

## ORIGINAL RESEARCH ARTICLE

### WOMEN AND LAND IN ZAMBIA: LEGAL AND CUSTOMARY CHALLENGES TO ACCESS AND CONTROL OVER LAND

#### ABSTRACT

Zambia has a dual land tenure system recognized by the constitution and land policy which govern land in all parts of the Country. The Customary system governs the land under the control of traditional leaders while the statutory tenure system governs all land that is titled. In 2021, just before the general presidential and parliamentary elections, a new land policy was launched in Zambia which has a 50% provision of land to all women. The new land policy aims at gender equality in land ownership in line with the SADC and AU protocols. This policy has a gender component that deals specifically with the requirement of allocating land to women, the youth and disabled people. Even under statutory land, gender inequalities still remain minimally challenged same despite policy pronouncements which are rarely transformed into political actions intended to deal with gender inequalities in land ownership which is a serious problem among poor women in all the ten provinces. In all these provinces, women are the minority in terms of land ownership in both urban and rural communities. This situation is compounded by the high poverty levels and illiteracy among both urban and rural women. Provisions of gender equity measures in policies are important steps towards gender equality and should be encouraged all the time and policy reviews should equally take on board emerging issues from time to time. However, the current situation in the country of formulating policies with gender inclusive measures seems to be an end itself because policies are not accompanied by practical programmes aimed at dealing with gender inequalities in different locations and remote communities where the customary tenure system remains unchallenged. Government interventions through land policies have achieved some gains but more would have been achieved if deliberate programmes were instituted on land redistribution especially on statutory land to ensure that the disadvantaged groups even among women benefit from policy changes. The dual land tenure system has allowed the traditional leaders who in their majority are still engrossed in gendered traditional practices and customs which reproduce and perpetuate gender inequalities in all the ten provinces.

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**Key terms:** Customary Tenure System, Patriarchy, Gender Inequalities.

## Introduction

Zambia is a land locked southern Africa surrounded by eight neighbouring countries. It has a population of around 13.1 million people [1] and has covers a land area of 752,612 square kilometres. One of the greatest and abundant resources the country is endowed with apart from minerals is arable land and abundant water bodies. It is one of the geographical facts that 40% of water in Southern Africa is found in Zambia. However, with abundant minerals, water and arable land, Zambia is one of the poorest countries in the world and in Southern Africa. Internally there are wide gender gaps in the ownership of fundamental resources within the country which for many generations have been disproportionately controlled by men in both urban and rural areas [2].

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The land sector is one of the many sectors in the country that is characterised by wide gender disparities. Social, economic, cultural, demographic and political factors have since time immemorial worked to disadvantage women as both owners and users of land particularly agricultural land. Literature reveals that throughout Africa the vast majority of poor women (most of whom depend on land for sustenance) are either landless or have limited and insecure rights to land. This reality has important consequences for sustainable social economic development of the continent [3]. This statement is reality to many women in Zambia in different provinces in both urban and rural areas who do not have direct control over or ownership of land despite the fact that the land mass available is massive compared to the size of the population in the country.

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The purpose of this article is to demonstrate that the post-colonial gender discriminatory practices have permeated the policy frameworks, legal frameworks and traditional social norms and practices and continue producing efforts which seemingly look like solutions to the problem of women's access to and control over land but are in reality the conduits of gender discrimination in land control in the Zambian society. The fundamental issue the article attempts to show is the fact that the government policies, government programmes, customary practices and legislation transfer gender discrimination though seemingly with intention to

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provide equal ownership of land to both men and women in either rural or urban areas. This situation cuts across agricultural land in rural areas, business land or commercial land and residential land. In all these three categories of land , the women have been minority participants or beneficiaries as far as land ownership is concerned in the whole country [4].

In this article customary land will refer to land that is still in the hands of traditional leaders or is still under the control of traditional leaders such as chiefs; statutory land will refer to land under the control of the state; access to will refer to the use of a resource without having control over or ownership of that resource; while control over will be used to mean ownership of a resource.

### **Customary land tenure and the situation of women in the colonial period**

This section focuses on selected cases of land ownership particularly during the pre-colonial and colonial periods. The section focuses on southern, western and central provinces in the country as case examples of what transpired in most of the communities in Zambia during the pre-colonial and colonial periods as far as land ownership is concerned.

