Alwang 2005: iii).

It is inappropriate to perceive land solely through a narrow economic lens, treating it as a mere commodity or production factor, akin to a bag of fertiliser. Analysing the land market in the same way as a fertiliser market overlooks the unique socio-political dimensions associated with the land. Often, these political and economic dynamics operate within established legal frameworks. The following example highlights smallholder farmers advocating for individualisation of land rights:

[We] would be bewitched if we got a title deed on this land unless we moved to a settlement area (FGD Interview no 4, Monze, 25 November 2021, Respondents, mixed male and female householders).

To get titles will not work in this area. Land here is collectively owned clan land and cannot be claimed and owned by one person. (key informant interview, Monze, 08 February 2022) (Respondent is a village headperson).

It is inappropriate to view land through a narrow economic lens, equating it to a commodity or a production factor like fertiliser. The land market possesses unique socio-political aspects that require distinct modes of analysis. Often, these forms of political and economic control operate within established legal systems. The following example illustrates smallholder farmers advocating for individualisation of land rights: Denial of titles appears, based on these remarks, to be driven by consideration for the feelings of others and for social systems, particularly kinship or clan, rather than any belief that titling would be individually disadvantageous. Furthermore, in Monze and Chembe, regarding the perspectives of individual smallholders from both parties on land reform and agricultural productivity, it is assumed that farmers' control over land arises with the security provided by the clarification of land rights. However, an analysis of the evidence questions this assumption. In 2015, a think tank, IAPRI, stated that the current system of acquiring land titles in Zambia disadvantages smallholder applicants because 'the process by which land titles are acquired in Zambia is expensive and appears to favour individuals with direct relationships to the state or with knowledge and the economic capacity to navigate complex and convoluted bureaucratic systems'. These findings affirm McAuslan (2003: 255), who argues that challenging unreasonable actions by officials are more feasible when a

detailed statute setting out their powers can be relied upon and where the land title is vested in the President, the state, or its organs. Here, land law ceases to be a matter of private law but becomes part of public law, specifically administrative law. Consequently, the study supports Manji (2020: 103) in advocating for the reconsideration of land tenure regimes in Zambia, including new land categories of public land, common land, and private land, moving beyond the binary state-customary dualism in current Zambian law.

IAPRI also cited the cost of converting customary land to statutory leasehold tenure as a barrier for smallholder farmers and stated that further amendments to the law are required to facilitate the growth of the smallholder sector (See also Executive Director, The Indaba Agricultural Policy Research Institute (IAPRI), Press Statement, 'Land Law Favours Rich', 19 November 2015, Zambia Daily Mail; And Interview with Matt Sommerville, USAID, which affirmed this, 25 June 2022). In addition, policy responses to agricultural challenges must consider the micro-level sites of agricultural development (See also: Place, F. (2009) Land tenure and agricultural productivity in Africa: comparative analysis of the economics literature and recent policy strategies and reforms. Report. Washington, World Bank). Land rights insecurity, FGD participants said, 'affects the kinds or types of production decisions they can make, which, in turn, affects farm output and, consequently, food availability and accessibility'. As a result, the macroeconomic policy frameworks and reforms of Zambia's 7th National Development Plan (7NDP) of 2017-2021 represent a paradigm shift from a sectoral to an integrated one; that is, a multi-sectoral development approach that better reflects ground-level realities. This aims at achieving economic transformation for improved livelihoods and the creation of decent, gainful, and productive employment, especially for the population in areas of Zambia (GRZ, 2017: 39).

Participants in the FGD emphasised the importance of government-led facilitation in securing land rights and tenure, especially for the vulnerable. They recommended that the government: 1) create or simplify legislation, 2) ensure law enforcement, 3) promote inexpensive and socio-culturally acceptable payment, and 4) encourage transparent land documentation by collaborating with indigenous people and skilled private land documentation firms. However, current results suggest that,

while implemented on the policy level, the goal of reforms on the ground, particularly for agriculture, has been reduced to the market principles of economic efficiency and increased productivity. Investments still tend to reinforce existing socio-economic dynamics. These principles are tailored to the effect of power (produced through control over agricultural inputs and processes) on farmers' innovative approaches to land sustainability and agricultural productivity, which is crucial for sustainable livelihoods. Land reforms should be recalibrated periodically in their local contexts to ensure that land policies reach their intended beneficiaries. Local contexts incorporate factors that affect benefits from land for all stakeholders. In this respect, national-level land reform should possess the flexibility to be reformulated at sub-national levels to induce sustainable positive effects on local livelihoods.

7.9 IMPACT OF LAND REFORM ON LIVELIHOODS

7.9.1 Livelihood Assets

Abundant farmland is still available for smallholders. However, traditional agricultural programmes like the Farmers Input Support Programme (FISP) and Food Reserve Agriculture (FRA) have posed significant obstacles. The FRA's 'stated mission is to facilitate and ensure national food security and provides' market access for rural-based smallholder farmers by maintaining a sustainable national strategic food reserve'. Nevertheless, the floor price of maize is consistently low and below production costs, as highlighted by Zambia's President, Hakainde Hichilema, who noted that the cost of maize production per 50kg bag is ZMK 228, while the floor price is ZMK 110. Under these conditions, there is little hope for FISP beneficiaries to transition into self-sustaining, profitable farmers (Times of Zambia, 22 June 2022). These programmes are implemented as social welfare arrangements, essentially providing free fertiliser and seed every farming season, rather than serving as poverty reduction strategies. The dependence of smallholder farmer households on fertiliser subsidies displaces commercial fertiliser purchases and hampers private sector investments. Zambia's Poverty Reduction Paper (PRSP) of 2011-2016 did not substantiate policymakers' faith in the potential of smallholder agriculture to reduce poverty, especially in the short term. This was due to its inadequate distribution of agricultural inputs and marketing.

Following the PRSP was the FISP, which, despite having access to various productivity-improving inputs and technologies, focused narrowly on promoting fertiliser adoption. The rationale was that compensating farmers for market and resource constraints could kickstart a virtuous cycle of technology adoption, productivity growth, and poverty reduction. However, the FISP faced numerous challenges and failed to meet its overall objectives, including increasing the private sector supply of agricultural inputs to small-scale farmers to enhance household food security, agricultural productivity, and incomes. The FGDs in Monze 25 November 2021 and Chembe 22 December 2021 revealed that food security is fundamentally linked to household food production or purchase between harvests. Physical, financial, and social challenges can hinder market access to food, making smallholders rely on their food production, which is secured through land rights and tenure security (Holden and Ghebru, 2016; Savenije et al., 2017). The findings of this thesis indicate, validate that despite 15 years of operation, FISP crop yields have remained persistently low, rural poverty has not significantly decreased, and the programme's costs have remained very high. Rural poverty has only slightly declined from 78% to 76% since the introduction of FISP in 2002. Furthermore, targeting potential programme beneficiaries has been problematic, as a significant share of subsidised fertiliser has not reached those unable to afford commercially priced fertilisers (Mason, N. M., Jayne, T. S., and Mofya, R. M., 2013). 'A Review of Zambia's Agricultural Input Subsidy Programs: Targeting, Impacts, and the Way Forward. IAPRI Working Paper No. 77. IAPRI, Lusaka, Zambia'. Similarly, regarding agricultural productivity, the traditional FISP approach fails to consider the spatial variability of soil fertility and climatic conditions in the country. Consequently, it uses a one-size-fits-all blanket fertiliser recommendation as the basis for determining package sizes, disregarding the comparative advantages of different regions. The World Bank also supports this view (Commercial value chains in Zambian agriculture: Do smallholders benefit smallholders in Africa? World Bank, Zambia, (2009)). Smallholders striving to transition from subsistence to commercial farming face numerous constraints, including low productivity due to their farming methods, limited access to credit, inadequate transport infrastructure, a weak regulatory environment, and exchange rate volatility.

More than 72% of the respondents sampled in this study indicated farming as their primary source of income, with business and fishing being other sources, while only around 4% indicated formal employment. Fishing is more prevalent in Chembe due to its proximity to the Luapula River, one of Zambia's largest rivers. However, these income sources lack diversification, rendering the population vulnerable to external factors such as climate change and changes in land tenure that affect farming. Interestingly, the study established that smallholder farmers contribute to both urban and rural poverty alleviation as intended. This is because most of the local produce is bought by the Government (FRA) at low market prices to support national food reserves.

Source of Income	Chembe		Sub-Total	Monze		Sub-Total	Total
	Male	Female		Male	Female		
Business	4%	-	2%	-	-	-	1%
Farming	72%	94%	84%	66%	65%	65%	75%
Farming, business	20%	6%	13%	34%	15%	25%	19%
Farming, business, employed	-	-	-	-	8%	4%	2%
Farming, employed	-	-	-	-	8%	4%	2%
Farming, fishing, business	4%	-	2%	-	4%	2%	2%
Total	100%	100%	100%	100%	100%	100%	100%

Table 7.13: Livelihood Status and Sources of Income among Smallholders in Chembe and Monze, (Author field data from Monze and Chembe, 2022).

These findings demonstrate that the average land size owned by households in the study area is 3.1 hectares. Notably, households in Chembe possess relatively larger portions of land, averaging 4.6 hectares, compared to 1.7 hectares in Monze. Of particular significance to this discussion is the recognition that individuals in these positions held distinct and collective nested rights to land and its associated resources. The strength of these rights depended not only on one's position but, more critically, on one's kinship ties and affiliation with apical land-owning ancestors (Nunan, 2020: 133). Furthermore, in both Monze and Chembe, households headed by men-owned significantly larger land areas, averaging 4.9 hectares, compared to 1.2 hectares for households headed by women. These findings regarding asset ownership reflect the gender disparities entrenched in the social and cultural norms and practices of Zambia's patriarchal system, which is prevalent in many communities. This power imbalance is acknowledged in government policy as a hindrance to women's progress.

Zambian women hold fewer decision-making positions compared to men at all levels and bear the brunt of the country's high unemployment and poverty rates.

The findings in both Monze and Chembe districts also reveal that men predominantly occupy decision-making positions at the community and chiefdom levels. Similarly, women experience differential access to credit, improved technology, land, and extension services, all of which limit their agricultural productivity and participation in other economic activities (See also: The Seventh National Development Plan, 2017-2021), Republic of Zambia, ‘Ministry of National Development Planning’, Lusaka, Zambia, p. 8).

District	Average Land Size in Ha					Total
	Male	Female	Elderly MHH	Elderly FHH	No Response	
Chembe	7.1	1.1	3	1.4		4.6
Monze	2.4	1.2	1.5	0.8	1.5	1.7
Total	4.9	1.2	2.3	0.9	1.5	3.1

Table 7.14: Average Land Size Owned in Chembe and Monze, (Households in Chembe and Monze (n=111)).

In terms of the number of land parcels owned by households, the study did not reveal significant differences between male- and female-headed households. On average, male-headed households owned 1.3 land parcels, while female-headed households owned 1.4. However, a minor disparity was noticed in the number of land parcels owned by households, both male and female, in Monze compared to those in Chembe District. This highlights unplanned land use, where smallholders hold land in fragmented pieces. The number of land parcels owned by each household reflects their capacity and capability to use the land productively. Moreover, if households with small farm sizes can supplement their income with earnings from viable non-farm activities, then disparities in land ownership may not necessarily pose a policy problem. The study revealed that the size of land owned by some households is influenced by blood and kinship relations between male- and female-headed households and the local chief at the time of the family's settlement. This demonstrates that blood ties or seniority within a village are associated with or influence the amount of land held by an individual.

HH Type	Average Number of Pieces of Land Accessed			
	Kapwepwe	Kasoma Lwela	Monze	Total
Male-headed household	1.5	1.3	1.2	1.3
Female-headed household	1.4	1.7	1.1	1.4
Male elderly HH	1.8	2	1	1.5
Female elderly HH	1	2	1.1	1.2
No response	-	-	1	1
Total	1.5	1.5	1.1	1.3

Table 7.15: Average Number of Land Parcels Owned, (Households in Chembe and Monze)Author field data for Chembe, 2022).

The study revealed varying levels of household 'satisfaction' regarding the quantity and quality of land they either own or have seasonal access to for maize and other crop production for economic purposes. In Kapwepwe, Chembe ward, 65% of elderly male-headed households (MHH) reported that the land they owned or had access to was sufficient, whereas only 12% of elderly female-headed households (FHH) felt the same way. A similar trend was observed in Monze, with 47% of MHH finding their accessed land adequate compared to 18% of FHH. However, in Kasoma Lwela, Chembe ward, there was a higher satisfaction rate among FHH, with 54% indicating contentment with the land they had access to, compared to 38% of MHH. This suggests that smallholders do not necessarily face issues related to land quantity, implying that land ownership might not be the primary cause of low production in the study areas.

HH Type	Kapwepwe (Chembe ward) (%)	Kasoma Lwela (Chembe ward) (%)	Monze (%)	Total (%)
Male HH	65	38	47	50
Female HH	12	54	18	27
Elderly MHH	18	8	13	12
Elderly FHH	6	-	18	10
No response	-	-	3	2
Total	100	100	100	100

Table 7.16: Household 'Satisfaction' with the Adequacy of Accessed Land in Chembe, (Households in Chembe and Monze)Author field data for Chembe, 2022).

The survey findings highlight a scarcity of viable arable land in the Chembe and Monze districts. This discovery raises compelling questions about why such a significant percentage of rural households possess less than one hectare of land, and asserts that additional land acquisition is unattainable for these smallholder farmers. Interestingly, in Zambia, a substantial portion of land remains either idle, unoccupied, or uncultivated (Evidence: District Agricultural Coordinator, Chembe, 12 December 2021).

