

## **Changes in customary land administration and “plausible” development outcomes: A comparative study of Chamuka and Shimukunami chiefdoms**

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### **Abstract**

Literature is now congruent on the fact that customary land administration structures are changing in most of sub-Saharan Africa. The relevance of land governance is largely dependent on the local institution, even without

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direct State intervention. In other words, customary areas are no longer sites for unrestrained, selfish and uncivilized competitions resulting in high tenure insecurity. However, a number of issues still remain debatable over these changes: for instance, what is their exact form and what are the “plausible” development outcomes related to these changes? This paper asserts that, answers to these questions are often location specific in literature, hence the rationale for this study within the Zambian context. This study compares two customary areas, with different customary rights and administration, i.e. Chamuka where residents are issued with traditional certificates and Shimukunani where land registers have. Data was collected through household questionnaires, key informants and focus group discussions. The paper tested a number of parameters which included effects of informal document on land administration (e.g. ownership, tenure security) and developmental outcomes. The paper shows that change in customary land governance has been a reaction to pressures and influences such as rapid population, high demand for customary land and introduction of monetary transactions. Therefore, the paper recommends that traditional land governance be mainstreamed in local structures so as to provide a sustainable solution to tenure security, ownership, conflict resolution mechanism and rural development.

**Keywords:** tenure security, customary certificates of land occupancy, continuum of rights, conflicts.

## Résumé

La littérature s'accorde aujourd'hui sur le fait que les structures d'administration foncière coutumière se transforment dans la plupart des pays d'Afrique subsaharienne. La pertinence de la gouvernance foncière dépend largement de l'institution locale, même sans intervention directe de l'État. En d'autres termes, les aires coutumières ne sont plus des lieux de concurrence effrénée, égoïste et non civilisée entraînant une grande insécurité foncière. Cependant, un certain nombre de questions restent à débattre concernant ces réformes: par exemple, quelle est leur forme exacte et quels sont les résultats du développement « plausibles » liés à ces réformes? Cet article souligne que les réponses à ces questions sont souvent spécifiques à un lieu dans la littérature, d'où la raison d'être de cette étude dans le contexte zambien. Cette étude compare deux zones

coutumières, avec des droits coutumiers et des administrations différents, à savoir Chamuka, où les résidents reçoivent des certificats traditionnels, et Shimukunami, où les registres fonciers ont été établis. Les données ont été recueillies à l'aide de questionnaires destinés aux ménages, d'informateurs clés et de groupes de discussion. L'étude a testé un certain nombre de paramètres, dont les effets de documents informels sur l'administration foncière (par exemple, la propriété, la sécurité foncière) et les résultats du développement. Cette étude contribue à la littérature en apportant la preuve que les réformes dans la gouvernance foncière coutumière constituent une réaction aux pressions et aux influences telles que la croissance démographique rapide, la forte demande de terres coutumières et l'introduction de transactions monétaires. En outre, cet article prouve que les institutions traditionnelles ne sont pas statiques, mais qu'elles ont évolué pour répondre à l'évolution des besoins de la société. Par conséquent, l'article recommande que la gouvernance foncière traditionnelle efficace soit intégrée dans la structure locale afin de fournir une solution durable à la sécurité foncière, à la propriété, au mécanisme de résolution des conflits et au développement rural. Toutefois, les approches appropriées doivent être choisies en tenant compte des besoins des communautés locales, des institutions traditionnelles et de la dynamique de la gouvernance foncière d'une zone particulière.