Many researchers have reported that during the colonial period, the position of women in agriculture was undermined. The introduction of the plough and cash crops led to a situation where men increasingly controlled implements and income resulting from the sale of such cash crops although women's labor had been expended to cultivate the husband's field. The implication of this observation or finding is that in the pre-colonial period women had both access and control over the resources such as land and there was not much **disparityin** the control or ownership of the proceeds of agriculture principally because of the absence of a market economy. Therefore, the aspect of exploitation of women's labour and lack of control over land were not as manifest as was the situation with the introduction of advanced agricultural implements which produced surplus food for sale [5].

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Further, research during the colonial period **indicate** that the development of extractive industries such as mining, introduction of land markets and large scale agriculture, biofuel plantations and tourism displaced **and** are displacing people in large numbers. Many of these are women and children and **have** no hope of living a dignified life [3].

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The literature on women and land tenure seems to emphasize the point that in many ethnic groups, African customary law made provision for women to have rights to land particularly in the pre-colonial period, although this might not have been the case in the colonial period. Kelly et al. [5] argue that under the traditional systems in many Zambian ethnic groups such as the

matrilineal Bemba of Northern province, the valley Tongas of Southern Province and the Lozi of Western Province, both men and women had access to land and had considerable control over productive resources such as land. The abundance of land and the small size of agricultural activities and the small population size made it easier for communities to share land without difficulties in Zambia [4].

**Southern Province:** In Southern Province in Zambia, further research revealed that although Tonga women were allocated land by their husbands, they also had plots of alluvial soils given to them by kin or inherited from relatives. These women controlled these pieces of land and passed the on to their daughters or other heirs [5]. This is depiction of the egalitarian principles that governed the rural society in the pre-colonial period.

Further, Conroy [6] pointed out that Tonga women could own rights in property, both in land and cattle. It was customary for each wife in the household to cultivate her separate garden apart from the main garden that belonged to the husband. With increasing production for the market, the food for the household was taken from the women's gardens while the main garden produced cash crops for sale. The wife also owned an extension of the main garden where she planted groundnuts, beans and maize. A grown but unmarried woman was also given land by either her mother or father. Some women lived with their sister's husband were also given land. In all those situations the women had the same rights in their gardens as men.

Gender inequalities in land ownership during the colonial period in Southern Province could be said to have been dictated by the desire to control money by men from the sale of their crops which women never controlled. It should be pointed out that the customary practices of allocating land to women were still common and women and men owned or controlled their land as individuals during the colonial period and what brought the differences was the introduction of the money economy [7].

Spring and Hansen [8] pointed out that the resettlement of Tonga families in Zambezi valley because of the Kariba dam was detrimental to women who lost their land holdings for only men as heads of the households were compensated for old land. But women did not receive direct compensation for their lost land and were unable to acquire new lands in the new sites to replace the old and lack of compensation for women who in their majority were not heads of households denied them of land a resource which they were entitled to before colonialism by the virtue of being a family member. Gender inequalities embedded in the customary beliefs and practices were manifested under situations of inequalities or land scarcity. The argument is that during the pre-colonial period the populations of people were small and the land was

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abundant and this did not warrant any competition from the communities or families. The displacement through the construction of Kariba dam created scarcity of arable land and invoked patriarchal beliefs and practices which usually treat women as minors and minorities as far as ownership of resources is concerned.

**Western Province:** The situation among the Lozi communities during the pre-colonial period reveals that among the Lozi, a daughter was given land by her parents. Even when she got more pieces of land from her husband after marriage, she continued to retain her full rights to the land in her own village. Peters [9] observed that among the Lozi people of western province, on attaining maturity a woman is given land by her father and she retains the right to this land when she leaves the village on marriage and goes to settle at her husbands' home. Her husband has to give her land, but she may work her old gardens and the produce from her own land is hers absolutely. The ownership of land again in the old traditional practices does not show that women were a minority group who did not have rights to land but instead shows that every person regardless of their sex had rights to land or land was their entitlement.