This thesis underscores the pressing need for land and equitable land redistribution. It underscores the necessity for a comprehensive judicial review of the legal framework and offers valuable insights to policymakers regarding the importance of revising the outdated Agricultural Lands Act. The objective is to align it more specifically and consistently to enhance land access and productivity among severely land-constrained smallholder households. This, in turn, aims to extend the benefits of agricultural growth to a greater number of small farmers in Zambia.

7.10 ANALYSIS OF LAND TITLING DOCUMENTATION AND SMALLHOLDER PRODUCTIVITY

This section delves into the analysis of land titling documentation and its impact on smallholder productivity in Zambia. The study's primary objective evaluates the 'perceptions' surrounding customary land and agricultural land security in Zambia. The data analysis reveals that customary land, by definition, comprises unregistered informal land, typically communal, and cannot be technically 'owned' or alienated by an individual. Customary land is not terra nullius, meaning it is not owned by anyone. Conversely, agricultural land declared in writing to have been leased before 14 March 1957 or before the date when such land was declared 'agricultural land' under the Agricultural Lands Act, Chapter 101 of the 1958 Edition of the Laws, is considered the property of an individual. However, these terms are often misused or used interchangeably; if there is evidence of cultivation on the land, it is usually classified as agricultural land. In both Chembe and Monze, the households surveyed, whether male- or female-headed, demonstrated low levels of awareness regarding land rights and policies. The situation was particularly dire in Monze, where no household

indicated any awareness of land rights and policy, compared to 21% in Chembe. However, it is crucial to note that awareness of land rights plays a pivotal role in bolstering tenure security, empowering individuals in poverty, and contributing to improved agricultural investment, productivity, and fewer land-related conflicts. Land registration has been shown to stimulate activity in land-rental markets, ultimately enhancing overall efficiency. Nevertheless, the statutory leasehold system has been identified as a potential source of tenure insecurity in traditional lands in Zambia. This aligns with broader findings suggesting that land rights and institutions, encompassing rules governing government powers related to eminent domain and land-use restrictions, can contribute to tenure insecurity and reduce investment incentives on a global scale. Chiefs sometimes grant leases to outsiders, breaching the rights of local landholders, which can include denying parents the right to bequeath land to their descendants. Additionally, the erratic tenure titling system is susceptible to land grabbing by more influential individuals, further disadvantaging the poor and vulnerable within the community. Moreover, when applications are subjected to lengthy delays due to formal procedures, applicants might resort to alternative means to expedite the process. This can lead to corruption, undermining the system's integrity. In this scenario, leasehold statutory title becomes no more secure than unrecorded customary grants.

On a more positive note, evidence from state land, although not the central focus of this analysis, suggests that positive tenure security can enhance land registration in favourable conditions. The positive effects manifest in increased investment, reduced need for activities to protect land rights, and greater empowerment of women. In some parts of Monze, land registration has activated land-rental markets and participation in off-farm labour markets, especially in rural areas where occupational diversification is essential for short-term growth. Additionally, land registration has facilitated improved access to credit in certain contexts. However, the positive effects on credit access are contingent on factors such as land market liquidity and the pursuit of credit-worthy projects. It is essential to note that a significant portion of land in Zambia remains customary, estimated at around 60%, implying that 40% is state land. This situation underscores the need for land reform and equitable land distribution. Presently, land registration and related processes are centralised in Lusaka and Ndola, resulting in delays in issuing Certificates of Title. To

address this issue, the government aims to decentralize land registration to provincial centres and digitize the issuance of land titles, promoting more efficient land administration. The National Land Titling Programme (NLTP) is a significant initiative aiming to guarantee tenure security, enhance internal security, increase revenue, and promote investment in Zambia. The NLTP encourages user-friendly and corruption-free land-titling processes, improving service delivery to citizens. It seeks to empower ordinary people to establish statutory ownership over their homes and land. ((See also Ntsebeza L. & Hall R. (Eds.) (2007) *The land question in South Africa: The challenge of transformation and redistribution*. Pretoria: HSBRC Press; El-Ghonemy M. R. (1990) *The political economy of rural poverty: The Case for land reform*. London: Routledge). While commendable progress has been made, particularly in urban areas, rural areas and smallholders still face challenges. Partial implementation of land reform allows large landowners to wield significant influence over land transactions and policies, highlighting the need for a more comprehensive reform agenda.

7.11 LAND OWNERSHIP: A BRIEF OVERVIEW

A defining characteristic of the customary land tenure system is its widespread accessibility and communal ownership among members of a particular tribe. This entitlement was not solely dependent on the chief or head person's discretion. It was the chief's duty to allocate residential, arable, and grazing land to all subjects. Notably, grazing land in both Monze and Chembe is collectively owned, making it challenging to determine an individual's grazing allotment. As such, the physical extent of farmland cultivated may not serve as an accurate indicator of farm size, especially if the farming activities are diverse within the study area. Consequently, the impact of farm size on agricultural productivity remains uncertain. Some argue that substantial fixed costs associated with long-term investments can deter adoption and slow the rate of adoption on smaller farms (Feder et al., 1982: 25).

Table 17 presents findings that reveal a low percentage of households in Chembe possessing land ownership documents. A mere 5% of households in both Kasoma Lwela and Kapwepwe wards had such documents, significantly lower than

	Kapwepwe				Kasoma Lwela				Monze				Grand Total
	(Chembe ward)				(Chembe ward)				(%)				(%)
	(%)				(%)								
HH Type	Yes	No	NR	Total	Yes	No	NR	Total	Yes	No	NR	Total	
Male HH	5	27	4	36	4	15	-	18	42	4	-	45	100
Female HH	-	10	7	17	10	27	3	40	23	17	3	43	100
Elderly MHH	15	31	-	46	-	8	-	8	46	-	-	46	100
Elderly FHH	-	-	9	9	-	9	-	9	45	36	-	82	100
No Response	-	-	-	-	-	-	-	-	50	50	-	100	100
Total	5	20	5	29	5	16	1	22	38	11	1	50	100

Table 7.17: Possession of Formal Land Documents by Households in Chembe and Monze Chiefdoms (Author Field data from Monze and Chembe, 2022).

Monze's overall average of 38%. The reasons for these discrepancies in formal land registration between the two districts were not immediately evident. However, the high number of households lacking formal land documentation in Chembe escalates the risk of land tenure insecurity. This situation is particularly concerning because secure land rights play a pivotal role in poverty alleviation. It is worth noting that customary land systems tend to lack documentation, relying instead on oral information transmitted across generations. Under this system, individuals often lack even certificates of occupancy, let alone ownership. Essential records such as diagrams and parcel dimensions for allocated land are nonexistent. This dearth of documentation extends to individual households, headmen, and chiefs, resulting in tenure insecurity for many households, especially concerning inheritance and divorce matters on smaller farms (Feder et al., 1982: 25).

Formal education and literacy levels emerge as pivotal factors influencing the formal registration of land rights. In terms of education, as presented in Table 17, a significant number of household heads had achieved primary and secondary education. Approximately 87% of these individuals had completed some form of education, with 35% having attained primary education, 45% with secondary education, and 4% having tertiary education. This paints a picture of relatively high literacy rates, a crucial asset when dealing with land-related matters. Literacy is vital for comprehending land rights, legal ownership, land acquisition processes, and participating in decision-making processes and the formulation of land policies.

Therefore, there must be other underlying factors contributing to the relatively low number of households without formal land rights registration. The study also delved into community awareness of land and resource rights. In many impoverished rural communities in both Monze and Chembe, information concerning land acquisition procedures, land and resource rights, and measures to enhance tenure security remains scarce (Key informant interviews, Monze and Chembe, 14 January 2022 & 28 February 2022). When available, this information is often incomplete and not accessible in all local languages. These results underscore the urgent need to promote a fundamental tenet of the Constitution: people's participation, enabling them to engage in decision-making processes through a profound restructuring of land governance, decentralisation, and democratised control of land. Such measures would introduce the rule of law into the domain of land (Boone et al., 2019).

Education	Yes		No		No response		Total	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%
1. Never been to school	7	14	11	21	-	-	18	16
2. Primary education	18	35	28	54	3	43	49	44
3. Secondary education	25	48	13	25	3	43	41	37
4. College Education	2	4	-	-	-	-	2	2
5. University education	-	-	-	-	1	14	1	1
Total	52	100	52	100	7	100	111	100

Table 7.18: Education Level of Household Heads, (Author Field data from Monze and Chembe, 2022).

Regarding land ownership based on possession of legally recognised documents, the findings reveal that the majority of smallholders did not possess legally recognised documents such as 'Title Deeds,' 'Occupancy Licences,' or 'Letters of Offer' for their land. Although letters from village headpersons and chiefs do not currently provide legal proof of ownership in Zambia, they do represent formal recognition of land ownership under customary land tenure. No household was found to possess 'Title Deeds' as a legal document for land ownership. The study findings demonstrate that among the few households with registered land rights (35%), 14%

held 14-year land leases granted by the state. These leases are provisional titles granted pending a land survey, after which they can be upgraded to longer-term, 99-year leasehold titles. Only 2% of households indicated that they held 99-year leasehold titles, which is significantly below the national average of 50%. Moreover, the study found that only 6% of households, comprising 2% with consent and 4% with a letter of offer, were in the process of formalising their land rights. These land documents are provided during the initial stages of the formal land registration process toward obtaining legal title to the land. 36% of households had land registered under the customary tenure system: 25% were registered in village registers, 5% with chiefs' letters, and 5% with customary land certificates. It is important to note that these formal recognitions of customary land ownership do not carry the same authority or power of land ownership as formal land registration by the state. The variations in land rights among different categories of people suggest a pressing need to strengthen their land rights and secure their land tenure. Variability in customary land rights leads to land inequality between localities, which detrimentally affects the rural poor in Zambia.

HH Type	Consent letter	Letter of offer from the state	Title deed	14-year lease	Village register	Letter from chief/ headman	Customary/ Traditional land certificate	N/A	Total
Male HH	0.02	0.04	0.01	0.17	0.14	0.02	0.02	0.09	0.5
Female HH	-	-	0.01	0.05	0.05	0.04	0.02	0.1	0.27
Elderly MHH	-	-	-	0.05	0.05	-	0.01	0.02	0.12
Elderly FHH	-	-	-	0.07	0.02	-	-	0.01	0.1
No Response	-	-	-	0.01	-	-	0.01	-	0.02
Total	0.02	0.04	0.02	0.35	0.25	0.06	0.05	0.22	1

Table 7.19: Types of Land Ownership Documents in Chembe and Monze Districts, (Author Field data from Monze and Chembe, 2022).

Land is available to most small-scale farmers, but they lack control over long-term planning and expanding their livelihoods. Men predominantly control land accessibility for women, mainly through male relatives and husbands, weakening women's grip on land. This observation aligns and validates with the argument that women are mostly or often excluded from traditional institutions such as tribal and

village council meetings where critical decisions about land rights are made. The problems cited include women's underrepresentation in tribal councils and courts, exclusion from speaking at meetings, and being ignored when they attempt to voice their concerns (Cousins & Claassens, 2008: 156).

Despite, that the goal of substantive equality is best served by laws and other interventions that acknowledge the context of unequal power and property relations and seek to increase the bargaining position of women in this terrain (Cousins & Claassens, 2008:178)

According to a key informant, women have devised innovative strategies to acquire land and, in certain circumstances, assert new land rights due to the enforcement of formal land rights policies. Alongside engaging in discreet land transactions, women continue to challenge unjust inheritance laws through both legal and customary means. The responses from women reveal that they contribute more extensively to household and agricultural activities, caring for both males and other household members. Arguably, women utilise land more efficiently than men in this context. Conversely, men often serve as the linchpin and driving force behind critical economic activities such as land clearance, livestock care, and the procurement of agricultural resources (Key informant interview, Civil Society for Poverty Reduction, Zambia, 23 February 2022).

7.12 CONCLUSION

This chapter delves into the analysis of customary land tenure in the Monze and Chembe areas, considering its relevance within Zambia's broader land tenure systems. In Zambia, secure land rights encompass the assurance of a comprehensive set of rights: Smallholders should retain user rights, maintain decision-making authority over production, sales, and pricing, and possess the freedom to sell or lease portions of their land equitably. The study has brought to light a shift in the design of agricultural policies and rural poverty-reduction programs. There is a move away from sole reliance on fertiliser subsidies towards the development of more integrated programs. These encompass fertiliser subsidies along with support for other inputs and sustainable agronomic practices. The importance of sustainable agronomic practices in maintaining soil quality, nutrient content, and resistance to degradation is

recognised (FAO, 2019). However, the existing legal framework, such as the Agricultural Land Act, fails to cater to the needs of smallholders and has become obsolete. The agricultural land policy alone is insufficient, creating a significant gap in the agricultural sector, as relying on principles without a robust legal framework is unsustainable for agriculture as a whole.

Land is not just a political, socio-economic, and environmental asset; it is a productive resource with a far-reaching role in social, cultural, and spiritual development. Zambia has yet to implement a comprehensive policy to guide the administration and management of land, addressing challenges that hinder social progress, including indiscriminate land use (See also: 2021 National Land Policy, Government of the Republic of Zambia, Zambia, Lusaka, May 2021: 20). Nevertheless, this thesis highlights one particularly noteworthy Zambian policy objective that has the potential to positively impact smallholders in agriculture: the facilitation of statutory land ownership by Zambian citizens. This demonstrates progress towards promoting decent livelihoods and socio-economic development while also regulating land ownership by non-Zambians to ensure equitable access to land. However, the challenge lies in the effective implementation of policies, as overlooking implementation issues can lead to biased results that do not effectively inform farmers and policymakers. Hence, blanket policies from the central government remain an ongoing challenge. Zambia's tenure systems are intricate, and deeply rooted in customary land and traditions. People's livelihoods hinge on land, underscoring the significance of access, ownership, and control for human survival. Tradition plays a pivotal role in land administration, while beliefs and loyalty influence behaviour.

