

We know no other home than this: land disputes in Zambia

By Mildred Mpundu

Throughout southern Africa customary laws governing land management are coming into conflict with modern statutory laws that aim to put land on the market. A land dispute in Zambia between a group of villagers and a big sugar company highlights some of the issue, including festering class divisions.

[Lusaka, Zambia - PANOS FEATURES] A tiny southern Zambian village has become the focal point of a conflict which pits the poor against a corporation backed by a government determined to roll out economic liberalisation across the country.

Over 100 families and 17,000 cattle in the village of Kabanje face eviction from their homes and cattle sheds because Zambia Sugar Plc, a private firm, is claiming ownership of the land.

Zambia Sugar says it has to have the land in Kabanje locally known as Farm 1343 because it needs to plant more sugarcane. The locals who have lived on this land for decades are refusing to move, claiming the land belongs to them.

'We know no other home than this. Our parents were born here. We were born here and our children are born here. There is no other home we know. Where are we going to move to?' says Brian Nkandela, a small farmer.

'Strange custody'

Residents of Farm 1343 say they have lived on the land for over 50 years – they were there before Zambia Sugar Plc came into existence in the late 1960s.

'Our Malende (ancestral shrines) and the graves of our families are all here. How do we vacate and leave the remains of our forefathers in strange custody?' said one 60 year-old man.

Things are turning ugly. Late last year, some residents of Kabanje took the law into their own hands and burnt down sugarcane fields owned by Zambia Sugar. A few months ago, some local traditional leaders were arrested and taken to court for refusing to obey an eviction order.

Land conflicts such as those in Kabanje are occurring all over Zambia, highlighting increasing tensions between customary and private land rights. These conflicts have been sharpened by the process of economic reform, including the liberalisation of land markets, which has seen wealthy Zambians and foreign investors buying up land previously held under customary tenancy by the rural poor.

Some 80 per cent of Zambians, mostly in rural areas, live in absolute poverty, earning a dollar or less a day.

The sugar company

Kabanje lies in Mazabuka district, home to Zambia's sugar industry and situated 130km south of the capital Lusaka. The district's rivers, fertile soil and rich vegetation made it the perfect place for colonial farmers to settle in over 100 years ago.

Mazabuka's economy is dominated by Zambia Sugar, whose export markets include not only southern Africa and the European Union. The company has created thousands of jobs in the district and says it needs more land to meet European demand for sugar.

The company says it has had the title deeds to Farm 1343 since 1973 and wants to evict the 'settlers' on a court order issued in 2000.

Residents of Farm 1343 say it is unfair to ask them to move without providing alternative land, but no-one is talking of compensation.

At the heart of the Kabanje dispute lies Zambia's Land Act of 1995, a controversial piece of legislation which sought to roll back decades of socialist land laws and free up the land market in a bid to increase productivity and attract domestic and foreign investments.

'Donor-driven' land law

According to the academic Taylor Brown of the UK-based IDL group of international development consultants, these reforms were demanded by international donors as a condition for debt relief.

The Act's main provision was that land could now be bought and sold on the open market. It also eased restrictions on foreigners buying up land and allowed both Zambian and foreign investors to acquire private titles to previously customary land by converting it to leasehold land.

In line with old colonial land policy, Zambia and many other countries have two types of land tenure - private and customary.

Private land in Zambia is concentrated in and near cities, in valuable and productive farming and copper mining areas. These are previously state-owned lands that have been bought up privately.

Customary land where titles do not exist comprises the majority of land in Zambia (around 90 per cent by some estimates). The allocation and use of these lands are administered by local chiefs and headmen on behalf of tribal communities.

'Most contentious land disputes involve people who have no money to cultivate their land and can't feed their families. The problem is that people with money take over huge areas of land, leaving little for the poor, who sometimes end up squatting on the land,' says a representative from the Copperbelt Land Rights Centre (CLRC), which offers advice to people involved in land disputes in the Copperbelt region.

'As an NGO we want people to have a say in land issues. Everywhere people are complaining about foreign investors or rich Zambians grabbing land,' he said.

Role of chiefs and traditional leaders

The problem was acknowledged by the Constitutional Review Commission (CRC) set up in 2002 to gather institutional and individual views on various aspects of Zambia's constitution.

The CRC says some foreign investors are using Zambians as 'fronts' in order to obtain land title deeds, adding that chiefs and traditional leaders have been 'blown offside as regards whom land is vested in.'

One factor responsible for the current proliferation of land disputes is that the Zambian government did not consult people or heed widespread protests before enacting the law.

Henry Machina of the Zambia Land Alliance, an NGO that has been spearheading the struggle for land rights of the poor, says the draft of the controversial Land Act presented to the public in 1993 was "imposed on the people."

'Parliament, traditional leaders, NGOs and the general public rejected this Bill. They argued that once turned into law, the law would not serve the interests of the local people. But the government took the same Bill to parliament through the back door and passed it in 1995,' Machina says.

When the Bill was finally tabled in parliament in 1995, the government was so nervous about its fate, it threatened to expel any ruling party MP who voted against it.

Local chiefs have become powerful players in most land disputes. In Kabanje, for instance, Chief Mwanachingwala has been reported by the national press to have supported the evictions, even saying he will not consider granting

alternative land to those were not “humble” before him.

‘There are cases throughout Zambia in which chiefs and councils have granted approval for local and outside investors to acquire already-occupied land,’ says Brown, while in some cases this may be due to an oversight. ‘In other cases, chiefs and government officials have allocated land knowing full well that it was already occupied.’

This is often the case with large-scale commercial investments in which it is believed the economic benefits will outweigh any human cost of relocation or when authorities have an economic or political stake in the project.

Favouring the rich?

Zambia’s Commission of Enquiry on Lands headed by Justice Ernest Sakala has said the reason for the shortage of land for small farmers is related to the fact that large commercial farms cover 25 per cent (or 153,000 hectares) of customary land in Mazabuka district.

More than a decade on from the 1995 Act, it is not uncommon to hear the view that the Zambian government seems to favour the rich. More and more rural families are being evicted from their land, while traditional chiefs offer land to investors not only from Zambia, but also South Africa, Zimbabwe and elsewhere.

A research paper by the Catholic Commission for Justice and Peace (CCJP) in 2003 says that the 1995 Act favours ‘the rich and informed.’

It says ‘Many small-scale farmers are forced to rent land from landlords. Others are utilising small pieces of land insufficient to feed their families.’ Yet others ‘struggle to make a living on arid and infertile soils.’

Henry Machina of the Zambia Land Alliance says that customary land has been given a subordinate position in relation to private land.

‘Which law is superior?’ he asks ‘The one that recognises someone who has been there a long time, or the one that recognises the person with a piece of paper?’

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RESEARCH LINKS

- [Dr Taylor Brown, IDL group](#) | T +44 (0) 1934 864 264
- [Zambia Land Alliance](#)