Research further revealed that among the Lozi women, divorce or widowhood did not deny them of their rights to land. If she is divorced or widowed, a Lozi woman may return to her village and claim either the old garden back or the other land in lieu of it and in those situations where the widow stayed with her children at her former husband's place, she continued she continued to work the land, but the land was that of her children which was granted directly by their father. If the man is polygamously married, he must give each wife an equal amount of land as the first wife. As a result of this relative security in land which women enjoyed under the local African traditions, they were able to contribute effectively to food production and food self sufficiency of their communities. Abundance of land was the main feature which eased the gender inequalities among Lozi women. Thus it was a cultural practice for parents to provide land to their children whether they were male or female [9].

**Central Province:** Lenje women in Chibombo District with respect to the position of women in Bulenje society, pre-colonial land ownership could be loosely described as communal ownership which means the right of every adult to have access to some land for the purposes of cultivation. In this situation women also were allowed to own land. In a communal system, the land belonged to the entire clan or community and not individuals and everyone had access to land and the inequalities though present seemed to be covered under the "benevolent dictator" who equally provided land to whoever was in need of using it regardless of one's gender [10].

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### **Changes associated with colonialism in land tenure system and its effects on Women's control over land**

This section focuses on the significant changes to the traditional land tenure system and the impact created on women in some provinces. It is important to note that the colonial land tenure system introduced only affected the rural agricultural areas. The significant change brought to the customary land tenure system was commercialization of agricultural land and alienation of land.

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#### *Commercialization of agriculture*

This worked to the disadvantage of small scale farmers. For instance, research reveals that the promotion of cotton production in the Gwembe Valley increased the demand for women's labour and increased shortage of land and prevented some women from having adequate land for food production or women prevented from competing with men for cash crop fields. This was primarily due to the fact that there was more demand for women's labour on fields that were owned by men. Commercial crops such as cotton, maize, tobacco, sunflower required intensive use of women's labour which technically withdrew women from their agricultural activities to concentrate on the labour demanding crops for men whose proceeds they (women) did not control or benefited scantily [5].

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In addition, commercialization of agriculture created farms which were owned not by clans or families but by individual farmers who in their great majority were men. Wherever commercial agriculture was introduced, women's contribution was more in terms of labour and not the ownership of farm land which was beyond their reach but mostly afforded by rich men in communities. These gender inequalities were dictated by patriarchal practices which created women's dependency on men by denying them instruments of labour such as ploughs, hoes harrows planters, draught power all of which were under the control of men [11,5].

#### *Alienations of land*

Individualization of tenure is taking place in many countries and these results in marginalization of women in land ownership. Commercialization of production, individualization of indigenous traditional land tenure systems and formal titling schemes all worked in the same direction to completely erode women's tenure rights and created landlessness among the majority of women. Those who were most vulnerable were poor unmarried women, poor divorcees and widows, whose customary rights were eroded as the formal legal system expanded its influence in society [12].

In Central Province in Zambia, land alienation to accommodate European settlers in the 1920s caused congestion and land shortage in the Lenje Native Reserve. In Chief Mungule's area the peasant farmer scheme could not be introduced due to insufficient land available. Because of

land scarcity, some people who previously had access to land found themselves landless or were assigned less productive land. Poor women and especially widows who had been entitled to own and inherit land under the matrilineal Lenje society found that their inheritance rights were being challenged [10].

The alienation of land in the different districts in Zambia had the same effect as in the central province among the Lenje people. In districts where there was insufficient arable land, the people scrambled for the little arable land that was left by Europeans and the impact of sharing little land was more negatively felt by women than men who in most cases and areas customarily received land through male relatives or their spouses. Once land was alienated, the rich mostly men benefited by buying huge tracts of land mainly for agricultural purposes. However, customary land was still in the hands or under the control of chiefs or traditional leaders in different parts of the country. Even to date, large tracts of land are still in the hands of traditional leaders or chiefs and kings as the case of land in western province of Zambia where all the traditional land in the province is under the custody of the King (Litunga) and the traditional patriarchal system of owning land continue benefiting men more than women [11].

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### **Types of tenure in Zambia**

Land in Zambia is divided into state land and customary land. State land ranges between 6% while the rest is customary land. State land: State land is registered leasehold land owned by individuals, companies and families and has titles with leases ranging from 14 to 99 years. It consists of land away from the customary land or all land not located in customary areas [13]. It includes all land under town and city councils, protected game areas and protected forests and national parks [7]. State land is administered by the central government through the Ministry of Lands and is subject to taxation [14].