This analysis offers evidence suggesting that land reform in Zambia, coupled with efforts to enhance agricultural productivity, should extend beyond market-driven, positivist outcomes focused solely on land efficiency and productivity. It should encompass the legal framework, particularly the Agricultural Lands Act and its links to the 1995 Land Act, to harmonise institutional and legal policies so that land policy and agricultural policy can coexist and synergise. The productivity of inputs depends on various factors, including farm management, which is under the control of farmers. Also factors, such as weather and soil characteristics, may be perceived as

exogenous and unalterable. The use of fertilisers should be considered within a broader framework of input strategies aimed at enhancing productivity. While land reforms typically adopt a national-level perspective, they should also consider specific local outcomes to better align with local contexts.

Supporting smallholder agriculture in Zambia holds the potential for poverty reduction but faces significant constraints. Prioritising labour-saving technologies, such as tractors, and improving input and output markets by providing affordable agricultural seeds and fertilisers, as well as encouraging private agriculture trading markets, are essential steps. This would enable smallholders to expand their cultivated land. This is crucial because, unlike smallholders in many other countries, Zambian smallholders are often not constrained by land availability. Access to credit is equally vital, as the transition to higher-productivity farming systems typically requires increased investments in inputs and working capital. Zambia's dualistic agricultural sector grapples with structural problems that necessitate land reform, liberalisation of the fertiliser market, and infrastructure improvements. Impoverished rural areas lack the necessary productive resources for agricultural growth. Leveraging Africa's food system is imperative for poverty reduction and enhancing agricultural labour productivity, both on-farm and off-farm.

Significant effects and impacts of land reform and agrarian reform in rural areas may include:

Instead of solely focusing on small farmers and agriculture, land reform needs to be understood to create conditions in which people can construct livelihoods from a variety of sources, both agricultural and non-agricultural, in more effective and productive ways. (G. Hart, 1995: 46).

This implies that it is crucial to understand and evaluate the livelihood strategies of smallholder farmers following their unique lifestyles and specific impacts. The case studies conducted in Monze and Chembe underscore the enduring relevance of land ownership and tenure. However, small farmers and rural labourers grapple with persistent insecurity and vulnerability, exacerbated by the mounting challenges posed by climate change, assaults on democratic institutions, and the erosion of human rights. Given the current administration and the evolving rural landscape, grounded policies aimed at supporting farmers and nurturing the growth of small-scale

agriculture remain imperative for ushering in an era of enduring peace and prosperity in rural areas.

In summary, these findings indicate that the Zambian agricultural sector confronts a multitude of challenges. These include low agricultural production and productivity, the depletion of indigenous livestock and plant genetic resources, limited private sector engagement, especially in agricultural marketing, household-level food insecurity, and a heavy reliance on rain-fed agriculture, among others. Despite the incremental increases in agricultural production observed during the NAP 2004–2015 review period, they have failed to meet the escalating domestic and foreign demand for Zambian agricultural products. Moreover, despite increased government budget allocations, more than 60% of expenditure is allocated to maize production and marketing. These challenges can be summarised as follows: land degradation due to the inappropriate use of chemicals and improper agricultural practices, insufficient land-use planning and suitability assessments, inadequate consideration of integrated water resource management policies in agricultural policies and developments, low agricultural production and productivity, limited agricultural mechanisation among smallholder farmers, heavy dependence on rain-fed agriculture coupled with inadequate irrigation, inefficient agricultural markets for inputs and outputs, restricted access to agricultural finance and credit facilities, unsustainable utilisation of natural resources, and limited resilience to the effects of climate change.

Discovering strategies to support sustainable smallholder farming within market-oriented policies is a formidable task. Markets are highly politicised, and without regulation and safeguards, impoverished communities are susceptible to potential exploitation. Prominent challenges and gaps identified encompass inadequate awareness of land rights, land policies, legal intricacies, procedures, and limited advocacy skills. The limited presence of local Non-Governmental Organisations, low literacy rates, gender disparities, and poverty status all hinder community involvement in decision-making structures, consequently affecting land rights and policy advocacy. Without addressing the need to enhance the capacity of impoverished rural populations to engage in markets with active state support, the aspirations of 'pro-poor growth' and 'private sector partnerships' for development remain more theoretical than practical. This underscores the necessity for a

comprehensive and holistic approach to rural development, extending beyond agricultural strategies alone, and necessitating tailored smallholder-focused strategies (World Bank, 2005: 29). To highlight that Zambia is not constrained by land availability, the study reveals that the majority of smallholders, approximately 80%, do not encounter challenges related to land access and ownership in both Monze and Chembe. Instead, the agricultural sector grapples with a plethora of other hurdles, including limited access to efficient inputs, inadequate investment in the sector, issues tied to the land policy framework and regulations, environmental concerns, and the looming spectre of climate change. Given the mounting challenges that hinder farming practices and lead to low productivity and meagre yields across the continent, achieving sustainable agricultural practices remains a distant goal, particularly in Zambia and sub-Saharan Africa at large.

CHAPTER 8: CONCLUSION

8.1 INTRODUCTION

This chapter presents the primary findings of the thesis, revisiting key outcomes discussed in previous chapters. It advances critical arguments that hold significance in both practical and theoretical discussions concerning Zambia's land tenure systems and governance. As previously outlined, the examination of tenure systems encompasses a spectrum of rights, including land ownership, usage, access, control, and transfer. It elucidates Zambia's dual-tier land ownership and distribution system, comprising State and customary channels. This thesis offers profound insights by addressing fundamental research inquiries on land tenure systems, property rights, institutional dynamics, the legal framework, and agricultural livelihood development in Zambia. In contemporary debates, a growing disconnect between access to agricultural land under customary and statutory systems and control over land governance and management has been observed. This thesis dissects Zambia's land tenure systems, encompassing State and customary lands, with a specific focus on their influence on the livelihoods of rural communities. It contends that the intricate political context surrounding land tenure necessitates an interdisciplinary approach to comprehend the nexus of environmental and developmental concerns.

One of the primary objectives of this analysis was to illuminate the challenges intertwined with the implementation of complex land legal frameworks and the resolution of land-related issues occurring within legal ambiguities. The 1995 land laws must undergo clarification, simplification, and translation into accessible language. Furthermore, the study reveals the gradual erosion of land from the customary system, driven by domestic and foreign interests seeking expansive access to large-scale land holdings for local food production and export agriculture. This trend disproportionately affects the rural poor, whose entitlements to land are diminishing. The research landscape reveals customary occupied areas with small-scale farming in a rapidly growing population, despite escalating urbanization. Despite these demographic challenges, experts assert that Sub-Saharan Africa (SSA) still possesses the potential to invigorate smallholder agricultural productivity, thereby

alleviating poverty and hunger, contingent on the pursuit of pertinent policies and strategies.

Debates surrounding the remnants of colonial ownership regimes in contemporary legislative constructs, alongside the necessity to counteract private appropriation and accumulation of land and natural resources in Africa and Zambia, have been marked by inconsistency. An understanding of how the commons concept contributes to averting the commodification of land is pivotal. Distinct factors distinguish Zambia's 'tragedy of the commons' from the paradigm posited by Hardin (1968). It emerges that the predicted 'inevitable tragedy' is contingent on specific ownership arrangements governing interrelated resource types. Hardin's prognosis of an inherently tragic outcome did not omit potential solutions, which are intrinsically tied to institutional influences. Consequently, land tenure extends beyond individual ownership, encompassing family and community regulations, ownership, and control. The land tenure system mirrors power distribution within society, signifying that societal relations pivot around land, within both households and the broader community.

The thesis employs the Institutional Analysis and Development (IAD) Framework, alongside commons and polycentric governance paradigms, to collate collective evidence from communities. This facilitates the analysis of institutional operations, their evolution, and relevance over time. Ostrom's influential theory outlines three conditions for a polycentric framework: the freedom to participate in governance structures, a legal foundation, and the ability to revise and formulate guidelines. Governing units possess the freedom to self-organize, implement, and alter guidelines. Essential procedural and cognitive prerequisites entail rules for modifying existing rules and understanding their procedural implications. This conceptual approach aids in the reasoning, data collection, and analysis of land tenure, governance, usage, and their implications for livelihoods and empowerment. The scope of this thesis encompasses a specific demographic—rural smallholders—within the domains of land tenure, land resource management, rural livelihoods, and sustainable agricultural development in Zambia, SSA, and beyond. By adapting and operationalizing Ostrom's eight principles for governing the commons, an elevated status for smallholder farmers within customary systems can be achieved without

compromising the effectiveness of customary tenure in ensuring access to rural land as a communal entitlement contingent upon membership within the rural community.

8.1.1 Thesis Insights

8.1.1.1 The Dichotomous Nature of Land Tenure and People's Rights

This thesis comprehensively elucidates the multifaceted dimensions of land tenure and its intricate interplay with governance structures, legislative frameworks, and historical evolutions in Zambia. It traces the contemporary landscape of land tenure to its pre-colonial origins, marked by traditional communal land governance. The colonial era introduced a dual land tenure system, where statutory regulations and customs coalesced, giving rise to intricate tenure dynamics. Post-independence, the dual system persisted, rebranding crown land as state land while retaining the historical significance of native reserve land and trust land. This pattern continued through the first and second Republic (1964-1991), resulting in tenure insecurity for both statutory and customary land.

Significantly, the transition to Zambia's multiparty regime from 1991 to 2011 marked a pivotal shift. During this period, customary tenure was formally acknowledged as statutory, leading to a unique form of tenure insecurity for customary land. This pattern persists today (2011-present), leaving customary land susceptible to large-scale and multilateral ownership. Additionally, customary land has seen substantial conversion into private ownership, giving rise to a distinct category known as private land, resembling Kenya's extensive privatisation model while preserving certain safeguards for customary land within legal provisions.

This study depicts the necessity of redefining land tenure classifications, categorising them as state, private, and customary. Such clarity in governance structures can help mitigate corruption vulnerabilities. Furthermore, it emphasises the importance of understanding the institutional aspects of private property and property rights approaches in shaping land policies. It contributes to a nuanced comprehension of market-driven displacements post-privatisation and delves into the intricate dynamics of land administration, particularly the interplay between privatisation and corruption. Moreover, it examines the social regulation of land management and land-related conflicts. Beyond the broad classification of statutory and customary land, a

finer categorisation could enable more precise policy interventions. To address corruption effectively, institutional frameworks, incentives, and legal provisions must undergo comprehensive recalibration, aligning with principles of good governance advocated by the World Bank. However, it is crucial to ensure that land policies do not disproportionately favour influential individuals, marginalising smallholders grappling with tenure insecurity and land constraints.

This thesis reveals the intricate interdependencies of various land categories, intricately interwoven with economic and political interests. Political dynamics exert a significant influence on formal land registration, titling processes, and customary land governance. Notably, Zambia's dual land tenure systems, with customary land tenure covering over 90% of the nation's expanse, offer a degree of stability distinct from the challenges faced by Western-style title systems. Land disputes have surged due to clandestine land sales, increasing scarcity, and unauthorised privatisation, a theme extensively explored in the sixth chapter. Conflict often stems from the misalignment of community land tenure systems with the juxtaposition of codified and customary tenure systems. A balanced approach suggests the potential inclusion of groups in the title-holding paradigm, albeit with predefined limits to prevent hindrances to alienation. The proposition of on-site, systematic registration, aligning with the trend towards land individualisation, points out the necessity for adaptable legislation.

While prioritising the resolution of customary tenure conflicts, this thesis explores innovative grassroots solutions to insecurity. Echoing expert opinions, it asserts that Zambia's comprehensive land tenure system must incorporate surveyed boundaries, cadastral maps, and documented ownership—an area currently lacking in customary domains, as corroborated through discussions with Ministry of Lands and Natural Resources (MLNR) personnel. Challenges arising from under-staffed survey departments, compounded by uncoordinated ministries such as Lands and Natural Resources, Local Government, and Agriculture, exacerbate the predicament faced by applicants seeking documentation and approvals. Decentralisation, despite being a cornerstone of Zambia's policies, provides limited tenure security for the rural population, inadvertently reinforcing state influence at the local level. This decentralisation drive encounters challenges posed by the nation's vast geography and

diverse needs, surpassing the available labour force and requisite skills, as highlighted by Loenen (Loenen, 1999). The initiation of the decentralisation policy in 1985 vested district councils with active roles in land administration and allocation, a fact confirmed during an interview with a local government representative on 30 September 2021. However, this mechanism has grappled with fragility and sluggishness, leading to deviations from statutory guidelines, thereby challenging the monitoring of authority accountability, a theme elaborated upon in the sixth chapter.

8.2 SUMMARY OF FINDINGS

8.2.1 Statutory Frameworks on Land Governance

Zambia's legal and regulatory framework for land governance has undergone significant restructuring; however, it only partially acknowledges customary law. Land ownership insecurity persists, with not all customary land rights being clear, some being contested, and many lacking documentation. The primary issue revolves around the formal registration of land ownership. The Land Act of 1995 was enacted to provide a framework for the regulation and governance of land administration, including the bestowing of land to the President and land alienation by the President. Section 3(1) of the Land Act states, "...Notwithstanding anything to the contrary contained (or obtained) in any other law(s), instrument, or document, but subject to this Act, all land in Zambia shall vest absolutely in the President and shall be held by him in perpetuity for and on behalf of the people of Zambia" (Land Act of the Republic of Zambia, 1995). Under section 3(4) of the Land Act of 1995, it is further specified that the President cannot alienate customary land. Section 3(4) states:

"...(a) excluding or without specifically considering the local 'supposedly existing' customary law on land tenure which is not in conflict with this Act;

(b) Without consulting the Chief, and the local authority (the local leaders) in the area in which the land to be alienated is situated....., who shall identify the piece or parcel of land to be alienated;

(c) without consulting any other person, (group of individuals) or body whose interest(s) might be affected by the grant (in some way); and

(d) if an applicant for a leasehold title has not obtained the prior approval of the chief(s) and the local authority within whose area the land is situated."