**Mots clés:** sécurité foncière, certificats coutumiers d'occupation des terres, continuum des droits, conflits

## Introduction

Full private property rights, in a freehold system, are often argued as an ideal form of land ownership, as results in increased incentives for the holder and subsequently increases security of tenure, investment and transactions (World Bank, 1975; de Soto, 2000; Deininger, 2003). From the neo-liberal perspective of full title, customary tenure is seen as disorganised with unrestrained, selfish and uncivilised competitions in some form of Parsons' (1937) Hobbesian state of (dis)order. Thus, under the continuum of land rights spectrum (informal to formal land rights) (Payne et al., 2014; UN HABITAT, 2016), customary rights are placed second from the bottom after the "perceived tenure approaches" (Lemmen et al., 2016). Some studies (Toulmin et al., 2002; Adams, 2003; Cousins et al., 2005; Chimhowu and Woodhouse, 2006; Bromley, 2008; Lawry et al., 2014) argue that rights do not necessarily need to be fully private and titled in order to achieve these benefits, hence the increasing support for customary rights.

In Zambia, leasehold is the highest form of tenure, with rights represented by a Certificate of Title the only proof of ownership (Horman Chitonge, Umar, Gear, Banda, & Ntsebeza, 2017). The majority of these titles are found in urban areas and a few pockets of state land in the rural areas leaving a greater part of the land mass, estimated between 54%–/60% (Honig and Mulenga, 2015; Sitko et al., 2015) 94% (Zulu, 1993; Roth, 1995; Adams, 2003; Tembo et al., 2018), under customary tenure. Notably, changes are being made in the governance of customary land thus, this paper examines the forms of these changes and the development outcomes attributable to them. In addition, this article compared the evolutionary process happening within the brackets of “customary” land rights.

### **Changes in customary land administration and plausible development outcomes**

In the context of rapid population increase and commodification of land, the question of how to protect and consolidate rural tenure and development of communities has been a subject of many debates. From the demand point of view, several factors have escalated the pressures on land, thus creating fear of dispossession for traditional landholders (Deininger et al., 2011; Chitonge et al., 2017; Chu & Phiri, 2015). Amidst these debates and competing claims for land, village communities have continued to evolve in land governance to suit present socio-economic pressures (Duvail et al., 2006; Umar & Nyanga, 2022). Studies by Chimhowu (2019) and Peters (2013) argue that a silent transformation or paradigm shift has been taking place for the past three decades in the land governance of customary land. It is thus argued that traditional institutional structures on land governance have either changed or are changing (Holden & Otsuka, 2014). This literature review explores both sides of the issue.

Neo-liberal economic theory argues that certification, registration or titling would automatically result in increased investments, in terms of labour, capital and material on land, and consequently, an increase in agricultural productivity (Adams, 2003; Brown, 2005). For instance, De Soto (2000) argues that customary assets only became tradable through formal registration, and that rural communities experience low land productivity due to lack of formal laws to enable them access credit. However, studies such as Lawry et al. (2014). found that this was not always the case in Sub-Saharan Africa. In trying to understand this paradox, Chu et al. (2015) hypothesised that customary tenure arrangements could be providing sufficient tenure security, even without

formalisation, such that land reforms alone would not push up agricultural productivity any further. Thus, additional factors beyond land reform, such as low levels of wealth and income, small size farms, off-farm income, would need to be investigated to gain a complete picture.

For several years now, the Continuum of Land Rights (Figure 1) has been presented and accepted as a framework for classifying different systems of land rights (Durand-Lasserve et al., 2013; Payne et al., 2014; UN HABITAT, 2016). Within this framework, customary tenure is placed second from the bottom on a continuum from perceived tenure approaches (informal land rights) to freehold tenure (formal land rights). In trying to reconcile the position of customary rights within this continuum with Lawry et al. (2014) and Chitonge et al. (2017) findings, a question comes up, that is, if the ranking in the continuum is based on the level of security of tenure, why should land reform to leasehold tenure not automatically result in the envisaged gains in investment and agricultural productivity? Why is it still at the bottom of this continuum?

