

# Gender Perspectives In The Displacement Of Customary Land Rights Holders By The Chiefs In Zambia: A Case Of Chiwala Chiefdom

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## ABSTRACT

Chiefs in Zambia have continued to arbitrarily re-assign customary land from holders, especially women. The acquired land is then granted to potential investors who convert customary tenure to leasehold tenure. This paper considers the gender perspectives that are inherent in the authority of chiefs' in the re-assignment of customary land and displacement of customary land rights holders. The paper uses a qualitative research design to address the issues of whether or not gender perspectives are considered by Chiefs when re-assigning customary land. When Chiefs disregard gender issues in re-assigning customary land, women are adversely affected. The inequality faced by women is due to patriarchal practices underlining customary tenure. The selection of Chiwala Chiefdom as a case study was purposive since the findings of the reports show that dispossession of customary land rights holders mostly affected women in this area. Arguments and views of the displaced persons presented in the reports from the case study reveal a lack of gender considerations in the entire process of acquisition and dispossession. Further, the dispossessions in the case study have taken place without adequate compensation. In conclusion, it is clear that women are adversely affected due to the lack of gender considerations when chiefs re-assign customary land resulting in displacements. To overcome this problem, there is need to regulate the powers of the chiefs and incorporate gender considerations in the cultural practices when re-assigning customary land.

**Key words:** Chiefs, acquisition, dispossession, customary land, gender

## 1.0 Introduction

### 1.1 Dual Land Tenure System in Zambia

Zambia is a landlocked country found in the Central part of Southern Africa and shares borders with eight other countries. The country has a total land area of 752,624 square kilometers divided into 11, 800 square kilometers of water and 740, 724 square kilometers of land.<sup>2</sup> The dual tenure system in Zambia is identified with particular land: statutory tenure identifies with statutory land governed by legislation while customary tenure identifies with customary land governed by customary law and practices specific to each tribe. The powers of the Chiefs in the acquisition of land from customary landholders and the absence of gender considerations in the exercise of their power forms the bedrock of this paper.

Customary land in Zambia refers to land that was previously called Reserves and Trust lands.<sup>3</sup> Chiefs and village headpersons together regulate access, use, control, ownership, and acquisition of customary land in their jurisdiction for the benefit of the people.<sup>4</sup> The misconception is that chiefs have been referred to as owners of customary land when they merely possess control functions over land.<sup>5</sup> Chiefs only regulate the granting of occupancy licenses, user rights and oversee transfers of land.<sup>6</sup> From the point of view of customary law, women enjoy the same rights in land as men. However, in practice, there are fewer women than men holding land in their own right. This is due to the patriarchal nature of customary law which generally considers women as occupying secondary status in society.<sup>7</sup>

On the other hand statutory tenure is regulated by the Lands Act.<sup>8</sup> All land, including customary land is vested in the president who holds it for and on behalf of the people of Zambia.<sup>9</sup> The Lands Act simply recognises customary tenure but does not provide for the regulation of customary land.<sup>10</sup> Customary tenure continues to be regulated under customary law and practices. The Lands Act does not make specific reference to gender and it is purportedly a gender

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<sup>2</sup> Government of the Republic of Zambia. (2010). 2010 Census of Population and Housing. Lusaka, *Central Statistics office*, p.1

<sup>3</sup> Lands Act, chapter 184 of the Laws of Zambia, s.2

<sup>4</sup> Frightone Sichone (2010) *the System of Land Alienation in Zambia: A Critical Analysis of the Legal and Institutional Framework*. Master of Law Thesis. University of Zambia, Lusaka

<sup>5</sup> Mudenda S. Fredrick (2007) *Land Law in Zambia, Cases and Materials*, Lusaka: UNZA Press. p.24

<sup>6</sup> USAID (2016). *Property Rights and Resource Governance in Zambia*. Washington DC: United States Agency for International Development