This provision, in essence, limits the powers conferred to the President and adds complexity to land governance. In this political landscape, all land ownership, whether customary or statutory, is vested with the President on behalf of citizens. However, the recognition of customary tenure conversion into statutory tenure exacerbates tenure insecurity for customary land, escalates land ownership costs, and fosters multilateral ownership under the pretext of investment. Regrettably, despite Zambia's investment cases on customary land, they are disregarded by the International Land Coalition guidelines.

Zambia's historical struggle to establish a policy that promotes tenure security through the dual land tenure system is evident. Zambia's land reforms have not effectively ensured tenure security. This study demonstrates that Zambia's legal and institutional framework for state land governance inadequately addresses customary land. Laws are weakly enforced, leading to inconsistencies and unclear clauses. The Land Act lacks provisions for allocating land to various social groups, hindering cadastral service management. Notably, the government lacks the capacity or political will to enhance comprehensive and inclusive land governance systems. Gaps persist between national policies and Zambia's land legal framework. Tenure rights, including gender equality challenges, remain inadequately recognised and protected. Statutory and customary tenure rights lack safeguards against threats and infringements, with limited access to justice for legitimate land tenure disputes. Although local institutions can address local conflicts, the state intervenes at higher levels. This study's evidence reveals a dual land tenure system in Zambia, with traditional leadership overseeing the majority of the land, while the central government manages the rest as state land. Traditional leadership-controlled land grants user rights to the 'owner,' and the Commissioner of Lands has no control under customary systems. Conversion of customary land to state land is possible with the local chief's permission. A gap persists between formal and informal land administration systems, often lacking local legitimacy.

This study establishes that the legality and procedural content of customary law existing in Zambia depends on the colonial statutory legal system. While the

constitution is at the legal system is organised according to centre legislation, traditions, and practices. Legal laws, norms, and practices in the governing of customary lands frequently lead to conflict between the statutory and customary legal systems. The conflicting interest, such as the unstable nature of customary land ownership, make these disputes worse, which was established to lack local legitimacy in areas of study. Strengthening land rights in Sub-Saharan Africa, aligned with land tenure reform, is a crucial goal. Weak governance, whether in formal land administration or customary tenure arrangements, threatens the land rights of the poor. Building institutional capacity is essential for effective land governance. Weak governance hampers creating societal wealth from the land and constrains development and poverty reduction. Good governance in land administration is a prerequisite for broader societal governance.

The lack of transparency and accountability in land administration, due to complex frameworks and processes, is a significant concern. Weak or insecure land rights perpetuate poverty, hunger, disputes, and conflicts. Land rights deserve recognition within human rights policies and discourse. Women's equal rights to land and property, highlighted in this study, align with the Universal Declaration of Human Rights (UDHR 1948), of which Zambia is a signatory. According to Article 17 in the Universal Declaration of Human Rights, 'Everyone has the right to own property alone as well as in association with others,' and additionally, 'No one shall be arbitrarily deprived of his property'. Property is a controversial concept that should be seen merely as a social rather than a civil right. Therefore, despite a consensus on the right of individuals to own property, and the admittance that this right is not absolute but subject to some degree of control by the state under certain safeguards, the ideological and, regional differences could not be bridged on the matter of limitations. As a result, there is no global instrument to protect property rights (Golay and Cismas, 2010; Van Banning, 2002). Regarding customary tenure systems, land rights within a social or political community are based on ethnicity, clan, or family. Household and individual rights are secure and inheritable. Survival strategies, including sharecropping, provide income from land, despite lacking formal recognition. Customary tenure often prohibits land sales to non-group members to maintain community control. However, non-native members can gain land rights through marriage. As a critical resource for marginalized people, the land supports their

livelihoods. Rural land management varies among chiefdoms, with common issues in Monze and Chembe Chiefdoms. Transparency and accountability challenges in decision-making, conflict resolution, and changing socio-political conditions contribute to tenure insecurity. Conflict resolution mechanisms should be accessible, informal, cost-effective, and straightforward.

8.2.1.1 Institutions of Land Tenure and Governance

The investigation reveals a significant state of disarray within Zambia's institutions tasked with the governance of state land. These institutions demonstrate a pronounced degree of centralization, with representation existing at the provincial level but conspicuously absent at the district level. The bodies responsible for overseeing land tenure governance encompass national land agencies, alongside district and local-level land administration and management bodies. These institutions fulfil distinct roles in the processes of land tenure governance. Furthermore, empirical evidence shows that the key government ministries and departments entrusted with land tenure management grapple with various challenges. These challenges encompass corruption, inadequate dissemination of land-related information to the public, a shortage of affordable land, insufficient monitoring of land use, and deficient record-keeping practices.

8.2.1.2 Accessibility to Tenure Security Services

In Zambia, local communities encounter substantial challenges when seeking access to tenure security services. This predicament primarily arises from their limited familiarity with land tenure matters. This knowledge deficit points out the paramount significance of proficient land information management, serving dual purposes of governance enhancement and bolstering social stability. Rural regions within the nation are grappling with the absence of formal land registration and administration systems, resulting in formidable obstacles for rural communities as they engage with provincial-level agencies. This absence of integration further compounds the inefficiency in collaborative efforts among various governmental institutions vested in land management and administration. In pursuit of Sustainable Development Goal 16, which centres on Peace, Justice, and Strong Institutions, it becomes indispensable

to establish institutions and regulatory frameworks that foster tranquillity and impartial land governance. These structures should be firmly rooted in the principles of the rule of law. Furthermore, a pressing necessity exists to augment the participation of local communities in land registration and administration processes. The paradigm must shift from considering them mere participants to acknowledging them as rightful owners. The absence of community consultation and insufficient dissemination of information concerning investment project objectives frequently instigate conflicts between chieftainship communities and private entities.

While formal land registration ostensibly offers superior advantages when contrasted with customary systems, our analysis reveals a dysfunctional implementation of this practice. Registration essentially furnishes protection against ejection or adverse possession for those who hold registered titles. Regrettably, rural populations remain inadequately shielded by legal safeguards. In light of these findings, this thesis depicts the insufficiency of legal acknowledgement concerning land and natural resource rights grounded in custom. Consequently, we propose a set of strategies aimed at fortifying land rights for rural smallholders, encompassing both legal and pragmatic dimensions. The existing situation in Zambia serves as a stark reminder of how influential stakeholders often manipulate these processes to their advantage. This thesis coheres with the prevailing body of scholarship and literature, which strongly advocates for the comprehensive documentation of land rights (Refer to Chapter 2 for further details).

8.2.1.3 Land Tenure Conflict and Management

This study has conducted an examination of instances wherein prevailing land governance practices have engendered heightened levels of land conflicts and tenure insecurity, thereby presenting formidable challenges for both governmental and non-governmental stakeholders in Zambia. Chapter 6 delves into land governance issues that impact smallholder farmers, encompassing prevalent tenure insecurity, insufficient developmental support, and restricted access to land and food production opportunities for marginalized groups. The degradation of effective customary land management systems compounds the fragmentation of agricultural land, showing the

imperative for the Zambian government to fortify customary land rights and administration.

A comparative analysis spanning Zambia, Tanzania, Kenya, and Botswana mentions the significance of formalising customary tenure governance through the enactment of dedicated customary land laws. However, the existing legal scholarship on land in customary areas of Zambia is found wanting in terms of establishing an efficient administration system. This points out the pressing necessity of guiding traditional authorities concerning the management of customary land and the rights and responsibilities of chiefs within their respective chiefdoms. Consequently, the absence of dominant land tenure systems capable of facilitating efficient land allocation, management, and security persists. Diverse perspectives, including common property resources, usufruct licenses within community and lineage structures, tenancy agreements, and ownership, all possess relative merits contingent on varying circumstances. While the advantages of ownership have been accentuated, the substantial costs, market imperfections, and institutional deficiencies render widespread land titling improbable for the majority of rural households.

Land market failures pose a substantial constraint in both Zambia and the wider Sub-Saharan Africa (SSA) region, as securing contiguous plots in proximity to essential infrastructure remains a formidable challenge for potential investors. This thesis reveals socio-economic and political outcomes stemming from land reform initiatives, as exemplified by instances in Rwanda and Mozambique, where land reform has been employed to reinforce state control over land. In contrast, Zambia has witnessed an augmentation in the authority of traditional chiefs in land management. Furthermore, this study has also been dedicated to elucidating Zambia's customary status (refer to Chapter 4).

8.2.1.4 Implications for Rural Livelihoods of Smallholders and Agricultural Development

This investigation significantly enhances our comprehension of agricultural productivity and social inclusivity. It exposes that prevailing assumptions regarding weak security under customary tenure have exerted a substantial influence on shaping land reform initiatives in Sub-Saharan Africa (SSA), all directed at enhancing agricultural productivity through the formal recognition of rights (Lawry, 2023: 17). In the context of elucidating the land tenure system and governance, we draw upon the principles of human rights to champion social inclusivity and livelihood development. The insecurity of land tenure exposes citizens to competing claims and eviction, eroding their land rights. This research aligns with previous studies demonstrating that insecure customary tenure deters rural households from adopting practices that could enhance agricultural productivity (WB GIL 2019; Yemadje et al. 2014).

Insecure tenure obstructs households from securing sufficient food and sustainable rural livelihoods. The study establishes and supports novel evidence that patterns of land ownership intensify pressures on the land due to population growth in many lower-income countries. In agricultural economies, access to land is a fundamental element in any attempt to alleviate poverty, and improvements in agricultural techniques can achieve little in raising living standards if peasants lack access to their land (Tietenberg 1996: 530). Existing arguments in the land tenure policy literature corroborate that formal recognition or titling of individual and collective land rights through customary tenure and land management systems can offer secure tenure solutions for small-scale farmers. This thesis illustrates that secure rights lead to enhanced economic well-being, reduced land conflicts, improved equality, livelihood enhancement, and increased food security (FGD, 18 January 2022). For example, Zambia's primary support for agricultural production and rural livelihoods, the Food Reserve Agency (FRA), transitioned to the Farmers Input Support Programme (FISP), inadvertently shifting its strategic focus. This shift to the Agriculture Support Programme (ASP) suggests a lack of policy consistency in the Zambian agricultural sector. Agricultural development policies in Zambia often overlook the needs of diverse smallholder rural farmers and their potential

contributions to food security and agricultural growth. Several initiatives in Zambia promote sustainable agriculture. Land serves as a prime example of the intricate political landscape where political factors have influenced agricultural development over the past fifty-eight years. These factors, characterised by their short-term nature, function as social welfare mechanisms for rural poverty alleviation. While market liberalisation has provided opportunities, the removal of pan-territorial maize pricing and fertilizer subsidies has made location pivotal in determining comparative advantage.

This thesis showcases the necessity for smallholder transformation. Reforming Zambia's agriculture sector demands a systems-change approach prioritising food security while transitioning from production-centric to market-centric agriculture. The emphasis should be on investing in local agricultural market systems across value chains, aligned with global demand. Active informal land markets in customary land disrupt traditional land management systems, leading to land abandonment due to inadequate administration and illegal land transactions. Such sales are limited to economically developed areas. The imperative is for technical assistance to smallholders, promoting business skills and cooperative formation to shift farming from subsistence to income generation. Sustainable farming systems are vital for Zambian smallholders. Land administration and management systems should centre on people and their relationship with the land, their context, and their community. Reducing hunger, poverty, and sustainable resource use hinges on equitable access to land and resources (See: Committee on World Food Security (CFS), “Global Strategic Framework for Food Security and Nutrition”(FAO, 2012). Households without land access are excluded from farming as a poverty alleviation pathway. Improving agricultural productivity necessitates cooperation between the Government and stakeholders to allocate resources towards initiatives that enhance productivity, including increased investment in agricultural research and extension services.

8.2.1.5 Land Redistribution

The data suggests the paramount significance of attaining equitable land distribution, particularly for rural communities in Zambia, with substantial benefits accruing to small-scale farmers. It accentuates the critical nature of redistributing land to those who are landless and impoverished. Nevertheless, the prevailing practice of

redistributing private land in Zambia often engenders conflicts and imposes considerable costs, primarily due to the perception of private property as a privilege rather than an inherent right. While the establishment of secure land rights can potentially stimulate investments, it is noteworthy that the formal process of titling may not necessarily lead to a commensurate increase in farm incomes. In the African context, and more specifically in Zambia, the procedure of land titling remains susceptible to manipulation by elites, resulting in a disproportionate impact on women and other vulnerable demographic groups.

8.2.1.6 Challenges in Tenure Systems

Tenure systems in numerous Sub-Saharan African (SSA) nations, Zambia included, have been significantly shaped by colonial land policies that were imposed upon pre-existing land distribution structures. Land reform in Zambia encompasses the intricate concepts of land redistribution, tenure reform, and land administration reform. Over the past three decades, reforms in the country have not only included measures for redistribution but have also addressed administrative and tenure issues. The complexity of land tenure systems in Zambia is attributed to historical, cultural, and political factors.

Weaknesses in Land Tenure: Despite the presence of legal and regulatory frameworks, land tenure and natural resource rights of usage, access, and ownership continue to remain fragile in Zambia. Challenges such as limited access to information and services, as well as the vulnerability of the rule of law, have facilitated corruption within the land sector.

Political Will and Property Rights: Zambia recognises the concept of private property through legal provisions; however, the constitution lacks comprehensive economic and social rights. The constitutionalisation of economic and social rights is a complex political process, and this thesis aims to establish a precise framework outlining these rights and corresponding obligations.