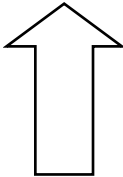
Formal Land Rights	Registered freehold
	Leases
	Group tenure
	Adverse possession
	Anti- eviction
	Occupancy
	Customary
Informal Land Rights	Perceived tenure approaches

Figure 1: Continuum of Land Rights

In answering the questions asked earlier, it is important to briefly review the happenings in most customary areas in Sub-Saharan Africa. For instance, it obvious that governance of customary land rights has improved over the years, although the extent and effect of these changes have generally remained subjects for research. For instance, Chu et al. (2015) and Chitonge et al. (2017) argued that the changing dynamics in customary areas are creating opportunities for urban elites, foreign investors and a few traditional leaders while creating serious challenge for the majority of local communities. The study was based on the rural districts of Chongwe and Chibombo in Zambia, particularly on the conversions of customary to lease tenure (Chu & Phiri, Large-scale land acquisitions in Zambia: Evidence to inform policy, 2015).

Bromley (2008) equally disputed the assertion that formal tenure always results in investment and increase in agriculture productivity. In addition, Adams (2003) disputed the relationship between formal titling and land improvement of farm productivity by revealing that it lacked evidence. Thus, for as long as the continuum of land rights has been propagated, other studies (Adams, 2003; Bromley, 2008; Lawry et al., 2014) have continuously disputed statements that state that, reforming customary land rights to freeholds would result in these increased benefits.

Hence an additional question to consider is: why would customary tenure offer some security of tenure which would in a way equate to some formal certificate or title? According to Katungula et al (2019), insecurity in customary areas were due to inadequate or total lack of documentation. Their studies reported that, later, projects using Spatial Tenure Domain Model (STDM) to document customary tenure rights have been introduced in most rural areas. A number of other studies have reported some form of documentation in customary areas under different names such as traditional land holding certificate, local occupancy certificates, local ownership certificates, farm permits, etc. (Green and Norberg, 2018; Jain et al., 2018; Munshifwa et al., 2020). These recent studies thus point to various local level initiatives being undertaken by traditional authorities despite the fact that these are not legally recognised within Zambian law. For instance, lately, traditional authorities have realised that giving some form of documentation to village land holders enhances individualisation of use and strengthens their rights on land as shown by Duvail et al. (2006) studies in Tanzania and Umar & Nyanga, (2022).

Delville (2007) asserted that customary documents have changed rules, user rights and authority of traditional leaders as they have reaffirmed control of customary areas. There has been an increasing recognition of traditional change in land governance and reasons for change has been related to perceived threats of confiscation and loss of rural tenure rights (Holden and Otsuka, 2014; Chu et al., 2015). As noted, uncertainty of tenure rights has driven and forced change in traditional institutions (Mkumbwa, Liversage, & Sylla, 2019). A number of factors are responsible for this changed view of land by traditional authorities. It is difficult to dispute that customary rights in traditional settings were hardly documented; however, the pressures of modern society has led to changes.

Cotula and Neves (2007) establish that paper documents have been introduced on customary land as local response to increased demand which threatens village communities. Furthermore, a number of studies suggest that

customary tenure is under threat due to pressures such as rapid population growth, state intervention, urbanisation, and the introduction of monetary market on customary land (Cotula and Neves, 2007; Peters, 2013; Munshifwa et al., 2020; Munshifwa et al., 2021). In addition to local initiative, numerous governments have continued formulating policies that change customary tenure to formal tenure, leasehold or freeholds (Toulmin, 2008; Anseeuw and Alden, 2010; Kaarhus and Dondeyne, 2015).

Despite these debates on what really constitutes customary tenure, one of its major distinguishing characteristics is that rights on this land are mostly unwritten and fluid (Cotula et al., 2007; Akuffo, 2009; Wily, 2011). Hence much of the current reforms or changes have focused on documentation and hardening of rules and boundaries (Cotula, 2007). At the organisational level, land registers have also been introduced (Cotula and Neves, 2007) to facilitate the issuance of these documents. Entry into many of these communities is now being tightened as much of the acquisition of land in these areas is now linked to monetary inducements (Jessica Chu, Phiri, & Alliance, 2015). In certain cases, village boards, whose main duties are to inspect community outsiders' applications for land, have now been introduced (Green and Norberg, 2018; Umar & Nyanga, 2022). It is therefore important at this stage to examine the "plausible" development outcome linked to this "improved" state of land governance on customary areas. This article investigates development outcomes attributable to changes in customary governance in two chiefdoms of Chamuka and Shimukunami in Zambia.