<sup>7</sup> Ravnborg, M. Helle. Land Governance, Gender Equality and Development: Past Achievements and Remaining Challenges, *Journal of International Development* (2016), 28(3), pp.412-427

<sup>8</sup> Chapter 184

<sup>9</sup> Lands Act, s3

<sup>10</sup> *ibid*, s7

neutral legislation that does not explicitly discriminate against women. Additionally, statutory land is subject to the Constitutional provision of gender equality.<sup>11</sup> In practice, statutory land is mainly held by men and in order to redress this problem, the current Land Policy of 2021<sup>12</sup> provides for affirmative action stating that fifty percent (50%) of women should be allocated statutory land. On the other hand the National Gender Policy of 2014<sup>13</sup> provides that all local authorities should ensure that at least 30% of all land allocations is reserved for women. The discrepancies in the two policies relating to the per cent age of land allocations for women as well as the different governance structures identified to implement the policies make actualisation difficult. Further, the affirmative action has been weak due to patriarchal attitudes, tedious and complex transaction processes and institutional bureaucracy that disadvantage women from accessing, using, controlling, and owning statutory as well as customary land. There is no express statutory provision for the recognition of women's rights to statutory as well as customary land. What the Constitution and the Lands Act<sup>14</sup> recognise is customary law and the prohibition of laws that discriminate on the basis of gender. This does not provide sufficient protection of women's rights to customary land as the Constitution excludes customary law from its prohibition on discriminatory practices.<sup>15</sup>

The absence of gender safeguards in both statutory and customary laws characterises the administration of land in Zambia to the detriment of women. Above all, patriarchal tendencies inherent in customary law render any realisation of women's equal access, use, control, and ownership of land imaginary. In this regard, chiefs are constrained by the Constitution and Lands Act from departing from the customs and traditions of which they are custodians and must administer the welfare of the chiefdom. Therefore, gender inconsideration stirs the exercise of the authority of the chiefs when displacing customary land holders.

## 2.0 Chieftaincy and Traditional Institutions in Zambia

In discussing the powers of chiefs, it is essential to understand chieftaincy and traditional institutions. These institutions have origins in pre-colonial times and are organized into chiefdoms. Today, Zambia has 288 chiefdoms representing various ethnic groups. A chief is often described as a custodian of the community's customs, cultures, and traditions—essentially serving as a trustee whose interests they protect. At the top of their social and administrative structures is a senior or paramount chief. Some chiefdoms have a paramount chief, while others have a senior chief. However, the positions of paramount and senior chiefs are not explicitly defined by statutory law; only the position of chief is defined by law. Despite this, the roles of paramount and senior chiefs exist in practice, with their authority derived from their office.

According to the Constitution, a chief is someone who has been bestowed with the title and who derives allegiance by birth or descent, in accordance with the customs, traditions, or consensus of the community. Under The Chiefs Act, a chief is also recognized as someone holding an office under Section 3 of the Act. However, this section was interpreted by the Constitutional Court in the case of *Mwenya Mutondo Mulubisha v The Attorney General*, which declared it null and void, ordering its removal from the law for being inconsistent with the current Constitution. The Constitution itself does not specify the powers of chiefs but guarantees the existence of chieftaincy and traditional institutions in accordance with the culture, customs, and traditions of the people involved. Chiefs derive their powers from these cultural, customary, and traditional practices, which constitute customary law, granting them authority as the ultimate custodians of land held under customary tenure in Zambia.

## 2.1 Evolution and Transitions of the Authority of Chiefs Regarding Customary Land

The existence of chieftaincy and traditional institutions is historical, the powers of chiefs can be traced back to the pre-colonial indirect rule. Before and during colonial rule, the power structure of this leadership was based on the chief's position within the chiefdom according to local customs. This power of the chiefs was in form of a hierarchy that was typically passed on from generation to generation within a particular royal family. Before colonisation, chiefs held customary land in trust for their subjects, who in turn had an integral role as the custodians of rural livelihood and culture. Customary land and its administration was seen as central to Zambian culture; land was a symbol of identity, heritage, and livelihood.<sup>16</sup> Chiefs were custodians of land and protectors of local culture and custom.