The Commissioner of lands is the only institution entrusted to allocate state land [11]. In districts, the district councils are given powers under the lands Act to administer land in the districts and control land development in their areas. District councils are responsible for processing applications for state land in districts and for evaluating requests for conversion. So far from the above, the Land Act is gender neutral in the governance and administration of state land matters. Land can be individualized and be titled under a woman's name or jointly in the name of the husband and wife or both spouses. Within urban areas educated single and married women do have residential or commercial plots of land in their own names despite the fact that most of the land in urban areas is held by men. There are some pieces of land still owned jointly by married couples [14].

### **Factors affecting women's land rights and ownership**

This section focuses on the factors that have affected women's access to and ownership of land in Zambia.

### **Patriarchy/culture**

The entire African society is socially organized around and based on values, beliefs and norms that are patriarchal where men take a dominant position in resource control or ownership and women remain subordinate to men. The patriarchy system of power has created gender inequalities in economic and social resources with men in control of resources such as land, political power, education, employment, and etc [3]. Walker [15] comments that the patriarchal setting on the African continent whereby males dominate on matters concerning land makes it difficult if not impossible for women to access land and own land in their own right. They (women) are allocated land by male forks in their clan or through their male spouses. This state of mind has prevailed at all levels of society from time immemorial.

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Parpart [16] argued that it is the ideology of patriarchy which constrains women's role while Little [17] stressed that the dominance of males over females in all spheres of life both private (e.g. family) and public (e.g. workplace) demonstrates the powerlessness and oppression of women. Dominance by males is reinforced by the Zambian cultural values and customs which stress that the father and husband as of households or power holders in the family with women subservient to them [18]. On matters of land in both urban and rural areas, the dominant owners are men who are favoured by the patriarchal cultural set up. In traditional indigenous tenure systems women are with few exceptions ascribed inferior tenure rights to men. While men get their access to land through their lineage or clan, women have secondary rights which they get through their husbands. Heads of families are in their majority men and are equally the majority when it comes to ownership of customary land where male chiefs dominate over female chiefs. The patriarchal system of power has confined women to the peripherals especially in rural areas on issues of land ownership because of the belief that land belongs to men and not women and these beliefs influence policy and legislation to the advantage of women in society which has resulted in generation and perpetuation of gender inequalities in land ownership. Zambian society has been controlled by men from the level of chiefs in the villages who are custodians of customary land to the political decision making positions which are dominated by men too [12].

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### **Lacking implementation of International commitments**

Zambia has ratified a lot of international conventions and agreements as indicated above and even the Zambian constitution does not directly discriminate against any sex on matters of land

ownership. However, the major constraint to the realization of fairness and equality in land ownership is the failure to implement the requirements of the constitution. Walker [15] observed that most African governments have ratified the international convention on elimination of all forms of discrimination against women (CEDAW) and made commitments to the constitutive Act article 4(1) to gender equality and AU (African Union) protocol on the rights of women in Africa (2003) ratified by 31 states to date. In addition, national constitutions ascribe to equality between men and women.

However, implementation of these high level commitments remains a challenge because the “principle is not prioritized as a policy objective, nor serious attention is paid on how to carry out these commitments in practice”. The statement reflects the actual Zambian scenario where ratification is an easy activity but implementation is almost nonexistent for major conventions which if they were implemented, there would have been greatly reduced gender inequalities in land ownership between men and women in both urban and rural areas. Ratification of international conventions which are intended to reduce gender inequalities is an end in itself in Zambia. More often than not, programmes to operationalize the policies and laws on gender through implementation are lacking or inadequate or may be non-existent. Gender mainstreaming to help out the poor women in particular on issues such as land ownership is lacking in terms of practical activities or programmes to see results either in the present, near or distant future [14].