### **Profile of the study sites**

Chamuka chiefdom is located in the central province of Zambia. It falls under senior chief Liteta of Chibombo District (Kodamaya, 1995). Chamuka chiefdom is located in Chisamba District, Central Zambia, and sits between two rapidly growing urban areas, Kabwe in the north and Lusaka in the south (Timberlake, Chidumayo, & Sawadogo, 2010). The chiefdom is in Chisamba district which covers 2,978.5 km<sup>2</sup> and is located between latitude 14°30' and 15°00' S and longitudes 28°00' and 28°30' E. It is 1 138 m above sea level (Timberlake, Chidumayo, & Sawadogo, 2010). The district is in agro-ecological zone II (AEZ II a) which receives annual rainfall of about 800mm to 1,000mm. The district experiences three seasons namely, hot and dry (September –November) cold and dry (April –August), warm and wet (December–March). This type of vegetation mostly is found in areas that have slightly lower elevations of 500–1200 m. The temperature ranges from 14.31 to 27.31°C (Gart, 2011).

Shimukunami chiefdom is located in Lufwanyama district on the Copperbelt province of Zambia. The chiefdom is situated between latitudes 120° 20' and 130° 50' south and longitudes 260° 40' and 290° 15' east and covers a total surface area of 3,1014 km<sup>2</sup>. The Lufwanyama district is on an altitude of 1,200 m above sea level. The site's geology is characterised by granite gneiss, basement schist and lower Katanga rock systems (Chidumayo.1997). According to GRZ, (1996), the province receives an average annual rainfall of 1200mm annually. The area experiences the same three seasons as the Chamuka chiefdom, with the average temperatures ranges from 170°c in the cold dry seasons to about 300°c in the hot dry seasons. The Miombo woodland systems presents about 90 percent of the Copperbelt province's total vegetation.

In terms of population, Chamuka has about 207 villages with a population of 6,781 people. According to the Ministry of Agriculture of Chisamba district and village land registers, Chamuka chiefdom comprises about 49% males and 51% females. The chiefdom is home to the Lenje speaking people with Chamuka as the Chief. Information from the village land registers and the Lufwanyama District local council registers showed that Shimukunami has about 60 villages, with a population of about 5,791 people. The Shimukunami chiefdom is occupied by the Lamba speaking people and their paramount senior Chief Nkana.