The coming of the British to Zambia changed the entire landscape of trusteeship that the institution of chieftaincy previously depicted. During colonialism, chiefs needed official recognition by the territorial governor.<sup>17</sup> As much as recognition of chiefs was a prerequisite, the administration of customary law remained largely unchanged. Land

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<sup>11</sup> Constitution of Zambia, Chapter 2 of 2016, Article 23

<sup>12</sup> Government of the Republic of Zambia (2021), *National Lands Policy*. Lusaka: Ministry of Lands

<sup>13</sup> Government of the Republic of Zambia, (2014) *National Gender Policy*, Lusaka: Ministry of Gender and Child Development

<sup>14</sup> Constitution of Zambia, Articles 7 & 23 and Lands Act, s.7(2)

<sup>15</sup> Policy Monitoring Research Centre, *Land Tenure and Resource for Women and Youths* available at <<https://pmrczambia.com/wp-content/uploads/2020/10/land-tenure-and-resource-rights-for-women-n-youth.pdf>>

<sup>16</sup> Tucker, K. Tamera. (2014), *Contemporary Challenges of Customary Land Administration in Zambia*, Master of Arts thesis Dalhousie University

<sup>17</sup> Saleya Kwalombota. *Barotse Native Courts and Native Authority Ordinance* available at <<https://www.bnfa.info/wp-content/uploads/2021/02/barotse-native-courts.pdf>>

belonged to the community but as the British advanced into the territories of Northern Rhodesia, they met the chiefs with whom they negotiated for land without consideration of the community on whose behalf the land was held.<sup>18</sup> This gave chiefs some kind of authority over land transactions a state of affairs that continued past independence.

Post-independence economic and political ideologies have further strengthened the powers of chiefs which are not in line with people's customs, cultures, and traditions. Additionally, the enactment of the Lands Act spurred by neo-liberal economic and political ideologies, gave chiefs more power to allocate customary land to investors. That power coupled with increased demand and scarcity of land has resulted in panic in customary land holders.<sup>19</sup> As a result, chiefs have increased power of allocation over customary land distribution in their territories. To show the reality on the ground, Shuichi Oyama<sup>20</sup> recaps how a new Bemba chief in the Northern Province of Zambia invalidated land rights issued by the old chiefs to acquire land for large scale investments. The chief also led a programme of land partitioning and distribution releasing one hundred hectares for large scale investments without involvement of the communities. The chief wielded power in a self-existent manner independent of the people whose land he was entrusted to administer on their behalf.

The institutional authority over the chief's power was introduced by the enactment of the Chief's Act<sup>21</sup> based on colonial ordinances. The Chiefs' Act,<sup>22</sup> gave powers to the President to legitimize a chief's appointment through recognition. However, the Chiefs' Act is inconsistent with the current Constitution of Zambia<sup>23</sup> insofar as the Constitution does not provide for the recognition of the Chiefs.<sup>24</sup> Article 165<sup>25</sup> states:

(1) The institution of chieftaincy and traditional institutions are guaranteed and shall exist in accordance with the culture, customs and traditions of the people to whom they apply.

(2) Parliament shall not enact legislation which—

(a) Confers on a person or authority the right to recognise or withdraw the recognition of a chief; or

(b) Derogates from the honour and dignity of the institution of chieftaincy.