Land Allocation and Challenges: The investigation has uncovered two significant modes of land acquisition, particularly in customary land: allocation by traditional

leaders and inheritance from relatives. Diverse governance approaches among traditional leaders have led to widespread corruption within Zambia's land administration. This research introduces a fresh perspective, emphasising the paramount importance of secure tenure and effective land governance.

Contextualised Solutions: It is imperative that solutions are tailored to local contexts, acknowledging the unique challenges guided by local traditions and norms.

Conflict Between State and Customary Land Tenure: The centralisation of land ownership within the Presidency and the role(s) of traditional leaders in land allocation have generated conflicts between modern statutory laws and traditional land administration systems. Tenure reform policies must recognise the intricate nature of land administration within communal systems, thereby promoting sustainable land governance.

Ownership Debate: The fundamental question remains whether land should be owned individually or communally. The Zambian government aspires to transition towards a market-oriented land tenure system; however, concerns over land security persist among the impoverished rural population.

Land Reform Challenges: The Zambian government must refine policy and regulatory channels for land market transactions. Land reform encompasses various economic, political, social, legal, and institutional processes related to land use, ownership, development, and management. Security concerns pose significant challenges and resistance within reform processes, rendering land a contentious issue in both Africa and Zambia.

In Zambia, land is an essential resource for sustainable livelihoods. Nonetheless, the absence of codification and limited communication between state and customary systems has resulted in tenure insecurity. Lawry argues that development theory often leads policymakers to misguided investments in agricultural reforms, overlooking the social, economic, and cultural advantages of the inclusive customary tenure system that provides secure land access to the impoverished. Unfortunately, branding customary systems as antiquated and insecure has exacerbated insecurity for smallholders, enabling external entities to seize land (Lawry et al., 2023: 80-81). This study aligns with the notion of commons as a

collection of property rights, encompassing access, withdrawal, management, exclusion, and alienation (See: Chapter 3; North & Ostrom, 1990). Effective land governance and secure land tenure are paramount for mitigating challenges and nurturing sustainable development amidst climate change. The study recommends integrating land-related Sustainable Development Goal (SDG) indicators into national development plans and processes (See: Chapter 6). It enables efficiency, transparency, and inclusivity in land administration which are imperative for achieving sustainable development. Encouraging agricultural productivity growth in Zambia goes beyond maize to embrace crops like millet, sorghum, and cassava. The quest for enhanced productivity is vital for SSA and Africa (Osuka & Larson, 2016; Osuka & Muraoka, 2017). However, the study reveals that Zambia's land reform discussions lack historical context, with limited evidence providing only a partial account of pressures for constitutional change at the heart of its jurisprudence.

The study's findings indicate that human rights and land tenure practices are undergoing significant transformation across various aspects. The thesis findings agree with other commentators to contribute to three important areas of property rights research: (1) the design of property rights research; (2) property rights enforcement; and (3) policy applications; as illustrated, identifying a set of design principles for crafting property rights institutions is possible and has been demonstrated and formulated in this study; elements of the bundle of rights can be assigned to different parties depending on the purpose of delineating the private property rights. For instance, if the goal is to manage the use of a commons where the mobility of participants is low, alienation is secondary. By contrast, if the purpose is to encourage owners to invest in property investments, the rights to sell and transfer the asset must be included explicitly in the assignment, as indicated by the experiences of land titling or privatisation. For conservation easement to exist, the right to develop land must be separated from ownership. Different definitions and own. This thesis reinforces the relationship between common rights and property. All rights entail corresponding duties: possessing land rights implies a duty to observe those rights. Instead of blind faith in private ownership, community rights, institutions, and government interventions are necessary. To foster a more comprehensive and sustainable approach to resolving land conflicts, practical interventions should integrate a sectoral perspective into programming. This involves involving various policy actors in

formulating land policies. This thesis shows that weak institutional capacity, corruption, and discriminatory social norms and practices contribute to land conflicts. This thesis enriches the development studies discourse by providing substantial evidence-based data on land tenure matters in Zambia and SSA. There is no one-size-fits-all solution to eradicate extreme poverty, and each government must make its own informed decisions. The government's human rights obligations require a set of policies aimed at eliminating poverty. For example, Saghir emphasises the World Bank's intention to propose solutions that accelerate the fight against poverty (Saghir, 2013). In SSA, agriculture dominates most economies, contributing 30 to 40% of the gross domestic product and providing employment to over two-thirds of the population. Increased investment in the agricultural economy can yield substantial development outcomes, including higher rural incomes, enhanced food security, and environmentally-friendly innovations like climate-smart agriculture. The World Bank aims to catalyse action and create new partnerships to facilitate a vibrant agricultural economy in Africa, fostering growth, job creation, improved food security, and enhanced livelihoods, especially for the impoverished (See: The World Bank. *Unlocking Africa's agricultural potential: An action agenda for transformation. Sustainable Development Series*).

8.3 ENSURING SECURE LAND TENURE AND ADDRESSING LAND GOVERNANCE CHALLENGES

Elinor Ostrom's discourse illuminates the potential unintended consequences of well-intentioned government actions aimed at environmental protection. These actions, although driven by noble motives, have the capacity to undermine existing community-level arrangements. Regrettably, the repercussions of such actions can be detrimental to both natural resources and the community's inhabitants. The actions of both the government and stakeholders should ideally function in harmony with, rather than supersede, existing land legislation, as articulated in the National Constitution of 2016 and the Lands Act of 1995. For instance, Zambia's Land Acquisition Act, under section 10, specifies that the government, through a minister, is obligated to provide compensation in cases of compulsory land acquisitions. However, the Act lacks provisions outlining the criteria for determining compensation. Under Ntsebeza's

work (2004), titled 'as Democratic Decentralisation and Traditional Authority Dilemmas of Land Administration in Rural South Africa,' the Zambian government should actively promote the establishment of local-level structures that foster democratic control and regulation. These structures are vital for preventing oppression and discrimination against vulnerable members of the community, a principle proposed by Ntsebeza in 2004.

The Lands Act of 1995 introduced two distinct institutions, one based on Chieftainship and the other on state land administration. Both of these institutions duly recognize customary tenure and traditional leadership. It is important to note, as Lawry has pointed out, that failure to thoroughly comprehend the context before initiating land reform, especially one that leans towards individualisation, could potentially undermine the institutional foundations of an inclusive customary tenure system. Addressing this challenge necessitates revealing the social foundations and purposes of traditional institutions, particularly to reform scholars educated in Western traditions. This thesis aligns with the perspective presented by Cousins and Claassens in 2008, acknowledging that the Lands Act affects both customary law and traditional leadership, both of which are constitutionally recognized in Zambia.

Zambia's state-land governance confronts issues stemming from legal inconsistencies, institutional deficiencies, and operational shortcomings that significantly affect customary land institutions and their status. However, the study reveals that the non-existence of specific design principles strikes at the root of inadequate land governance in the Zambian case. Therefore, analysing the less-well understood aspects improves analytical clarity regarding conditions that help to maintain the commons and obtain compliance of suitable expanded use of resource with property rights institution for common governance.

Elinor Ostrom's argument points out the capability of self-organising communities to manage resources for the common good, utilizing Common Pool Resource (CPR) management principles and institutions. This study makes a significant contribution by drawing upon and utilising Elinor Ostrom's (1990) *Governing the Commons The Evolution of Institution Action*, Cambridge Press, design principles for effective and successful property rights institution to comprehend the sources of which adherence with property rights institutions striking at the root of

collective insecurity, misuse or inappropriate, unregulated tenure systems and governance in Africa.

This thesis ardently supports Ostrom's approach, advocating for the synergy between the state, local stakeholders, and traditional knowledge in the development of sustainable land resource management institutions. This thesis critically evaluates sources of customary tenure insecurity in Zambia before delving into the intricate relationship between land, rights, tenure insecurity, and land governance. The analysis demonstrates the importance of applying design principles to establish enduring CPR institutions, as elucidated by Ostrom in her seminal work of 1990.

Zambia's case study unequivocally shows the imperative to bolster the legal and institutional framework governing both state and customary land. Corruption within Zambia's land tenure systems has, unfortunately, given rise to violations of property rights, encroachments, double land allocations, and illicit non-consensual sales. These issues suggest the urgent need for reform. This thesis aligns with Ostrom's findings of 1990, which highlight that parties collectively utilizing a common pool resource often create effective formal and informal rules for resource allocation. Consequently, a governance structure reliant on private property rights enforced by external authorities is not always imperative or optimal. Users frequently demonstrate the ability to cultivate trust and reciprocity to address their collective action challenges.

The existing land laws in Zambia, which were established at the dawn of the post-colonial era, are outdated and inadequately equipped to govern contemporary land issues. This chapter delves into both the historical and current perspectives of land tenure reform in Zambia, shedding light on the intricate dynamics of state, customary, and chieftain relations within the broader context of land legislation and institutional frameworks. Historically, land governance in Zambia was rooted in customary law, encompassing various tribunal laws founded on local customs. The term "African customary law" encapsulates these traditional legal frameworks that govern land ownership, distinctly different from Western legal systems. Unfortunately, during colonial times, these indigenous governance institutions were often undermined or bypassed, supplanted by state-led institutions that exercised control over indigenous land and resources.

While some legislation, such as that of the ‘Planning Law, and the Urban and Regional Planning Act of 2015’, has seen updates, others like the Land Survey Act of 1960, the Land Acquisition Act of 1970, (The Rent Act of 1972, and the Landlord & Tenant Business Premises Act of 1972), remain stagnant. This fragmentation of laws and regulations complicates land administration and governance, necessitating consolidation and codification efforts. This case study makes a substantive contribution to discussions surrounding land governance and sustainable development, offering fresh insights for policymakers. Increasing awareness of land laws, strengthening tenure security, and devising pragmatic interventions at the local level are essential steps towards establishing a secure community or customary land framework that safeguards the interests of the community.

8.4 ENHANCING CITIZENS' RIGHTS AND LIVELIHOODS

This section conducts a critical evaluation of the political and socio-economic dimensions of the thesis subject, elucidating real-world challenges and proffering feasible interventions. The examination encompasses broader institutional associations with tribal leaders and the government, alongside the incorporation of local social and environmental considerations into investment planning. The sequential phases of the process underwent rigorous scrutiny: the identification and allocation of land, with a particular focus on the status of land users, notably smallholders. To ensure equitable access to land and safeguard all facets of land rights, it is advocated that both state and non-state entities collaborate through effective partnerships. Such collaborations should encompass participatory and consultative approaches to the formulation of land policies and the transparent administration of land, spanning customary and statutory domains.

At the core of this thesis lies the conviction that contemporary land tenure and governance challenges in Zambia necessitate a spotlight on effective land governance, with a specific emphasis on tenure security within the new 2021 land policy. While determining the most suitable tenure systems remains pertinent, the central premise is that even the most refined systems will falter without concurrent governance enhancements. Notably, Lawry contends that the transfer of land tenure authority to

the state could undermine secure customary land tenure structures, which act as a buffer against landlessness in rural SSA (Lawry, 2023: 1). Furthermore, this study analyses land governance for equitable and sustainable development, addressing political, cultural, and social transformations. It demonstrates mounting competition for land due to urbanization, climate shifts, foreign investments, infrastructure expansion, and conservation needs, emphasizing Zambia's lack of a comprehensive land audit. The study delves into access, ownership, and rights, particularly for women and young smallholder farmers. The impact of the prevailing socio-economic and institutional context on resource access, whether through ownership or rental, is substantial. These factors profoundly shape the success of both agricultural and non-agricultural pursuits, potentially leading to reduced opportunities in areas lacking such facilities. Field group discussions in both Monze and Chembe revealed that beyond subsistence farming and small-scale livestock husbandry, significant economic activities were scarce. This points out the need to support agricultural investment agencies to elevate standards and procedures, ensuring large-scale land-based investments adhere to social and environmental safeguards, as well as tenure rights. This would help mitigate the displacement of local communities.

As rural Zambians face increased displacement due to heightened investor interest in land for mining, agriculture, and infrastructure, a trend difficult to quantify as Zambia has never conducted a comprehensive land audit (ZLA, 2022), the role of comprehensive legal and policy frameworks for land rights, administration, resettlement, and compensation becomes paramount. This analysis aligns with the widely embraced principle that land is a pivotal resource for livelihoods, complicated by sacred norms and traditions. The findings of this thesis unequivocally demonstrate that rural livelihoods in Zambia revolve around land access, ownership, and control, rendering land a critical asset for human survival. However, transforming long-standing land administration practices remains challenging yet not insurmountable. Tradition holds significant sway in land administration, as beliefs and adherence to traditions influence behaviour in land-related matters. Chapters 2-3 and 5-6 provide an in-depth exploration of the productivity and welfare benefits derived from transitioning from traditional to private property systems, particularly evident in the communal land arrangements seen in Monze's 'Musena' communal grazing areas and arable land. This exemplifies how transitioning towards individualised tenure

arrangements can enhance tenure security with minimal social disruption. In addressing the escalating issue of land degradation, the central government has introduced state-owned agricultural cooperatives for permanent settlement. Notably, land degradation transcends land ownership types (GRZ, 2019: 7-8).