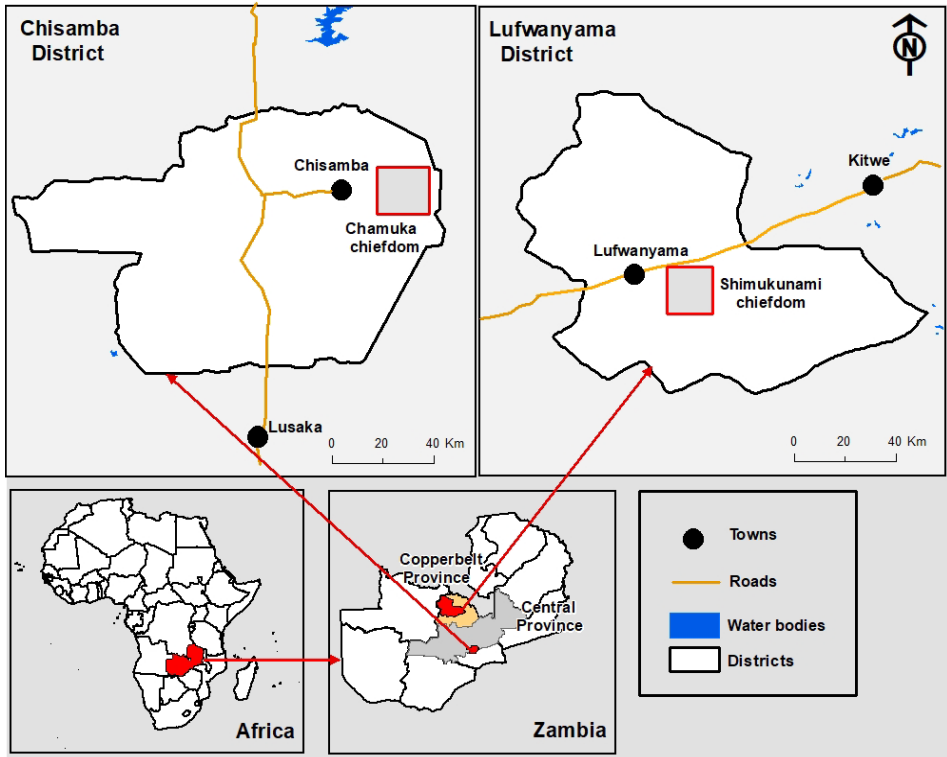


Figure 2: Location map of the two study sites

This study used both qualitative and quantitative research methods. Empirical data was collected from the purposely selected chiefdoms, namely Chamuka and Shimukunami. The two study areas were selected purposively as they have undergone some changes in their traditional institutional structures and land governance, with both acquiring informal land documents. For instance, both had introduced land records. Chamuka had informal land documents such as registers and individual customary land certificates known as Customary Certificates of Land Occupancy (CCLO). Shimukunami had also introduced land documents in the form of land registers. Further, Chamuka had also adjusted its traditional structure and included Village Land Advisory Boards (VLABs). Data was collected using household questionnaire, focus group discussions (FGDs) and in-depth interviews. Household questionnaires were used to collect quantitative data while focus group discussions and in-depth interviews were used for qualitative data. Using the village register, only households with a land title were sampled in Chamuka; out of 207 villages, only 11 villages with 490 households were

mapped and issued with an informal land title. Using random sampling, 302 households were sampled in both Chamuka and Shimukunami chiefdom. The villages near the palace were sampled first, with 151 identified as the saturation point for the household interviews. A total of 302 respondents, all household heads, were sampled from the two chiefdoms. Questionnaires had both open and closed ended questions. Quantitative data was later analysed using Statistical Package for Social Science (SPSS 25).

Household questionnaires were used to collect data from the households on differences types of land use, importance of informal land documents, tenure security and conflict management mechanism. The arrangement of sites visit was done mainly by the Chief and the palace retainers from each chiefdom. Ten villagers were selected to participate in the focus group discussion (FGDs) and eight key informants (KI) for in-depth interviews. Those selected to participate in the focus group and interviews included village elders, headpersons and other senior villagers who were thought to have knowledge on various changes within the area. The key informants were to validate information collected through household interviews. Further, KI were important to this study as they provided information on the change in traditional structures, land governance, and tenure security importance of informal land documents to the community.

### **Socio-economic characteristics of respondents**

The study isolated gender, age, education level, occupation and sources of income as important socio-economic parameters (Tables 1 and Fig 1). Data was collected in stages; the first collected were household questionnaires, followed by focus group discussion and then key informants. The distribution of gender showed 53% females in Chamuka and 47% males. In Shimukunami, the female household heads were at 49 % and the male at 51%. In this study, the mean in gender respondents were skewed towards female headed households which was a reflection of customary areas<sup>1</sup>. In terms of age, most of the respondents were falling between the age of 20 and 60 years; which was taken as the economically productive age groups.

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1 Most households were female headed as men migrate to nearby farms and towns for work.