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#### **Lack of awareness of legal provisions and bureaucratic procedures for land acquisition**

Although a procedure for obtaining title to a land in areas under customary tenure has been available in Zambia since 1985, most rural women are unlikely to take advantage of this opportunity since they are much less familiar with bureaucratic procedures than most men [5]. And according to Walker [19] report inadequate information on the availability of land mostly due to the mode of information dissemination used such as newspapers, posters, and national broadcaster which are all in English, makes it difficult for people in remote rural areas in Zambia to access the advertised land. And posters are posted near government offices in urban and not rural areas. With high illiteracy levels among the women coupled with numerous other barriers, the government advertised land becomes difficult to access and purchase.

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Walker [15] commented that although most countries in Africa have constitutions which ascribe to equality between men and women and land laws which are either gender neutral or have affirmative action on women's land rights, generally the public is not aware of or conversant with such provisions. This is because once the land policies are adopted and the land laws are passed there is no deliberate efforts made by the state to sensitize the general public on what

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these documents say about people's and rights in general and women 's land rights in particular. In most case, the Zambian scenario has been of passing laws and adopting policies which are intended to benefit women as far as land ownership is concerned and the story ends at this level. There are no deliberate programmes to sensitized the general public about the new policies and laws on empowerment of women through land ownership and consequently, the educated few urban based women who understand the language used in the policies and laws on accessing land do take advantage but he majority of both urban and rural women with low or no education do not have access to information policies and laws concerning land acquisition in both rural and urban areas.

Procedures for acquiring land in Zambia in both in urban and rural areas are technical, long and written in English and this leaves out the lowly educated and those with no education at all. Further, Walker[19] reported that available statistics indicate that only 60% of women are knowledgeable about procedures for land acquisition. This shows that there are no measures taken to empower the less informed on the importance of land as an entitlement and both the educated and the uneducated women are allowed to compete for the same land on equal terms which eventually disadvantages the less informed category of women.

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#### **Discrimination against women in land offers**

There is no law which discriminates against women in matters of land ownership in the country. However, when the available statistics are taken into account, one is compelled to argue that there is open discrimination against women land applicants or there are discriminatory procedures which work against women applicants for land. This discrimination is more in practice than on paper.

The diffusion of western culture in Zambia since colonialism has widened the scope of male dominance beyond the family into "public Patriarchy" opening up opportunities for women beyond the home but at the same time fostering discrimination against them on the basis of sex and thereby encouraging gender inequalities. Lack of deliberate efforts to accompany the policies intended to benefit women on land ownership and the direct discrimination against women land seekers which is happening in both urban and rural areas is a clear manifestation of the existence of public patriarchy among policy makers and the custodians of traditional land or customary land. The table below shows the gender gaps in the statutory land that was advertised between 2006 and 2010 [12].

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#### **Table1: Land offers issued by gender between 2006 to 2010.**

	2006	2007	2008	2009	2010
Total number of offers issued	7,253	5,867	6,654	6,880	6,013
No. issued to women	1,612	1,001	1,035	1,135	1,167
% of offers issued to women	22%	17%	16%	17%	19%

*Source: GRZ ministry of land 2011.*

The above table is a demonstration of the fact that there has been public patriarchy in the legal and policy provisions which discourage women to apply and own land. The few women who own land could be among the middle and upper class that are familiar with the policy and the legal provisions on land ownership and have capacity financially to purchase and pay legal fees that go with statutory land tenure. The majority of the lowly educated do suffer from lack of land as the system is beyond their reach in acquiring land. Statistics as they stand in the above table are a clear explanation of clear gender discrimination among many other explanations that could be offered to the obtaining situation. The law does not encourage discrimination and this is the case with the policy but there is always a glass ceiling against women land applicants who in their majority are left out of the people who are perceived to qualify to own land. The practice in land distribution as indicated above is full of gender bias and discrimination against women applicants [21,20].

Further, Spichiger and Edna [22] observed that in Zambia, statutory land is subject to the constitutional provision of gender equity. Most statutory land is held by men, although since the passing of the Land Act, women are gaining control of more statutory land. Implementation of this provision (30% of advertised statutory land to be given to women) has been weak. Challenges include tedious land transaction procedures and complex application forms.