In summary, this thesis contends that land tenure frameworks must adapt to present needs, and Zambia's state land governance inadequacies, spanning from legal to operational aspects, need to be rectified. These challenges necessitate an integrated conceptual framework that incorporates IAD and other theories expounded in this thesis (See Chapter 3). Such a framework would effectively govern both state and customary land in Zambia, a model that could be extended to numerous African countries grappling with intertwined land conflicts and tenure insecurity. Strengthening legal frameworks and enhancing governments' capacity to provide secure rights in a cost-effective and accessible manner is imperative, as highlighted by Boudreaux (2019). However, it is crucial to acknowledge that land policies and legal frameworks governing land governance vary across SSA countries, with some exhibiting superior institutional frameworks than others. Hence, for effective customary land governance, the land tenure system should be attuned to the prevailing population's needs. This study portrays the importance of addressing gaps in land administration and the management of 'common pool resources' to ensure policy and legal reforms yield tenure security for smallholder farmers and rural communities. Moreover, it highlights that various factors, including coordination, funding, commitment, and capabilities, affect policy performance. These insights contribute to the broader understanding of the nexus between land tenure management and sustainable development within the contexts of Zambia and SSA. In essence, the evolving dynamics of an expanding population and market integration are reshaping land rights towards individual private ownership. This suggests the need for a robust land use management and governance framework that steers sustainable livelihoods in Zambia. To address conflicts in land tenure, streamlined and law-abiding land administration systems are required, covering registration, titling, land transaction formalization, and market regulation. Importantly, the focus should be on adhering to existing laws, rather than introducing new ones. (Interview with Executive Director Zambia Land Alliance, 08 October 2021 & 28 March 2022).

8.5 FUTURE RESEARCH

The principal aim of this research was to proffer an effective and responsible land governance framework designed to alleviate land conflicts and fortify rural livelihoods within the context of Zambian agriculture. Smallholder farming, predominantly conducted by women, constitutes the prevailing mode of agricultural activity. Ensuring their secure land tenure and access assumes paramount importance in the reduction of rural poverty, the enhancement of food security, and the promotion of agricultural development. Given the imperative for heightened focus on food security in Africa, alongside the intricate interplay between agriculture, development, and climate action, the need to simultaneously realise the Sustainable Development Goals and facilitate climate adaptation within the agricultural and food sector has become urgent (Saghir et al., 2022).

As expounded within this thesis, insecure land tenure emerges as a pivotal obstacle to achieving sustainable agricultural development in Zambia and Sub-Saharan Africa (SSA). In this context, the comprehension of the relationship between customary land dwellers and the law has frequently been characterised by restricted access, limited control over land, and precarious tenure. It is worth noting that in Zambia, customary land rights remain inadequately recognised and protected within statutory law (See: Machina, 2002). Chapter 6's findings correspond, to some extent, with the World Bank report, which shows the complexities involved in implementing land investments, driven by concerns over land grabs and the scarcity of professionals in this field across Africa. The report highlights various obstacles, including formal trade barriers, irregular customs procedures, inadequate infrastructure, inconsistent trade policies, and regulatory issues such as inappropriate and inconsistent testing requirements for agricultural inputs. Notably, the sampled African nations faced elevated distribution costs, primarily in the transportation sector, due to deficient infrastructure and a lack of competition, thereby obstructing effective subsidy programmes that could benefit both smallholders and the private sector (World Bank, 2013:15). Regulatory impediments further compound the challenges related to agricultural inputs. Despite the existence of seed policies, they frequently suffer from obsolescence, excessive rigidity, and implementation difficulties (World Bank, 2013: 50).

This Zambian land-focused thesis delves into state and customary tenures, customary land conflicts, and tenure security and governance. It reiterates the pivotal role of customary land governance in comprehending land conflicts, tenure uncertainty, and land governance within the Zambian context. Given that most land is held under rural customary tenure, there exists a paucity of information beyond community boundaries regarding land ownership, compounded by the absence of maps and documentation on land parcels owned by families. This lack of clarity hampers government efforts to encourage external investments in agriculture. Nevertheless, certain research avenues merit consideration:

1. There exists a compelling need for further exploration into the intricacies of land rentals, with a specific focus on distinguishing the dynamics inherent in urban and rural settings. This under-explored facet of land governance assumes particular significance. It should be noted that this study highlights a gap within the ‘Voluntary Guidelines on the Responsible Governance of Tenure of Land and Forests’ in the Context of National Food Security, adopted by the World Committee on Food Security in 2012, where insufficient attention is afforded to land rentals. While this study was unable to address this gap due to constraints of time and finances, future research should delve into this uncharted territory.

2. Subsequent empirical research across diverse countries becomes imperative to assess the impact of land tenure on rural populations reliant on traditional and ancestral land heritage in contrast to contemporary land ownership. The surge in land investments has exposed communal and village lands to this new dynamic. Examining how community norms continue to influence land governance and whether land certification yields positive or negative effects for rural inhabitants assumes indispensable significance.

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APPENDICES

APPENDIX 1: LIST OF INTERVIEWEES

THE LIST OF INTERVIEWEES AND FOCUS GROUP DISCUSSIONS IN ZAMBIA (CHEMBE &). THE INTERVIEW DESCRIPTIONS BELOW HAVE BEEN MOSTLY ANONYMISED. THEY MAINTAIN ANONYMITY. THE LIST OF INTERVIEWEES BELOW DOES NOT INCLUDE INFORMAL CONVERSATIONS.

Appendix 1a: List of Key Informants interviewees (47 respondents)

Nr	Sector	Anonymised Description	Interview Date	Interview Location (Town & District)
O1	Ministry of Lands and National Resources	Senior-level Officials	22 September 2021 07 March 2022	Lusaka
O2	Ministry of Agriculture	Senior- level Official	23 September 2021	Lusaka
O3	Ministry of Home Affairs: Former Permanent Secretary and Legal Council	Senior-level Official	23 September 2021	Lusaka
O4	Ministry of Justice	Senior-level Official Representative	24 September 2021	Lusaka
O5	Climate Change and Green Economy (Land tenure expert)	Senior-level Official Representative	28 September 2021	Lusaka
O6	Ministry of Local Government and Rural Development	Senior-level Official	30 September 2021	Lusaka
O7	Zambia National Framers Union	Senior-level Official Representative	4 October 2021	Lusaka
O8	Ministry of Gender and Development	National- level government official	5 October 2021	Lusaka
O9	Zambia Land Alliance	Executive Director, and Monitoring and Evaluation Manager	8 October 2021	Lusaka

10	Indaba Agricultural Policy Research Institute -IAPRI	Representative	12 October 2021 21-24 March 2022	Lusaka
11	NGOC	Executive Director	14 January 2022	Lusaka
12	Zambia Law Development Commission	Senior official at Lands Tribunal	15 October 2021	Lusaka
13	University of Zambia: School of Humanities and Social Sciences, and the School of Law (Land expert)	3 Lecturers and Academicians	18 October 2021 19 October 2021	Lusaka
14	University of Zambia: Dept of Geography & Environmental Studies	Lecturer and Academician	20 & 21 October 2021	Lusaka
15	MEDICI Land Governance	Programme Representative	2 November 2021	Lusaka
16	USAID Tetra-tech	Chief of Party Zambia	10 November 2021	Telephone Lusaka
17	Policy and Monitoring Research	Representative, Monitoring and Evaluation Manager	4 November 2021	Lusaka
18	We effect Lusaka. Member of Parliament (Monze)	Organisation Representative Area Member of Parliament (MP) Monze	8 November 2021 20 December 2021	Lusaka Lusaka
19	International Fund for Agricultural Development	Senior-level Official Representative	12 January 2022	Lusaka
20	Ministry of Local Government and Rural Development	District- level government Official	14 January 2022	Chembe
21	Member of Parliament (Chembe)	Area Member of Parliament	14 January 2022	Chembe
22	Chief Kasomalwela – Chembe	Senior Chief	18 January 2022	Chembe
23	Chief Monze	Senior Chief Monze	08 February 2022	Monze
24	Ministry of Local Government and Rural Development	District- level Official	08 February 2022	Monze
25	Namibia University of Science and Technology. International land expert	University Professor/ academician	10 February 2022	Telephone Namibia

26	World Bank Consultant	International-level land Consultant	14 February 2022	Via Skype
27	Natural Resource Development College	2 Lecturers/ academicians	16 February 2022	Lusaka
28	Monze Local Court Justice	District- level Official	20 February 2022	Monze
29	Monze District Land Alliance	District Coordinator	21 February 2022	Monze
30	Chief Affairs Committee Monze	Chiefs Committee Secretary	4 November 2022	Monze
31	Ministry of Agriculture and Cooperatives - Monze	District- level government Official	22 February 2022	Monze
32	Civil Society for Poverty Reduction	Representative	23 February 2022	Monze
33	Mansa District Land Alliance – Luapula	District Coordinator	25 February 2022	Mansa
34	Chembe District Land Alliance	District Coordinator	25 February 2022	Chembe
35	Ministry of Community Development - Chembe	District- level government Official	28 March 2022	Chembe
36	Ministry of Lands Mansa	Provincial-Level government Official	03 February 2022	Mansa
37	Legal AID Board Mansa	District- level Official	21 February 2022	Mansa
38	Law and Development Association (LADA)	District – level Representative	18 February 2022	Monze
39	Ministry of Judiciary Mansa	District- level government Official	5 February 2022	Mansa
40	Catholic Diocese Mansa	Parish Representative	5 February 2022	Mansa
41	Local Government Mansa (Chiefs Dept)	District-level government Official	7-10March 2022	Mansa
42	The Copperbelt University	3 Lecturers/ academicians	3-5 February 2022	Kitwe
43	Non-government Gender Organisations' Coordinating Council (NGOCC) Mansa	District – level Representative	16 March 2022	Mansa
44	Ministry of Agriculture	District -level government Official	10 February 2022	Monze

		(District Agriculture Coordinating Officer)		
45	Consultant Expert	Land expert	5 February 2022	Lusaka
46	International Organisation - GIZ	Officer at GIZ	6 February 2022	Lusaka
47	Lawyer	Land expert	6 February 2022	Lusaka

The List of the smallholder rural Farmers Interviewed Monze and Chembe districts of Zambia. Smaller rural farmers (villages, households) have also been anonymised.

Appendix 1b: List of Smallholder Farmers Interviews held in Monze

Nr	Area/ /District	Anonymised Description	Type of Interview	Interview Date
1	Monze	Smallholder Farmer	Individual Interview	22 October 2021
2	Monze	Smallholder Farmer	Individual Interview	22 October 2021
3	Monze	Smallholder Farmer	Individual Interview	22 October 2021
4	Monze	Smallholder Farmer	Individual Interview	24 October 2021
5	Monze	Smallholder Farmer	Individual Interview	24 October 2021
6	Monze	Smallholder Farmer	Individual Interview	24 October 2021
7	Monze	Smallholder Farmer	Individual Interview	25 October 2021
8	Monze	Smallholder Farmer	Individual Interview	25 October 2021
9	Monze	Smallholder Farmer	Individual Interview	25 October 2021
10	Monze	Smallholder Farmer	Individual Interview	26 October 2021
11	Monze	Smallholder Farmer	Individual Interview	26 October 2021
12	Monze	Smallholder Farmer	Individual Interview	26 October 2021
13	Monze	Smallholder Farmer	Individual Interview	27 October 2021
14	Monze	Smallholder Farmer	Individual Interview	27 October 2021
15	Monze	Smallholder Farmer	Individual Interview	27 October 2021
16	Monze	Smallholder Farmer	Individual Interview	28 October 2021
17	Monze	Smallholder Farmer	Individual Interview	28 October 2021
18	Monze	Smallholder Farmer	Individual Interview	28 October 2021
19	Monze	Smallholder Farmer	Individual Interview	29 October 2021
20	Monze	Smallholder Farmer	Individual Interview	29 October 2021
21	Monze	Smallholder Farmer	Individual Interview	29 October 2021
22	Monze	Smallholder Farmer	Individual Interview	10 November 2021
23	Monze	Smallholder Farmer	Individual Interview	10 November 2021
24	Monze	Smallholder Farmer	Individual Interview	10 November 2021
25	Monze	Smallholder Farmer	Individual Interview	11 November 2021
26	Monze	Smallholder Farmer	Individual Interview	11 November 2021
27	Monze	Smallholder Farmer	Individual Interview	11 November 2021

28	Monze	Smallholder Farmer	Individual Interview	12 November 2021
29	Monze	Smallholder Farmer	Individual Interview	12 November 2021
30	Monze	Smallholder Farmer	Individual Interview	12 November 2021
31	Monze	Smallholder Farmer	Individual Interview	14 November 2021
32	Monze	Smallholder Farmer	Individual Interview	14 November 2021
33	Monze	Smallholder Farmer	Individual Interview	14 November 2021
34	Monze	Smallholder Farmer	Individual Interview	14 November 2021
35	Monze	Smallholder Farmer	Individual Interview	15 November 2021
36	Monze	Smallholder Farmer	Individual Interview	15 November 2021
37	Monze	Smallholder Farmer	Individual Interview	15 November 2021
38	Monze	Smallholder Farmer	Individual Interview	17 November 2021
39	Monze	Smallholder Farmer	Individual Interview	17 November 2021
40	Monze	Smallholder Farmer	Individual Interview	17 November 2021
41	Monze	Smallholder Farmer	Individual Interview	18 November 2021
42	Monze	Smallholder Farmer	Individual Interview	18 November 2021
43	Monze	Smallholder Farmer	Individual Interview	18 November 2021
44	Monze	Smallholder Farmer	Individual Interview	19 November 2021
45	Monze	Smallholder Farmer	Individual Interview	19 November 2021
46	Monze	Smallholder Farmer	Individual Interview	19 November 2021
47	Monze	Smallholder Farmer	Individual Interview	20 November 2021
48	Monze	Smallholder Farmer	Individual Interview	20 November 2021
49	Monze	Smallholder Farmer	Individual Interview	20 November 2021
50	Monze	Smallholder Farmer	Individual Interview	21 November 2021
51	Monze	Smallholder Farmer	Individual Interview	21 November 2021

