

UN-HABITAT:

Zambia - Overview of the current Housing Rights situation and related activities

1) Background and normative/institutional framework for the promotion and protection of housing rights: constitution, legislation, policy measures, national jurisprudence, housing rights institutional arrangement (e.g. national housing rights institutions)

Constitution: Zambia ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1984 and submitted its Initial Report during the 34th Session of CESCR (April/May 2005). However, Economic, Social and Cultural (ESC) rights in the current Zambian Constitution are not specifically mentioned in the Bill of Rights, which contains fundamental rights and freedoms of an individual. They are only covered as “Directive Principles of State Policy,” where the government should endeavour to provide, *inter alia*, clean and safe water, equitable educational opportunities in all fields and at all levels; adequate medical and health facilities; decent shelter for all persons; and development of a person’s culture, tradition, custom or language that is not inconsistent with the Constitution (article 112). The Fifth National Development Plan (2006-2011) which outlines the framework of national development covers ESC rights only as policy directives. The issue of ESC rights has taken central stage in the current constitutional review process in the country. There are two major camps. The first one is led by Government which believes that Zambia cannot afford a situation where the constitution specifically entrenches rights on social issues such as housing and education and that the constitution should solely concentrate on basic legal and human rights in a country where poverty is endemic.¹ The other camp led by the civil society and some political opposition parties have come out strongly in favour of inclusion of ESC rights arguing for the need to have a clear language about ESC rights in the Bill of Rights to legally compel government to realise these rights for its citizens. They argue that because the current Constitution does not include the full range of rights, Government has not lived up to the commitment of honouring basic rights such as adequate housing, adequate food, health services, education, clean water and sanitation, etc., which have become non-constitutional priorities.

Legislation: The **Housing (Statutory and Improvement Areas) Act Chapter 194** of the Laws of Zambia provides for the control and improvement of housing in Statutory Housing Areas (i.e. legalised unplanned settlements). To secure land tenure, the Act provides for the issuance of certificates of title and occupancy licences. This has been a major turning point in the recognition of informal settlements in Zambia as it provides for unplanned settlements to be legalised, whereas previously the only official policy was demolition. Under the Act, local councils are responsible for identifying which settlements should be legalised, subsequently submitting documentation to the Ministry of Local Government and Housing for approval. The **Lands Acquisition Act Chapter 189** of the Laws of Zambia was enacted in 1970 to enable the compulsory acquisition of land by the President, in the public interest. **The Town and Country Planning Act (Chapter 475 Revised Chapter 283)** provides a framework for planning, grant of planning permission and control of development in the main cities and towns in the country.

Policy: Zambia’s National Housing Policy was produced by the Ministry of Local Government and Housing in 1996. It was envisaged as providing a “comprehensive assessment of the housing situation in the country” and “a vision for the development of adequate affordable housing for all income groups in the country” (GoZ, 1996, p.iii). The policy does, indeed, appear to give an impressive priority to housing development by recommending that 15% of the total national budget each year be allocated to housing. The Policy further provides for making serviced land

¹ The Republican President claims that “if these rights are enshrined in the new constitution, no government is going survive. Presidents will be impeached for failure to provide employment, housing, education and food because that will be breaching the constitution”.

available for housing development and streamlining the land allocation system; streamlining building standards, regulations, and other controls to meet the needs and capabilities of various segments of the population; encouraging the production and use of local and affordable building materials; helping the poor acquire decent shelter through alleviation of affordability problems; fostering housing areas that are functional, healthy, aesthetically pleasant, and environmentally friendly; and preparing a national housing implementation strategy.

The main national government ministry working in the area of housing and settlements development and infrastructure provision is the **Ministry of Local Government and Housing**. Within the Ministry, there are the Department of Physical Planning and Housing and the Department of Infrastructure and Social Services. In terms of housing, the role of the Ministry is mainly that of policy setting and supervision, with planning and regulation of actual development at city level being the responsibility of local authorities. In terms of water and sanitation, local authorities, under the supervision of the Ministry of Local Government and Housing, are responsible for actual water supply and sanitation. There is further delegation of responsibility at local authority level, with private water utility companies undertaking the business of water supply and sanitation.

There are no national housing rights institutions. However, civil society organisations such as the **Internally Displaced Peoples' Voice (Zambia)** has been actively involved in promoting housing rights for vulnerable groups, such as victims of urban demolitions, women and children. The **Zambia Land Alliance**, a non-governmental organisation that deals with land issues, has been championing the development of a pro-poor land policy and has called for the review of the **Lands Act of 1995** which the Alliance considers as too narrow and containing a lot of loopholes that allow for abuse of office by public officers. The Alliance has also called for long-term changes in the administration of land in the country.

The **Draft Land Policy** emphasises addressing the problems associated with the land delivery system in Zambia in order to ensure equitable access to land resources and promote national development. The Policy seeks to redress the gender imbalances and other forms of discrimination in land tenure by providing an enabling environment for women, people with special needs and all disadvantaged groups to own land. The overall objectives of the land policy are to (a) recognise and promote the people's right of access to land and provide land information for the country's social economic development; and (b) improve land delivery. The policy is, however, still in draft form.