### **Constitutional bias**

To begin with at the continental level, research has indicated that “many African constitutions (Zambian constitution inclusive) contain provisions guaranteeing equality, human dignity, and prohibiting discrimination based on gender. However, the same constitutions recognize the application of customary laws and they do this without resolving the conflict between

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customary law norms and human rights provisions” [4]. The Zambian Constitution is among the many African constitutions with this inconsistency in the application of the laws due to the current dual system of the law where the statutory laws exist side by side with the customary laws and further creating a duality in systems of land tenure.

There are two land tenure systems in Zambia which are both actively in operation and governing the land systems. The statutory tenure offers the president to hold land on behalf of the Zambian citizenry while the traditional land is under that customary tenure system which is controlled by the traditional rulers. The customary tenure system is alleged to be biased against women who are not perceived to be land owners in their own right. At a general level, Odeny [3] comments that in recent times an increasing number of countries have recognized women’s rights in their constitutions, thus complying with international human rights standards and obligations, e.g. UN Human Rights Charter, CEDAW. However, some constitutions are neutral while others such as those of Zimbabwe, Zambia and Lesotho have discriminatory provisions in both customary and personal law matters.

The existence of the customary law which usually recognizes men as owners of land is clear manifestations of some of the constitutional biases that are inherit in the Zambian constitutions. Customary law usually does not protect the widow in case the relatives of the deceased husband decide to reposes what they may call clan land which was used and occupied by her and the late husband [23,3]. [24,25] observed that under customary tenure, at the death of the husband, property finally belongs to the close patrilineal or matrilineal relatives. Therefore at the dissolution of marriage, either through divorce or death of the husband, a woman is most likely to lose the land she cultivates since it will revert to the community of her in-laws who are the owners. While there is law to protect widows against such practices, the reality is that some widows in the country face discrimination and displacement from the land which they cultivated before the demise of their spouses. Even the educated and enlightened widows about the inheritance act of parliament get threatened and fear black magic and consequently leave property of their deceased spouses to the relatives of their late husbands. Government protects widows against property grabbing through the victim support unit which is an arm of the police service and works with the NGOs and the Ministry of Health.

*Constitutional bias regarding property rights:* recent research has revealed that Zambia’s constitution recognizes property rights and protects all individuals from different walks of life against deprivation of property. For instance, Article 2 (10) prohibits discrimination by race, tribe, sex and marital status. Article 23(c) and (d) of the constitution, exclude customary law and personal or family law. Therefore, where customary and personal laws discriminate against

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women, the constitution provides little support and may actually lend legal support to such discrimination. The intestate Succession Act governs the administration of an estate when the deceased did not leave a will. It does not apply to customary land or family and chieftainship property [7]. Further, [26] argues that while the national constitution may as in the case of Zambia, guarantee equality and non-discrimination, such protection does not extend to personal and customary laws. Therefore, there is constitutional bias in the law which in most if not all cases does not favour or protect women against loss of property which they could have had access to during the lives of their spouses. Most of the land in Zambia as indicated above falls under customary law and this implies that the statutory law only applies or benefits a minority of women (larger proportion of these are educated and have wealth) who access or control land which is under statutory land tenure system.

Related to the above, [27] **observed** that the Land Act does not make specific reference to gender and does not explicitly discriminate against women. It however has important implications for women's land rights because it applies only to statutory land. The exclusive focus of the statutory law on state land only which is about 6% only leaves the bulky part of land under customary law which rarely protects the rights of women as land owners. The constitutional bias stems from the recognition of the dual system of land tenure where the bulky part of land falls under customary tenure which is rife with gender discrimination.

### **Lack of resources**

In both urban and rural **areas** financial resources are required for one to acquire individualized land or titled land. In the rural **setting** customary land may be passed from one relative to the other but titled land will have to be paid for from the traditional rulers or leaders who may ask for cash or payment in kind before land is given to an individual. Again in such cases, men have more resources than women and **are the majority** own titled land. The [18] report **indicated** that that the majority of women in urban areas have inadequate or lack financial resources to buy and actually erect structures. Some of those who buy later resale or their land is repossessed by local authorities for non-development. Other scholars such as [18] **argued** that women's lack of resources is partly explained by patriarchy, rooted in pre-colonial Africa, reinforced in colonial Africa and perpetuated into the post-independence period.