Table 1. Statistics of respondents

	Chamuka	Shimukunami	Total
<b>Household survey</b>			
Female	80 (53%)	77 (51%)	157 (52%)
Male	71 (47%)	74 (49%)	145 (48%)
Total	151 (100%)	151 (100%)	302 (100%)
<b>Focus Group Discussion</b>			
Female	5	5	10
Male	5	5	10
Total	10	10	20
<b>Key informants</b>			
Female	4	4	8
Male	4	4	8
Total	8	8	16

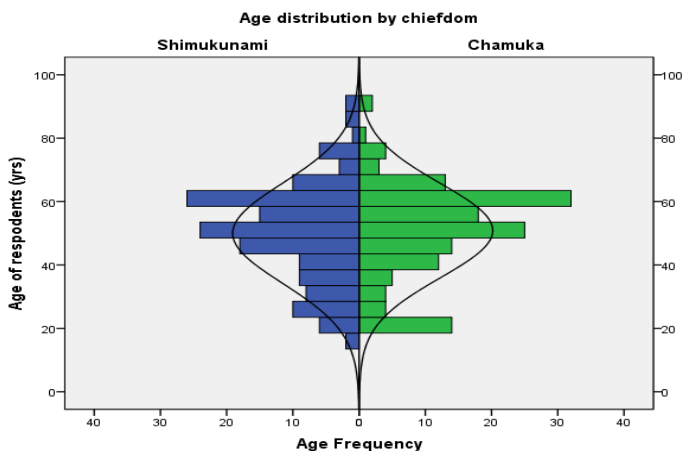


Figure 3: Socio-economic characteristics of the study areas

Findings also revealed that the majority of respondents had attained primary or secondary education. Statistics in fig 4 show that only 33% had been to primary school in Chamuka and 31% in Shimukunami. Furthermore, the study revealed that only 7% had gone through university in Chamuka and 8% in Shimukunami.

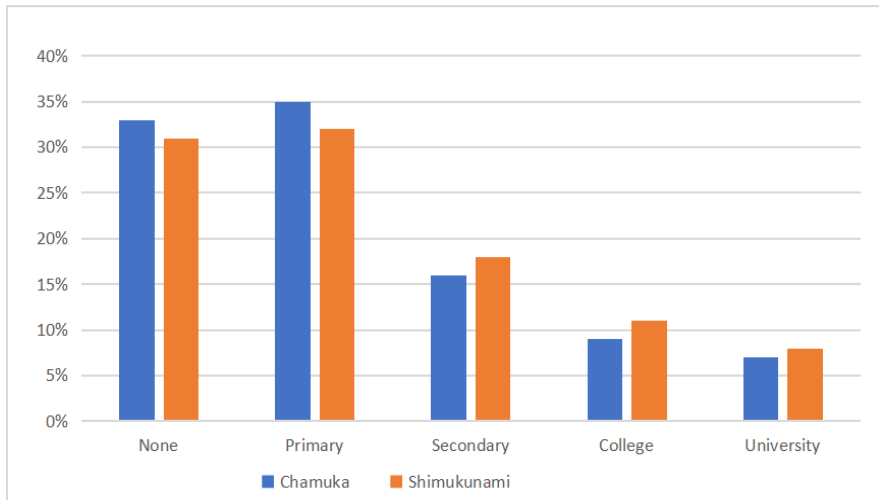


Fig 4: Education levels of Resondents/%

### Changes in customary land administration, documentation and land rights

Table 2 presents the nuanced changes in administration of land happening in Chamuka and Shimukunami chiefdoms, the case studies for this paper.