The dual legal system: According to the Zambian Constitution, land for housing and other development can be acquired through customary or statute law. Under the **statute law**, Zambians can apply to the Ministry of Land for state land for lease. The process is characterized by several administrative requirements that lower possibilities of vulnerable groups, such as women, in accessing state land. These requirements range from providing proof of capacity to develop land (in this case, the proof is given by a bank statement indicating the amount of money in the bank) to filling in technical information on application forms which illiterate women are not able to provide. Under the **customary law**, Zambians can apply for land for housing and other development to the traditional authority in the area that will give the land for individual use for a limited period of time or for indefinite use. Customary laws are inherently discriminatory against women and have several conditions that make access possible only through a male relative. As a matter of fact, women are often perceived as property belonging to someone and therefore cannot own property themselves.

2) Promotion and protection of housing rights on the ground: national legislation and voluntary commitments, national housing rights activities, public awareness of housing rights, cooperation with housing rights mechanisms, etc.

- On the ground both the **Housing (Statutory and Improvement Areas) Act** and the **Town and Country Planning Act** have serious impediments to development. The former in its present form prohibits the selling or conveyance of freehold land, the letting of more than one piece or parcel of land to any one person and the letting to any person engaged in the business of buying, selling letting, developing or in any way dealing in immovable property. The latter was enacted before independence when spatial planning needs were very different from today's needs. Consequently, contemporary planning issues such as use of appropriate affordable local building materials, participatory planning approaches, integrated planning methodologies - to mention but a few - are not adequately addressed in the Town and Country Planning Act in its current form.
- Local **planning authorities** tasked with the implementation of the legislation, especially in major cities, are poorly resourced and are unable to meet the challenges of guiding development in an environment of high urbanisation trends. It is envisaged that the on-going review of the two pieces of legislation, supported by Sida, will bring about a transition from the old fashioned master planning which is archaic and rigid, to integrated development planning which takes into account all contemporary planning issues through adequate participation of stakeholders in the planning process.
- The promises of the **National Housing Policy** have, in reality, proved to be empty. Funds for construction have therefore proven, in practice, to be available only via loans, which are often inaccessible to low-income groups due to high interest rates. At present, however, hardly any of these objectives are being achieved. Government has stated that the National Housing Policy would be reviewed and a national housing development strategy developed as soon as the necessary resources were made available.
- The **civil society** organisations only cover a few urban areas where they undertake some activities of promotion of housing rights, for the urban poor. Public awareness of housing rights is generally poor as most people do not understand the laws governing housing development.
- **Demolitions** of unauthorised urban development without adequate notice or compensation are part of a new Government policy affecting mainly the poor in the housing sector. This constitutes the biggest challenge to promotion and protection of housing rights in the country. In March, 2007, the Cabinet of the Zambian Government adopted a new policy to combat illegal land allocation and development. It was resolved that Government would demolish all illegal and unplanned settlements throughout the country. Government announced that it would use whatever means at its disposal to "restore order in the nation". About 250 houses have been demolished this year in accordance with the policy which has received widespread condemnation from affected residents, civil society and political opposition parties. Although Government has stated that it was in the process of upgrading "illegal settlements" and would start by providing basic social services to identified area, it is unlikely that it would mobilise enough resources and political will to effectively undertake the upgrading of unplanned settlements as repeatedly stated for political expediency.

3) Achievements, Best Practices, Challenges and Constraints

3.1. Achievements and Best Practices

- The Zambian National Housing Policy was awarded the 1996 "**HABITAT Scroll of Honour**" by the United Nations Centre for Human Settlements (now UN-HABITAT) in recognition of the participatory and innovative manner in which the Policy was formulated. In particular, the Policy's approach to adequate shelter for all and sustainable human

settlements development which has stressed the importance of community participation has been highly commended. Community based organisations such as residents development committees play a major role in facilitating development and implement development projects and are guided by a Constitution which promotes the improvement of the living environment of the settlement and the livelihood of the residents.

- Councils such as Lusaka City Council have been using **E-Governance** as part of a broader effort to modernize government interaction with citizenry. The aim is to provide better information on developmental matters which cover issues such as housing and service delivery, to promote democratic practices in the running of the Council through public participation and consultation, to increase government transparency in order to reduce corruption and to encourage citizen participation in the decision-making process and local governance.
- Environmental Planning and Management is being implemented by the Sustainable Cities Programme (SCP) through the **Environmental Management Information System (EMIS)** supported by UN-HABITAT. EMIS is an organized, participatory process through which information relevant for environmental management is to be identified, generated and utilized in a routine manner. Before application of EMIS, the cities were unable to effectively map regularised informal settlements for providing secure land tenure at the household level. EMIS has assisted the cities to capture, analyse and store spatial data at an appropriate scale suitable even for numbering of housing structures. Through its systematic and user-friendly way of presenting and analysing information, EMIS has provided a platform for policy makers to make quick informed decisions on developmental issues including housing rights for the urban poor.
- **The People's Process on Housing and Poverty in Zambia** and the **Zambia Homeless and Poor People's Federation** is a partnership between a people's organization and an NGO. The two organisations work in partnership to address the issues of poverty, focusing on homelessness, land tenure security, income and employment as well as health issues. This community-driven partnership emerged at the beginning of 2005 after realization that urban poverty was on the increase. Conventional housing delivery systems within the urban areas have failed the urban poor. Solutions that have been aimed at the urban poor have, due to lack of financial resources, land and an enabling environment meant that the poor are further marginalised. It is in light of this scenario that the People's Process on Housing and Poverty in Zambia and the Zambia Homeless and Poor People's Federation are at the fore-front of working with urban communities in more than eight cities and towns in the country to promote a partnership approach towards addressing urban poverty through community savings, housing development and promoting awareness of housing rights.