Women generally lack resources especially financial and educational. **The [1]** living conditions monitoring survey puts poverty levels for women country wide at 79.8%. With the plummeting economy the capacity to purchase land by both women and men is reduced but it is more reduced among women who are already poorer than men and the majority of them lack

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collateral to purchase land. There are no programmes in Zambia which lend money to women so that they can purchase land at reduced prices or at low interest rates. As the above report shows, some of the beneficiaries of the Land Policy where there is 30% affirmative action fail to develop their lands and consequently the local authorities who are the main sources of urban land do repossess land from some women who fail to develop it due to lack of resources.

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### Remoteness compounded by illiteracy

In an attempt to diversify the economy, government has opened agricultural schemes in distant areas away from the main towns. In most cases, these are remote areas without social amenities. This land has attracted a lot of rich people who in their majority are men. Government has built roads in these farming blocks and taken power for easy development by the settlers. These areas are individualized pieces of land with title deeds to the owners. However, the reports on women's participation indicate that women avoid applying for land in some settlement schemes because such lands are deep in the rural areas which in some cases may be hard to access or are far away from social amenities [19]. There should have been consideration on the part of government through deliberate programmes to make some of these areas habitable by even the poorest communities through provision of social services such as schools, clinics, markets, all weather roads, etc. The cost of living in remote areas is one of the serious barriers for women to acquire land in distant resettlement schemes.

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Currently government has opened up farming blocks where land has been sold to developers for agricultural purposes and the developers are in their majority men who have the resources to live in distant remote areas. Remoteness is coupled with factors such as illiteracy, lack of easy means of transport, lack of education, patriarchal control of land, absence of NGOs that would carry out land advocacy activities on behalf of poor women in remote areas, poverty etc. these factors combine in different proportions to make land unavailable to women within rural remote areas who in some cases do not understand that their lack of control over land as gender discrimination but take it as part of their culture or as a way of life that has been going on since time immemorial. The main argument even in remote areas for the lack of control over land by the majority of women is that cultural practices have been reinforced by the current legal system that only practically has a small percentage of land under its control. Further even the legal system through its rigorous and time consuming requirements for one to obtain land makes it almost impossible for illiterate and poor women to buy land under customary or statutory tenure in their personal capacities [23].

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### Conclusion

The gender inequalities in land ownership in the Zambian society are inherent in the culture of the very Zambian society which has given and continues to give men prominence and visibility in all matters of land in both customary and statutory land systems. Customary land tenure predates statutory land tenure and the patriarchal cultural system governing customary land has permeated the statutory land system of land administration and organization and thus creating the same gender inequalities as in the customary land. The Zambian constitution can also be said to be gender biased by defending and perpetuating patriarchal structures and interests in land administration and ownership distribution patterns even over State land. Gender discrimination in land ownership is inherent in the Zambian culture itself which in different districts in the country creates and promotes the perception that land ownership is the preserve of men though in rural areas agriculture labour has to be predominantly provided by women. The patriarchal cultural perceptions of land ownership in the customary tenure system are the same perceptions in the statutory tenure system and this is manifested in the gender gaps in land ownership which are in favour of men in both land tenure systems. The constitution rightly talks about gender equality but has not put in mechanisms for achieving gender equality in land ownership and this implies that as far as fighting gender discrimination in land ownership is concerned, the constitutional talk manifested through ratification of international conventions remains good talk and not is practically effective in correcting and eliminating all forms of gender discrimination in land ownership between men and women in both urban and rural areas. There is therefore need to implement the international conventions that fight gender discrimination in different sectors of society including the land sector if women in their own right as citizens are to equally benefit from land ownership in the Zambian society.

**Comment [D58]:** ,and

**Comment [D59]:** Unclear. Write this long sentence into simple sentences so that the readers may get to your point.

**Comment [D60]:** that the perceptions

**Comment [D61]:** a good talk

**Comment [D62]:** delete

**Comment [D63]:** it is not

**Comment [D64]:** , therefore ,

**Comment [D65]:** fight against

**ADD**

**Comment [D66]:** Provide some recommendations or suggestions.

## **REFERENCES**

**Comment [D67]:** The references you have written are not uniform. Please consult the guides of this journal. Be uniform. Is it APA, MLA or other style?