The above article was subject to interpretation by the Constitutional Court in the case of *Mwenya Mutondo Mulubisha v The Attorney General*.<sup>26</sup> The brief facts of this case in the lower court were that Edward Mbombola Moyo was recognized by the President as chief Mutondo of the Nkoya people having jurisdiction over Lukena, Shibombwe, Luambwe, and Lalafuta villages. Prince Makweti Isiteketo was similarly recognized by the President as Senior Chief Amukena of the Lozi people of Kaoma having jurisdiction over Naliele village. In 1974, Litia Mbikusita was the first chief of the Lozi to be recognized by the president for Naliele. Litia Mbikusita was succeeded by Makweti Isiteketo (a Nkoya chief). This resulted in a collision between two different customary systems governed under a single Chief that led to disputes between the Lozi's and the Nkoyas. Chief Mutondo's argument was that the Barotse Royal Establishment had no authority to appoint Nkoya chiefs because of the differences in their customs and traditions.

Regarding the interpretation of the constitutional provisions relating to recognition of the Chief, the matter was brought before the Constitutional Court. The Court held that s.3, 4, 5, 6 and 7 of the Chiefs Act is inconsistent with Article 165 of the Constitution. The reasoning for this decision was that president was no longer required to recognize chiefs under the new constitutional order. The Chiefs Act in its current form requires to be amended in line with the new Constitutional provisions.

As stated in the background the institution of Chieftaincy exists in accordance with the culture, customs and traditions of the people to whom it applies. These cultures, customs, and traditions govern the rights of the people residing in a particular area and these rights include: access, use, control and ownership of land in customary areas. The authority of Chiefs stems in part from the informal community customs rather than their position in the formal state apparatus in the form of recognition.<sup>27</sup>

### 3.0 Acquisition of Customary Land and Displacement of Women in Chiwala Chieftaindom

#### 3.1 The Case Study

This case study is based on the displacement of women in Chiwala Chieftaindom and is presented from secondary sources including reports and conference papers. No primary data was collected by the author of this paper since there was sufficient secondary data to support the analysis required to consider the gender perspectives in the powers of the chiefs. The selection of the case study was purposive since the findings of the reports show that dispossession adversely affected women. This paper uses the findings of the reports by extending the argument drawn from the case studies. The

<sup>18</sup> *ibid*

<sup>19</sup> Shuichi Oyama.(2022) *Renewed Patronage and Strengthened Authority of Chiefs Under the Scarcity of Customary Land in Zambia* available at <[https://link.springer.com/chapter/10.1007/978-981-16-4725-3\\_4](https://link.springer.com/chapter/10.1007/978-981-16-4725-3_4)>

<sup>20</sup> *ibid*

<sup>21</sup> Chapter 287

<sup>22</sup> *ibid*, s.3 (2)(b)

<sup>23</sup> Constitution of Zambia

<sup>24</sup> Constitution of Zambia, Article 165

<sup>25</sup> *ibid*

<sup>26</sup> (2020) unreported

<sup>27</sup> Kate Baldwin. When Politicians Cede Control of Resources: *Land, Chiefs and coalition-Building in Africa* available at <<https://cpb-us-w2.wpmucdn.com/campuspress.yale.edu/dist/c/44/files/2014/01/>>

argument that dispossession adversely affected women was due to the lack of gender consideration in the exercise of the powers of the chiefs in both acquisition as well as dispossession.

Chiwala chiefdom is located in Masaiti district of Ndola rural on the Copperbelt province of Zambia. Due to its prime area location, Chiwala chiefdom has been a target for land acquisitions to support large scale land investment. The area comprises customary land under senior chief Chiwala of the Lamba people.<sup>28</sup> The Lamba people of Chiwala chiefdom practice a kinship system in which ancestral descent is traced through maternal lines, they are Matrilineal.<sup>29</sup> This means that land is passed down the maternal line from the mother's side of the family. If the maternal descent is strictly adhered to by the communities' women would own all land but this is not the case in reality as administration and control of land even in matrilineal societies is given to men as household heads. It is also clear that under African Customary law, only men have power over household resources that extends to land leaving out women exercising their powers regarding land rights. The community that holds the land under customary tenure are mainly women who have been subjected to displacement.<sup>30</sup>