52	Monze	Smallholder Farmer	Individual Interview	21 November 2021
53	Monze	Smallholder Farmer	Individual Interview	22 November 2021
54	Monze	Smallholder Farmer	Individual Interview	22 November 2021
55	Monze	Smallholder Farmer	Individual Interview	22 November 2021

Appendix 1c: List of Monze Focus Group Discussions (FGDs) Timeline

FGDs	Monze	Smallholder Farmers (Males)	Focus Group (5 people)	24 November 2021
1				
2	Monze	Smallholder Farmers (Village head persons)	Focus Group (6 people)	1 November 2021
3	Monze	Smallholder Farmers (Females)	Focus Group (5 people)	1 November 2021
4	Monze	Smallholder Farmers (Males and Females)	Focus Group (6 people)	25 November 2021

Appendix 1d: List of Smallholder Farmers Interviewees in Chembe

Nr	Area/Chieftdom /District	Anonymised Description	Type of Interview	Interview Date
1	Chembe	Smallholder Farmer	Individual Interview	1 December 2021
2	Chembe	Smallholder Farmer	Individual Interview	1 December 2021
3	Chembe	Smallholder Farmer	Individual Interview	1 December 2021
4	Chembe	Smallholder Farmer	Individual Interview	2 December 2021
5	Chembe	Smallholder Farmer	Individual Interview	2 December 2021
6	Chembe	Smallholder Farmer	Individual Interview	2 December 2021
7	Chembe	Smallholder Farmer	Individual Interview	3 December 2021

8	Chembe	Smallholder Farmer	Individual Interview	3 December 2021
9	Chembe	Smallholder Farmer	Individual Interview	3 December 2021
10	Chembe	Smallholder Farmer	Individual Interview	4 December 2021
11	Chembe	Smallholder Farmer	Individual Interview	4 December 2021
12	Chembe	Smallholder Farmer	Individual Interview	4 December 2021
13	Chembe	Smallholder Farmer	Individual Interview	6 December 2021
14	Chembe	Smallholder Farmer	Individual Interview	6 December 2021
15	Chembe	Smallholder Farmer	Individual Interview	6 December 2021
16	Chembe	Smallholder Farmer	Individual Interview	7 December 2021
17	Chembe	Smallholder Farmer	Individual Interview	7 December 2021
18	Chembe	Smallholder Farmer	Individual Interview	7 December 2021
19	Chembe	Smallholder Farmer	Individual Interview	8 December 2021
20	Chembe	Smallholder Farmer	Individual Interview	8 December 2021
21	Chembe	Smallholder Farmer	Individual Interview	8 December 2021
22	Chembe	Smallholder Farmer	Individual Interview	8 December 2021
23	Chembe	Smallholder Farmer	Individual Interview	9 December 2021
24	Chembe	Smallholder Farmer	Individual Interview	9 December 2021
25	Chembe	Smallholder Farmer	Individual Interview	9 December 2021
26	Chembe	Smallholder Farmer	Individual Interview	10 December 2021
27	Chembe	Smallholder Farmer	Individual Interview	10 December 2021
28	Chembe	Smallholder Farmer	Individual Interview	10 December 2021
29	Chembe	Smallholder Farmer	Individual Interview	10 December 2021
30	Chembe	Smallholder Farmer	Individual Interview	11 December 2021
31	Chembe	Smallholder Farmer	Individual Interview	11 December 2021

32	Chembe	Smallholder Farmer	Individual Interview	11 December 2021
33	Chembe	Smallholder Farmer	Individual Interview	13 December 2021
34	Chembe	Smallholder Farmer	Individual Interview	13 December 2021
35	Chembe	Smallholder Farmer	Individual Interview	13 December 2021
36	Chembe	Smallholder Farmer	Individual Interview	14 December 2021
37	Chembe	Smallholder Farmer	Individual Interview	14 December 2021
38	Chembe	Smallholder Farmer	Individual Interview	14 December 2021
39	Chembe	Smallholder Farmer	Individual Interview	15 December 2021
40	Chembe	Smallholder Farmer	Individual Interview	15 December 2021
41	Chembe	Smallholder Farmer	Individual Interview	15 December 2021
42	Chembe	Smallholder Farmer	Individual Interview	15 December 2021
43	Chembe	Smallholder Farmer	Individual Interview	16 December 2021
44	Chembe	Smallholder Farmer	Individual Interview	16 December 2021
45	Chembe	Smallholder Farmer	Individual Interview	16 December 2021
46	Chembe	Smallholder Farmer	Individual Interview	17 December 2021
47	Chembe	Smallholder Farmer	Individual Interview	17 December 2021
48	Chembe	Smallholder Farmer	Individual Interview	17 December 2021
49	Chembe	Smallholder Farmer	Individual Interview	18 December 2021
50	Chembe	Smallholder Farmer	Individual Interview	18 December 2021
51	Chembe	Smallholder Farmer	Individual Interview	18 December 2021
52	Chembe	Smallholder Farmer	Individual Interview	20 December 2021
53	Chembe	Smallholder Farmer	Individual Interview	20 December 2021
54	Chembe	Smallholder Farmer	Individual Interview	20 December 2021
55	Chembe	Smallholder Farmer	Individual Interview	21 December 2021

56	Chembe	Smallholder Farmer	Individual Interview	21 December 2021
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**Appendix
1e: List of
Chembe
FGDs
Timeline**

FGDs 5	Chembe	Smallholder Farmers (Females only)	Focus Group (5 people Males only)	22 December 2021
6	Chembe	Smallholder Farmers (Village head persons)	Focus Group (6 people)	12 January 2022
7	Chembe	Smallholder Farmers (Males only)	Focus Group (5 people females only)	22 December 2021
8	Chembe	Smallholder Farmers (Males and Females)	Focus Group (6 people)	12 January 2022

APPENDIX 2: KEY INFORMANT INTERVIEWS GUIDE

No	Section	Questions
<p>1.</p> <p>2.</p>	<p>General Information on land reforms and current land tenure system</p> <p><u>To also focus on the following:</u></p> <p>1.Rights of access</p> <p>2 Rights of exclusion</p> <p>3 Rights of withdrawal</p> <p>4 Rights of management</p> <p>5 Rights of alienation</p>	<p>Are you aware of the Zambian land reforms that were introduced in 1995 through the Lands Act of 1995?</p> <p>If yes, what do you consider as major changes or reforms that were introduced by the Lands Act of 1995?</p> <p>How different are these reforms from what the country had before 1995?</p> <hr/> <p>Is there anything good about the current land tenure system? What is bad about it if any?</p> <hr/> <p>Have the land reforms that came with the 1995 Lands Act affected agriculture production in your area/district in any way?</p> <p>If yes, in which way? Please explain.....</p> <p>What about the general livelihoods of rural households in customary areas, how have they been affected or impacted by these land reforms?</p> <p>What specific elements of smallholder farming/ production (e.g., land size under cultivation, crop yield, type of crops etc) and community livelihoods have been negatively impacted by liberalised land reforms in customary areas?</p> <p>Which social groups are the most negatively impacted by these liberalised land reforms? And how exactly have these social groups, particularly marginalised social groups such as youths,</p> <hr/>

	<p>Socio-economic opportunities, challenges, and constraints</p>	<p>people living with disabilities, elderly and female headed households been affected?</p> <p>What socio-economic opportunities have the liberalised land reforms presented to smallholder farmers. Local and foreign investors in customary areas?</p> <p>What is the potential of the agriculture sector in your district/chiefdom? Which crops are mainly grown (by large-scale investors/by small holders)? Are these generally for food?</p> <p>What are some of the challenges, problems and constraints that have been introduced by the 1995 Lands Act?</p> <p>How can these challenges or problems be resolved?</p> <p>What type of land is targeted by investors in your Chiefdom/District (state land or customary land)? What reasons are advanced for the preferred land type?</p> <p>Have there been disputes about land reforms in the last decade in your area/district? What were the main conflicting parties' positions? How ere the conflicts resolved?</p> <p>Are you aware of land disputes, between investor and local population? If yes, what conflicts exist, and which measures are undertaken to resolve these conflicts? Who is acting? Who is arbitrating? What is the government's role?</p> <p>Are there any land use practices that have been introduced by large-scale investors or smallholder farmers that negatively impact on smallholder production in customary areas in your district/ Chiefdom? If yes, which land use practices are these? And how exactly are they negatively affecting smallholder agriculture production and rural livelihoods?</p> <hr/>
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		<p>What policy and legislative changes are required to minimise the impacts of the liberalised land reforms on smallholder agriculture production and rural livelihoods in customary areas?</p> <p>What other policy and legal reforms are required to address the challenges and constraints brought about liberalised land reforms mentioned above?</p> <p>What other policy and legal reforms are required to address</p> <p>How do you think agriculture can be an engine to increase the economic prosperity of families and communities?</p>
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APPENDIX 3: A SAMPLE OF THE QUESTIONNAIRE FOR HOUSEHOLDS

Questionnaire for Households

Introduction

The role of land governance in improving tenure security in Zambia: to the enhancement of sustainable livelihoods for the rural poor and marginalised households through land tenure security and agriculture development in Zambia. *The study utilises small-scale farmers to assess the impact of land reform and household level or project level and more significantly on the impact of land reform on agricultural production and local economies in Zambia*

Dear Respondent,

The sole purpose of this interview is to obtain data on different land tenure conditions, land use and governance practices that affect farming systems organisation and performance of rural small scale farmers in Zambia (To obtain data on the role of land governance to improving tenure security in Zambia with specific focus on contemporary land administration which has four functions: land tenure , land value , land use and land development. For a good and sustainable land administration, all four elements must be integrated with in one land legal framework.

The information collected from this household survey will help to contribute towards land tenure security here and rural agriculture development. For this purpose, we seek to gather information from you about your knowledge, experiences, and views on land administration in this area.

You have been randomly selected to provide certain information through answering the questionnaire since your views are important. The information collected will be strictly confidential. We will not give your name or information to anyone outside the study. With your permission, I would like to ask you a series of questions. May I start now?

A	Questionnaire No.								
B	Interviewer's names:								
C	Contact phone number:								
D	Date of Interview	D	D	M	M	2	0	2	1
Site information									

District	Name:	Code:			
Constituency	Name:	Code:			
Ward	Name:	Code:			
Village	Name:	Code:			
Chiefdom	Name:	Code:			

Identification information									
Name of Head of household									
Name of respondent									
Type of Household	<table> <tr> <td>Male 1</td> <td>Headed</td> </tr> <tr> <td>Female 2</td> <td>headed</td> </tr> <tr> <td>Child 3</td> <td>headed</td> </tr> <tr> <td>Elderly headed (head of household is 65 years or more) 4</td> <td></td> </tr> </table>	Male 1	Headed	Female 2	headed	Child 3	headed	Elderly headed (head of household is 65 years or more) 4	
Male 1	Headed								
Female 2	headed								
Child 3	headed								
Elderly headed (head of household is 65 years or more) 4									

DEMOGRAPHICS		
Question	Codes/Instructions	Responses
1. Age of respondent	1. Below 15 years 2. Between 16-25 years 3. Between 26-30 years 4. Between 31-35 years 5. Between 36- 40 years 6. Between 41-45 years 7. Between 46-50 years 8. Above 50 years	
2. Gender of respondent	1. Male 2. Female	
3. Educational Level of respondent	1. never been to school 2. primary education 3. secondary education 4. college education 5. university education 6. other specify	

4. Current marital status of Respondent	1. Never married 2. Monogamously married 3. Polygamous marriage 4. Living together 5. Separated 6. Divorced 7. Widowed	
5. Source of income/livelihood	Farming Fishing Business Other:	
6. What is the size of your household?		
7. Education status of HHH's children and dependents?	No who have completed Grade 12..... No. who have completed Grade 9..... No. who are below Grade 9	

8. How many pieces of land do you own/use?

	Size (Ha):	Type: Customary:..... .1 Stateland..... 2	Use: 1. Agriculture: (ha under use) 2. Energy source (firewood, charcoal 3. Burial 4. Source of food (fruits, mushroom) 5. Communal grazing 6. Economic activities 7. Home building 8. Others 9. Don't Know	Do you have land ownership papers to the land? 1. Yes 2. No
Plot/Land 1				

Note: four Limas make an acre

9. Are the plots/pieces of land that you own/use adequate for your current needs?

Yes	1	No	2
-----	---	----	---

10. If not, how much more land do you need?

Additional size of land needed	Tick
Less than 1 hectare	
Between 1-2 hectares	
More than 2 hectares	

Land Acquisition and Ownership

11. How do you acquire land in your areas? (If answer is 'K' proceed to 8)

	<i>Please tick appropriate response</i>	Do you own the land? Yes ...1 NO...2
1	Through buying from individuals	
2	Through applying to the Chief	
3	Through free allocation by the Head person	
4	Through buying from traditional leaders	
5	Through application to the Council	
6	Through male members of the family	
7	Through inheritance from relatives	
8	Through established village committees	
9	Rent	
10	Others	
11	Don't Know	

12. If land is state land, which of the following expenses did you incur in addition to the price of land?

1 = Demarcation/ surveying fees.....

2 = Legal fees

3 = Estate agent fees

4 = Government taxes.....

5 = Service charges

6 = None of the above

7 = Other fees (specify.....)

13. If land is customary land, list the additional payments you made on top of the purchase price or cost of acquiring the land?

Description of payment *Amount*

(ZMW)

1.....

.....

2.....

.....

3.....

.....

14. At the time of acquiring land, what challenges did you face? Please explain.....

.....

.....

.....