1. CSO .(2010). *Living conditions Monitoring Survey*, Central Statistical Office, Lusaka.
2. Keller, B. (2000). *Women's Access to Land in Zambia: Paper prepared for International federation of surveyors*. Iowa State University Press, Ames.
3. Odeny, M. (2013). Annual World Bank Conference on Land and Poverty 2013: Improving access to land and strengthening women's rights to land in Africa. *A paper prepared for presentation at the "Annual World Bank Conference on land and poverty"*. The World Bank, Washington DC, Addis -Ababa.
4. Ndulo, M. (2011). African Customary law, customs and women's rights. *Cornell law faculty publications*, paper 187.

5. Keller, B., Phiri, E., & Milimo, M. (1990). "Women and Agricultural Development", in Wood, A. et al (eds) *The Dynamics of Agricultural Policy and Reform in Zambia*, Iowa State University Press, Ames.
6. Conroy, D.W. (1945). *Legal Aspects of Landholdings and Land usage among the Plateau Tonga of Mazabuka District: A Reconnaissance Survey*, Manchester University Press, Manchester.
7. UN-HABITAT .(2005). *Land tenure, housing Rights and Gender in Zambia. Law, land tenure and Gender review series Southern Africa*. Nairobi, Kenya.
8. Spring, A., & Hansen, A. (1979). "Women's Agricultural work in Rural Zambia: From Valuation to Subordination", *Paper Presented at the 22nd Annual Meeting African Studies Association*. Los Angeles, California.
9. Peters, D.U. (1960). *Land Usage in Barotseland*. Rhodes-Livingstone Institute, Lusaka
10. Muntemba, M.S. (1977). *Rural under development in Zambia: Kabwe Rural Development 1850—1970*. University of California, Los Angeles.
11. MS Zambia. (2011). *Summative evaluation of MS Country Programme Strategies and programme Support with the democracy focus*. Lusaka, Zambia.
12. Birgegard, L.E. (1993). *Natural Resource Tenure: A review of Issues and experiences on Sub-Saharan Africa*, Swedish university of Agricultural Sciences, Uppsala.
13. GRZ .(1995). *Land Act 1995, No. 29*, Government Printers, Lusaka.
14. Brown, T. (2005). *Contestation, confusion and corruption: Market-based land reform in Zambia*. Retrieved from:  
[www.oxfam.org.uk/what\\_we\\_do/issues/livelihoods/landrights/downloads/market\\_based\\_land\\_reform\\_zambia.pdf](http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/market_based_land_reform_zambia.pdf)
15. Walker C. (2002) Land reform in Southern and eastern Africa: Key issues for strengthening Women's access to and rights in Land. *Report on a desktop study commissioned by FAO*, FAO sub regional office.
16. Parpart, J. (1989). *Women and Development in Africa*. London, university press of America.
17. Little, J. (1994). *Gender, Planning and policy process*. Oxford, Pergamon press.
18. OseiHwedie, B.Z. (1998). Women's Role in Post-Independence Zambian Politics. *Journal of modern African Studies*, 25,19.
19. GRZ .(2012). *Ministry of Gender and Child Development*, Government Printers, Lusaka.

20. Walby, S. (1990). *Theorizing Patriarchy*. Oxford, Basil Blackwell.
21. GRZ .(2011). *Ministry of Land Report*, Government Printers, Lusaka.
22. Spichiger, R., & Edna, K. (2014). *Gender Equality and land Administration: The Case of Zambia: DS II Working paper 2014, no. 04*. Southern Africa Institute for Policy And Research(SAIPAR), Lusaka, Zambia.
23. GRZ .(2021). *Land Policy*, Government Printers, Lusaka.
24. Milimo, M.C., & Auxilia, P. (2004). *Strategic Country Gender Assessment*. Zambia.
25. Banda, T. (1992). Departmental Report in Kwapata, M., Mwendera, E.J.and KanyamaPhiri, G. 1993 National Environmental Action Plan Task Force NQ. *Agriculture Issues Paper*, Bunda College, Lilongwe.
26. Munalula, M.(2015). "Lozi Customary Law and System of Land tenure" *SADC Law Journal*, 4,1.
27. Machina, H. (2002). *Women's Land rights in Zambia: Policy provisions, Legal Frameworks, and constraints*. Lusaka, Zambia.

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