Specific examples of land acquisition and displacements in this area occurred between 2009 and 2013, when senior chief Chiwala re-assigned customary land from the holders and granted it to an investor leaving the holders displaced and without adequate compensation. In 2010, 400 households in Majariwa village were displaced to pave way for construction of the Dangote Cement Industries Zambia Limited, the investor.<sup>31</sup>

### 3.2 Arguments and Findings from the Case Study

A study conducted by the Civic Forum for Housing and Habitat Zambia and the Land Rights Network<sup>32</sup> in Chiwala chiefdom in 2021, revealed several gender issues that negatively impacted women in this area. The study used the Violation Impact Assessment Tool (VIAT) to measure human rights deprivation of a sample of women potentially affected due to customary practices in the area.<sup>33</sup> The main purpose of the study was to establish the real and potential impacts of land dispossession/evictions on women. The results of the study showed that more women than men were impacted by the displacements. The study covered 160 participants, of which 114 were heads of households comprising 59 males and 55 females. The findings support the argument that even though the tribes were matrilineal there were more male heads of households than women reflecting the overall male domination.

In terms of land ownership, in the area, the report<sup>34</sup> showed that majority of women owned small parcels of land compared to their male counterparts. The land was traditionally acquired through either inheritance or from the chief. These women were being economically sustained by using their land. As a result of the evictions and displacements the women lost their livelihood and incurred a huge cost to re-establish themselves in the new areas. The report clearly argues that women had been adversely affected by the displacements when compared with men.

This paper extends the above arguments by questioning the Chiefs powers in re-assigning customary land and displacing women. The paper also argues that the absence of gender considerations in the processes of displacements negatively impact women. Further, Patriarchal practices inherent in the powers of the Chiefs under the various customs continue to disadvantage women in customary land acquisition and displacements.

### 4.0 Questioning the Re-assignment of Customary Land by the Chiefs

The Chiefs Act does not provide for the specific powers of the chiefs with reference to land rights. Some statutory powers of the Chiefs can be indirectly inferred from a number of statutes that regulate land. In particular the Lands Act<sup>35</sup> and the Lands Acquisition Act<sup>36</sup> provide for the role of Chiefs regarding customary land. Under the Lands Act<sup>37</sup> the statutory requirements for conversion confirm that chiefs must exercise their official power of consent before customary tenure is converted to leasehold tenure.<sup>38</sup> Conversion of customary land to statutory land arises in several circumstances. Firstly, where the holder of customary rights would like to secure title by registering the land as statutory land and secondly, in cases of acquisition of land by the state in public interest.<sup>39</sup> The Lands Acquisition Act<sup>40</sup>

<sup>28</sup> Chiefdoms in Zambia available at <<https://www.mocta.gov.zm/wp-content/uploads/2020/10/CHIEFDOMS-IN-ZAMBIA.pdf>>

<sup>29</sup> Brian Siegel (1989) "The "Wild" and "Lazy" Lamba: Ethnic Stereotypes on the Central African Copperbelt". *Anthropology Publications*. Paper 5 available at <<http://scholarexchange.furman.edu/ant-publications/5>>

<sup>30</sup> Civic Forum for Housing and Habitat and Housing and Land Rights Network (2021) *Zambia. Women, Land and Housing*. Assessing the Impacts of Dispossession, Ndola Rural Research Study 2021. Habitat International Coalition

<sup>31</sup> Peasants Seed Systems: *Fighting Farmers Input Support Programme (FISP) in Zambia*, The case of Majariwa Community (Dangote) available at <<https://www.fian.org.zm/news>>

<sup>32</sup> Civic Forum for Housing and Habitat and Housing and Land Rights Network

<sup>33</sup> *ibid*, Executive Summary

<sup>34</sup> Civic Forum for Housing and Habitat and Housing and Land Rights (2021)

<sup>35</sup> Chapter 184

<sup>36</sup> Chapter 189

<sup>37</sup> *ibid*, s.8 (2)