15. Where did you get information about procedures of acquiring land?

Information Provider	Type of information	Provider of information (use codes in column 1)
1. Zambia Land Alliance/ District Land Alliance	Procedures of getting customary land	
2. NSAs/CBOs		
3. Government	Procedures for	

4. Field day	getting Title Deed to land	
5. Ward Councillor		
6. Traditional Leaders		
7. Community Meeting		
8. TV		
9. Radio		
10. Newspaper		
11. Posters/Brochures/Bill board		
12. Other specify		

16. Are any of the plots above jointly owned by husband and wife?

Yes1

No2

17. Who do you jointly own these parcels of land with?

	If Yes between whom		If NO, explain	
a.	Spouses		Women own land through male relatives	
b.	Children and parents		Women are regarded as having no means to utilise the land	
c.	Male parent and children		Men take good care of women's land needs	
d.	Female parents and children		The customs and practices forbid them	
e.	Female parent and the spouse's family		Women who own land are perceived not to be loyal to their family male members	
f.	All of the above		Women never bother about land ownership as long as they can access it	
g.	Other (explain)		Other (explain)	
h.	Don't know		Don't know	

18. What type of documentation or paper do you have for your land?

1.	Consent letter	
2.	Letter of offer from state	
3.	Title deed	
4.	14 year lease	
5.	Village register	

6.	Letter from chief/ headman	
7.	Customary/ Traditional land certificate	
8.	Others	
9.	Don't Know	

19. Do you face any challenges in acquiring land in your area?

Yes	1	No	2
-----	---	----	---

20. If **YES**, what challenges do you face?

	Challenge	Which of these challenges particularly affect women (Please tick)
1.		
2.		
3.		
4.		
5.		
7.		
8.		

Connection to land and agriculture

21. What is the **main crop** (with the highest hectareage) that you cultivated in the previous season?

	Main crop grown	Hectares	Harvest (in Kgs)	Qty Sold	Price (per 50Kg bag)
	Maize				
	Soyabeans				
	Beans				
	Ground nuts				
	Sunflower				
	Cassava				
	Rice				
	Millet				
	Other please specify				

22. What was the second major crop (with the second highest hectareage) did you grow in the last season?

Type of Crop	Second main crop Grown	Hectares	Harvest (In Kgs)	Qty Sold	Price (per 50Kg bag)
Maize					
Soyabeans					
Beans					
Ground nuts					
Sunflower					
Cassava					
Rice					
Millet					
Please specify					

23. What was the third major crop (with the third highest hectarage) did you grow in the last season?

Type of Crop	Second main crop Grown	Hectares	Qty Sold (in Kgs)	Price (per 50kg Bag)
Maize				
Soyabeans				
Beans				
Ground nuts				
Sunflower				
Cassava				
Rice				
Millet				
Please specify				

24. What is the main type of livestock do you keep?

Type of livestock	Tick applicable	Number of livestock	Purpose of keeping livestock 1. Consumption 2. Income 3. both consumption and income 4. Prestige	Number sold last year	Price (Unit price)
Cattle					
Goats					
Pigs					
Poultry (chickens, ducks, doves,					

quails etc)					
Fish					
Other please specify					

Knowledge of land tenure, governance systems and reforms

25. Do you know of any policies and/or laws governing land administration in Zambia?

Yes	1	No	2
-----	---	----	---

26. If yes, which policies/laws do you know?

.....

Are you aware of the Zambian land reforms that were introduced in 1995 through the Lands Act of 1995?

Yes1 No..... 2

27. If yes, what do you consider as major changes or reforms that were introduced by the Lands Act of 1995?

.....

28. Is the way land is administered in your now different from the way it was administered in the second republic?

Yes1 No2

29. If yes, what are the differences?

.....

30. Is the way land is administered nowadays compared to the past affected your farming and other livelihoods activities in any way?

Yes1

No.....2

31. If yes, which of the following aspects of your farming activities have been affected or changed due to the introduction of the new land law of 1995?:

<i>31 (a) Number of households involved in farming</i>	<i>Tick</i>
Increased number of households involved or investing in farming?	1
Decreased number of households involved or investing in farming?	2
No change has taken place	3

<i>31(b) Number of non-local investors seeking land for farming?</i>	<i>Tick</i>
Increased number of investors from outside the community seeking land for farming	1
Decreased number of investors from outside the community seeking land for farming	2
No change in the number of investors from outside looking for farming land	3

<i>31(c) Livestock production</i>	<i>Tick</i>
Increased livestock production	1
Decreased livestock production	2
No change in livestock production	3

<i>31 (d) Harvests/ Crop yields</i>	<i>Tick</i>
Increased crop harvests/yields	1
Decreased crop harvest/yields	2
No change in the crop harvests/yields	3

<i>31 (e) Land size under cultivation by farming households</i>	<i>Tick</i>
Increased or expanded land size under cultivation by households	1
Reduced land under cultivation by households	2
No change in the size of land cultivated by households	3

<i>31 (f) Introduction of crop varieties</i>	<i>Tick</i>
Introduction of new improved crop varieties	1
Increased planting of new crops	2
No change in the type of crops grown	3

<i>31 (g) Sustainable land-use Practices</i>	<i>Tick</i>
Increased adoption of sustainable land use practices by smallholder farmers	1
Decreased use of sustainable land use practices by smallholder farmers	2
No change in sustainable land-use practices	3

<i>31 (h) Agriculture Markets</i>	<i>Tick</i>
Improved access to agriculture markets	1
Decreased access to agriculture markets	2
No change in access to agriculture markets	3

<i>31 (i) Profitability of farming business</i>	<i>Tick</i>
Increased profitability of farming	1
Decreased profitability of farming	2
No change in the profitability of farming	3

<i>31 (j) Land Disputes</i>	<i>Tick</i>
Increased number of land disputes in the area	1
Decreased number of land disputes in the area	2
No change in the number of land disputes in the area	3

<i>31 (j) Land Disposessions/Land grabs/ Displacements for farming</i>	<i>Tick</i>
Increased land grabs/disposessions for farming	1
Decreased land grabs/disposessions/displacement for farming	2
No change in the number of land grabs/disposessions/displacement for farming	3

32. Is your household restricted or excluded or affected in any way from accessing the following communal resources as a result of land reforms or changes in the way land is managed in your chiefdom?

	Indicate YES or NO where applicable
1. Access to trees and non-timber forest products	
2. Access to water	
3. Access to communal grazing land	
4. Access to land in protected areas	

33. What should be done to minimise the impacts of land reforms/changes on your farming and livelihood activities?

.....
.....
.....

Land Disputes and Conflicts

34. Is your household affected by any land disputes in this area?

Yes	1	No	2
-----	---	----	---

35. If yes, which land dispute affects or involves your household? If No skip question and proceed to Q36

	Response	Tick	Which of these affect women the most?
a.	Land inheritance among relatives		
b.	Land ownership following death of spouse		
c.	Downsizing the land following death of spouse		
d.	Land ownership/ boundary with new settlers		
e.	Land boundary conflict		
f.	Double allocation (allocation of same piece of land to another household)		
g.	Unequal allocation of land		
h.	Payment related		
i.	Land use		
j.	Displacements by local investors		
k.	Displacements by foreign investors		
l.	Exclusion from accessing common resources i.e. grazing land, water front etc		

36. If you have a land dispute, how was it/or is it being resolved?

37. What system is commonly used to resolve land disputes in this community?

	Response	Tick
a.	Dialogue between two parties involved	
b.	Through family dialogue	
c.	Intervention of the headpersons	
d.	Through the village committee	
e.	Through the chief	
f.	Through traditional courts	
g.	Through local courts	
h.	Police	
i.	Independent arbitrators / NGOs, churches	
j.	Through Paralegals	
k.	Other (specify)	
l.	Don't know	

38. What do you think should be done to strengthen land tenure security in your area?

39. What do you think should be done to strengthen small scale farmers land rights in your area?

		YES	NO
a.	Formation of women's clubs/association		
b.	Awareness and sensitisation		
c.	Literacy campaigns		
d.	Support from traditional leaders		
e.	Support from male		
f.	Change of negative cultural norms, beliefs and practices		
g.	Capacity building in women to make them claim their own rights		
h.	Involvement of women in decision-making		
I	Others		

40. Is there anything you want to say in the above discussion? (You may say it now)

.....
.....
.....
.....
.....

Can you suggest any other people who might be interested in participating in the study?

Thank you very much for your time.

APPENDIX 4: ENGLISH TRANSLATION CHECKLIST – FOCUS GROUP INTERVIEW GUIDE

- 1) What are the main livelihood sources in your area? Are there differences in the livelihood sources for men, women, youths, elderly and people living with disabilities? If yes, what are the differences?
- 2) What are the major crops grown in the area? How are the production levels for the major crops nowadays compared to the olden days in the second republic? What could be the explanation if there are any changes or differences in the farming activities now compared to the olden days in the second republic?
- 3) Are you aware of the Zambian land reforms that were introduced in 1995 through the Lands Act of 1995? Is there anything good about the current land tenure system? What is bad about it if any?
- 4) If yes, since the new Land Law was introduced in 1995, are there any changes that you observed regarding how land is managed in your chiefdom?
- 5) If yes, which changes did you observe in the way land is managed in your chiefdom? or changes or reforms that were introduced by the Lands Act of 1995?
- 6) How different are these changes from the way land was managed in the second Republic before the introduction of multiparty democracy in 1991?
- 7) How are the changes you observed affected farmers or farming activities in your area? In terms of land ownership? Land use? And Local land governance or management?
- 8) What about other sources of livelihoods for the people in your area how have these been affected by the change in the land laws that we now have in the country compared to the olden days in the second republic?
- 9) Have there been any changes following the introduction of the new land law of 1995 in your area?
 - Number of households involved or investing in farming?
 - The number of non-local investors seeking land for farming?

- Agriculture production (volume of crops and livestock produced)?
- Harvests/ Crop yields?
- Land size under cultivation by farming households?
- Introduction of new crops?
- Profitability of farming business?
- Other changes? Please mention.

10) Which social groups are the most negatively impacted by these liberalised land reforms? And how exactly have these social groups, particularly marginalised social groups such as youths, people living with disabilities, elderly and female-headed households been affected?

11) What socio-economic opportunities have the liberalised land reforms presented to smallholder farmers, local and foreign investors in customary areas?

12) What are some of the challenges, problems and constraints that have been introduced by the 1995 Lands Act to farming households in your area?

13) How can these challenges or problems be resolved?

14) Have there been disputes about land reforms in the last decade in your area? What were the main conflicting parties' positions? How are the conflicts resolved?

15) Are there any land disputes, between your community and local or foreign investors? If yes, what conflicts exist, and which measures have been undertaken to resolve these conflicts? Who is acting? Who is arbitrating? What is the government's role?

16) Are there any land use practices that have been introduced by large-scale investors or smallholder farmers that negatively impact smallholder production in customary areas in your Chiefdom? If yes, which land use practices are these? And how exactly are they negatively affecting smallholder agriculture production and rural livelihoods?

- 17) What policy and legislative changes are required to minimise the impacts of the new land policies and laws on smallholder agriculture production and rural livelihoods in customary areas?
- 18) What other policy and legal reforms are required to address the challenges and constraints brought about by liberalised land reforms mentioned above?
- 19) How do you think agriculture can be an engine to increase the economic prosperity of families and communities?

Appendix 5, Copy of informed English Translation of the Consent Form for Survey participants in the Study.

**STUDY ON LAND TENURE AND THE IMPACT OF LAND REFORMS ON
RURAL PEOPLES LIVELIHOODS IN ZAMBIA**

**CONSENT FORM
FOR
for Participant in the study**

I have been invited to participate in a study to obtain data on different land tenure conditions, land use and governance practices that affect farming systems organisation and performance of rural small-scale farmers in Zambia.

Balinsala kusendamo ulubali muli aya amasambililo pakusanga ifinshinka pamulandu wa mushili ukulingana nefyo umushli ufwile wabofyeshewa napabutali bwanshita eyo umushili winga sungwa na pamibofyeshe ya mushili ku buteko eflyo icita kuciputulwa cabulimi ne mibombele ya balimi abanono ba mu minshi mucalo ca Zambia.

I have been selected to participate because I am a community member, and a small-scale farmer Participation will consist of answering a questionnaire that will last approximately 45 minutes to complete. I understand that participation in this interview is completely voluntary and no payment will be provided. I have read the information about this study, or it has been read to me. I have had the opportunity to ask questions and any questions I have asked to have been answered to my satisfaction. I voluntarily **consent** to be a participant in this study, and I understand that I can stop at any time or chose not to answer any questions.

Balinsala ukukwatamo ulubali pantu naine ndi mulimi munono kabili ndi wamumunshi muno mwine. Ukusendamo ulubali mukwasuka ama epusho aya kwalasendako inshita iyala kkumana 45 minutes pakuti tupwishe. Ndesuminisha ukuti ukusenda mo ulubali mu meepusho aya kwaku ipelesha fye kabilit akuli amalipilo aili yonse ayakabako. Ninsoma pa lwa masambililo aya,nangula nabambelengela. Nakwata nenshita yakwipusha emepusho na mepusho yoonse eyo nachipusha najabasuka busaka mukwai. Eyicho nde ipelesha uku sendamo ulubali muli aya amasambililo kabili ninshinikisha ukuti nikwata insambu yakuleka ukwasuka amepusho inshita iliyonse eyo ntemenwe nangula uku kana asuka ilipusho ili lyonse.

Signature (written or thumb print): _____

Printed name: _____

Date: _____

Please, (with your permission) note that the interviews maybe recorded.

If you agree to recoding sign here as well:.....

A contact for making complaints Contact: researchintergrity@swansea.ac.uk

For field staff only:

I have accurately read out the information sheet to the potential participant, and to the best of my ability made sure that the participant understands the study and what is involved in participation. I confirm that the participant was given an opportunity to ask questions about the study, and all the questions asked by the participant have been answered correctly and to the best of my ability. I confirm that the individual has not been coerced into giving consent, and the consent has been given freely and voluntarily.

Signature of Interviewer: _____

Printed name: _____

Date: _____