3.2. Challenges and Constraints

- Zambia is one of the most urbanized countries in Africa. This situation has brought about **major urban development challenges** such as provision of land and services to an ever-increasing urban population. The country's urban areas are centres of industry, education and culture hosting almost 50% of the country's population. Despite progress in privatization and budgetary reform, Zambia's economic growth remains below the levels necessary to reduce poverty significantly. Some studies indicate that over 70 % of Zambians live in poverty. Per capita annual incomes are currently at about one-half their levels at independence and, at \$395, place the country among the world's poorest nations (UN-Habitat, 2006). Rural areas are under-populated. Unemployment and under-employment are serious problems. In the larger cities, over 70% of people live in informal settlements and peri-urban areas with inadequate access to basic services. Both Government and local authorities are too ill-equipped to manage the challenges of rapid urban growth.

- Zambia has been facing a very **critical shortage of housing** since independence. The lopsided pattern of development between rural and urban areas has resulted in very high rural-urban migration without a corresponding effort to provide appropriate housing in the expanding urban regions. Moreover, until 1996, the country had no housing policy that could guide action in the sector. The availability of adequate housing is an important pre-requisite to national development, as it is a basic social need after food and clothing. Inadequate housing, especially among the urban poor, has severe negative impacts on community well-being and the environment. In 1991, the total national housing stock was estimated at 1,501,898. This increased to 2,311,988 in 2001. This dismal performance is reflected in the current distribution of the total national housing stock which shows that about 80% of the houses are informal and poorly serviced or not serviced at all.
- **Land acquisition procedures** have remained highly centralized and cumbersome. The land tenure system has been riddled with administrative hurdles which deny the majority of the urban dwellers their housing rights. Public institutions tasked with facilitating housing development in the country remain very poorly resourced, highly centralised and ineffective. Laws governing housing development are archaic and inappropriate. Inadequate capacity in institutions, such as the councils, has provided fertile ground for many vices such as corruption, illegal land allocations, illegal development and insecure land tenure. Inadequate capacity by Planning Authorities to monitor and control development due to lack of equipment, adequately trained personnel, or sheer complacency will have to be tackled if the country is to develop adequate shelter for its citizenry. For the rural set-up, some customary practices are highly discriminatory against women and deny them their right to housing and property ownership in general. Over 70% of the urban population in cities live in unplanned settlements without security of tenure.

4) Key national priorities, initiatives and commitments that the country intends to undertake to overcome above challenges and constraints and to improve the housing rights situation on the ground.

- As regards improvement of the housing rights situation on the ground, Government has not come out clearly on this issue. Through the 5th National Development Plan, Government has committed itself to improving the housing situation on the ground through introduction of housing bonds that provide cheap long-term finance for local authorities, obtainable on the capital market in accordance with the vision for the housing sector which is “provision of adequate and affordable housing to the majority of Zambians by 2030”, the goal being “provision of adequate affordable housing for all income groups in Zambia”.
- The Land Policy seeks to redress the gender imbalances and other forms of discrimination in land tenure by providing an enabling environment for women, people with special needs and all disadvantaged groups to own land. The Policy is however, yet to be finalised.

5) Ongoing and planned capacity-building and technical assistance, if any

There are two on-going technical assistance projects namely “**Review of Spatial Planning Legislation**” and “**Building Capacity for Urban Development and Effective Land Tenure Management in Lusaka**”, both supported by Sida. The former has the main objective of improving the living conditions in urban areas, especially for the poor, by enabling them to get legal access to land, security of tenure, and municipal services, supported by a legal framework responsive to contemporary spatial planning, and housing provision challenges. The latter aims at strengthening land tenure security for all residents of Lusaka, including the most vulnerable groups, enhancing the provision of services, infrastructure and investments in peri-urban and conventional areas in Lusaka thereby improving people’s livelihoods. This is to be achieved

through a range of coordinated institutional development activities for Lusaka City Council and community-based organisations as well as other stakeholders.

UN-HABITAT has been supporting the **Sustainable Kitwe Programme** which aims to address environmental and developmental problems facing the city of Kitwe through collaborative efforts and inclusiveness. The Programme aims to contribute to the alleviation of urban poverty through facilitation of local socio-economic development. The main programme objective is to build and strengthen environmental planning and management capacity of the Kitwe City Council and its partners to achieve environmentally sustainable and socially inclusive urban development.