<sup>38</sup> *ibid*; and Martin Adams. *Land Tenure Policy and Practice in Zambia: Issues Relating to the Development of the Agricultural Sector* available at <[https://mokoro.co.uk/wp-content/uploads/land\\_tenure\\_policy\\_and\\_practice\\_zambia](https://mokoro.co.uk/wp-content/uploads/land_tenure_policy_and_practice_zambia)>

<sup>39</sup> Lands Acquisition Act, s.3

provides for circumstances under which the state is permitted to acquire land in public interest. An acquisition refers to the statutory dispossession of land, property, or interest in land without the holder's offer.<sup>41</sup> Once customary land is acquired in public interest, it is subject to the process of conversion from customary land to statutory land.<sup>42</sup> One of the statutory conditions for acquisition is that the owner of the dispossessed property should be adequately compensated but in most cases compensation is not adequate.<sup>43</sup>

Acquisition of land by the state and its conversion from customary to statutory land is challenged by the ever consenting attitude of most Zambian chiefs without consultations with the community members. Once converted to statutory land, there is no mechanism supported by the law to revert the land back to customary tenure. The processes of customary land acquisition and subsequent conversion of such land to leasehold has adversely affected many customary land holders who have been subjected to eviction from their ancestral land with little or no compensation. Due to lack of gender considerations by the Chiefs women are more adversely affected by the land acquisitions resulting in displacements.

Therefore, it is evident that chiefs have the authority to administer customary land but do not have power to acquire land under statute in Zambia. The Constitution<sup>44</sup> bars acquisition which is not authorised by an Act of Parliament and currently, there is no Act of Parliament authorizing chiefs to acquire land from holders. The Lands Act simply recognises the existence of customary law and the role of chiefs in customary land conversion while, the Lands Acquisition Act vests the power of acquisition in the state and not chiefs. Equally, the Chiefs Act provides for the general powers of chiefs, but does not give chiefs authority to acquire customary land. These pieces of legislation are gender neutral and hence do not specifically protect the land rights of women being displaced.

In present day Zambia, customary land holders are being displaced because their chief has acquired their land and granted it to an investor. Inarguably, powers of chiefs' to administer land have always been derived from local customs, cultures, and traditions of the indigenous people in a given area. The current trend of acquiring customary land without the consent of the community members is an assault on the very customs, cultures, and traditions that establish the institution of chieftaincy and the powers thereof.

Further, the need for the chief's approval and consent from the members of the community in matters of conversion of customary land under the Lands Act may thus be anchored on this realisation that land belongs to the community. Therefore, lack of consultations with the members of the communities in transactions dealing with land has led to massive displacements of customary land users without adequate compensation. The absence of specific powers under the Chiefs Act and the Lands Act, is settled by the Constitutional provision<sup>45</sup> that provides customs, cultures and traditions as a source of law that traditional leaders can rely upon when dealing in customary land. These customs, cultures, and traditions point to the people as the owners of land while chiefs only possess custodial powers and functions. The lack of specific statutory powers to the Chiefs to acquire customary land as well as non-consultations with the members of the community is an abrogation of the chiefs' role as trustee and custodian of the people's land.

Additionally, the battle of superiority between customary and statutory tenures has contributed to the confusion surrounding the powers of chiefs. A realisation that customary law is law and does not need to be mirrored against statutory law for its validity is foundational in returning chiefs to their original position with power given under custom. Customary land is not supposed to be alienated or allocated permanently to a person or entity outside the boundaries of the community without the consent of that community.<sup>46</sup> The realization is the customary land does not belong to chiefs but communities, families, and clans.

Conclusively, the powers of chiefs do not extend to re-assignment of customary land without the consent of communities neither under statute nor under customary law. Though this is the position, chiefs have continued to exercise powers of acquisition which are outside the realm of their authority. The next part of the paper discuss the gender issues inherent in the displacement of customary land rights holders by the Chiefs

### 5.0 Gender Issues Evident in Displacement of Customary Land Rights Holders by the Chiefs

Generally, gender describes the state of being male or female. However, a closer look at how the term gender is socially constructed reveals a cultural inclination influenced by patriarchy. Patriarchy is the practice of male dominance over women and on this basis, gender is re-defined as the power relationship between man and woman in which men are the epitome of power to the exclusion of women.<sup>47</sup> This social construction of gender shows the lived reality of women as a result of the patriarchal cultures, customs, and traditions of customary societies that dictate superiority of men to

<sup>40</sup> Ibid, s.3

<sup>41</sup> Mudenda, *Land Law in Zambia*, p.473

<sup>42</sup> Lands Act, s.8 (1)

<sup>43</sup> Lands Acquisition Act, s.10

<sup>44</sup> Constitution of Zambia, Article 16.

<sup>45</sup> Constitution of Zambia, Article 7(d).

<sup>46</sup> Akibode et al (1989) *the Dynamics of Land Tenure and Agrarian Systems in Togo*. In: the Dynamics of Land Tenure and Agrarian Systems in Africa. FAO Rome

<sup>47</sup> Margaret Mulela Munalula (2021). *Feminist Legal Theory and the Engendering of the Curriculum*

women.<sup>48</sup> It is these patriarchal cultures, customs, and traditions underlining the acquisition and displacement of customary land rights holders by the chiefs that accounts for gender inequality.<sup>49</sup>

In Zambia, patriarchy is deep rooted in the concept of unequal gender relationships in which men are seen to be more superior to women. It is argued that this biased view results from cultural, social norms as well as the duality of the legal system.<sup>50</sup> It is this duality of the legal system that gives credence<sup>51</sup> to the customs, cultures, and traditions that are underlined by patriarchal norms. In terms of land, the dual land tenure mirrors the distinct systems that regulate statutory land and customary land. Implementation of gender neutral statutes and patriarchal customs and cultures regulating land is the main cause of gender inequality in administration of land. As a result, displacements of customary land holders are not devoid of patriarchal tendencies and men are favoured while women are not. This gender inequality in customary practices adversely affect women in customary land acquisition and displacements. The negative impact that customary land acquisition has on the initial holder's settlements has been widely reported.<sup>52</sup> This negative impact is reportedly seen in the displacement of rural communities from their land, without adequate compensation.<sup>53</sup> These reports also reveal that women are more adversely affected by these displacements due to the lack of gender consideration in the entire process of customary land acquisition and displacement.<sup>54</sup>

Additionally, the absence of gender considerations in statutory provisions such as the Lands Act and the Chiefs Act renders the realisation of gender parity in the processes of customary land acquisitions and displacements distant. Therefore, patriarchal cultures, customs, and traditions inform the exercise of the chiefs' power in the processes of customary land acquisitions and displacements. Various reports reveals that the gender neutral manner in which chiefs allocate and reallocate customary land results in women being adversely affected.

## 6.0 Conclusion

Land in Zambia is characterised by the dual land tenure system. Statutory land that is regulated under legislation and customary land administered in accordance with the customs, culture and traditions of the particular customary area. The dual land tenure system is implemented by different institutional mechanisms, being the government for statutory land and traditional leadership for customary land. Under the traditional leadership the Chiefs play an important role in allocation, acquisition and displacement of customary land rights holders. More particularly, the exercise of powers of the Chiefs are regulated. Gender inequality is evident in statutory land due to gender neutral laws that govern land. In the case of customary land, the aspect of patriarchy entrenched in the customs, cultures, and traditions of customary societies widens the inequality gap. In addition the lack of gender considerations in the acquisition of customary land by the chiefs adversely affects women.

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<sup>53</sup> Siachitema, *Protecting Rural Zambian Communities from Displacement Resulting from Land-Based Investment*

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