Table 2. Change in traditional land administration and purpose

	Chamuka	Shimukunami
CCLO—names of landholder, sketch maps, size, individual titles	√	
Land registers – land holders names and size of land, Permits	√	√
Village land boards – allocate land, kept land inventories, received applications letters from community	√	
Community applied for land –	√	

It is clear from Table 2 that traditional authorities in both Chamuka and Shimukunami have changed the way land was administered although not in the

same way. For instance, with support from donor agencies<sup>2</sup>, Chamuka has, in a recent innovation, advanced Customary Certificates of Land Occupancy (CCLO)<sup>3</sup> issued to hundreds of land users by the traditional authority. This study posits that these changes in traditional structures have an impact on how communities perceive their rights to land. Further, the table also showed that in Chamuka, local communities had to apply for land in the chiefdom through their village headmen. Further, all successful applicants and land holders information were written in a village land register. The FGDs in Chamuka reported that land registers were important as the chief had information such as the number of land holders, names and their size of land. The results of this study indicate that in Shimukunami the community accessed land verbally from the chief and land holders names were also written in the village registers.

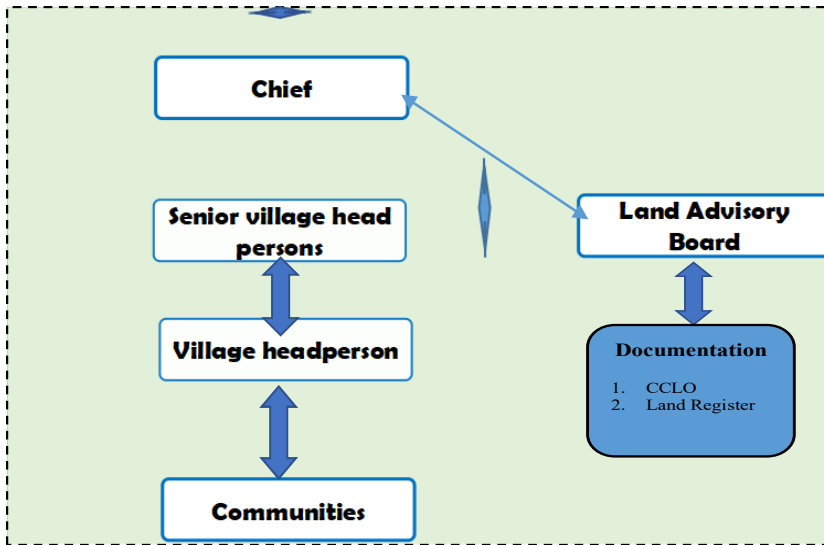


Figure 5: Perceived land related conflicts Influence of change in traditional resource governance

Though the study sites were under customary tenure systems, the KI had different views on land administration. It was observed that, both the KI in Chamuka and Shimukunami cited that the Chief was in charge of all land allocation and distribution. Per the discussion by the KI in Chamuka, the government and

2 The program of customary land certification was sponsored by the Global Land Tools Network (GLTN) of UN-HABITATA, Peoples Progress on Housing and Poverty in Zambia (PPHPZ), Zambia Homeless and Poor Peoples Federation (ZHPPF)

3 Customary Land Holdings Certificate was introduced in 2015 using a Social Tenure Domain Model

the chiefs were considered in charge of managing land applications and keeping of records in the chiefdom. The results from the table show that VLABs, headed by the chief, consisted of *Indunas*<sup>4</sup> who assisted him in charge of managing the land.

Further, participants of the FGDs and the key informants from both sites, reported that having a land title was important as it protected them against chief or government eviction. A female KI recalled the frequency of households being displaced from their land by saying,

“Many households without land titles have been evicted from their land which they have been occupying for many years. A customary individual certificate gives you a sense of pride and can protect you from the duo, as nobody can remove you from your land as you have a certificate”. (Female KI, Chamuka).

According to the FGDs in Chamuka, the community participated in the demarcation, mapping of individual plots and drawing of sketch maps. Evident in the FGDs in Chamuka was the fact that community participation in land demarcation and planning of land gave them confidence in the traditional institution. The FGDs also cited that, CCLO were cheaper methods of acquiring land titles and most households were able to afford them.

Results on land related conflicts are shown as below in both Chamuka and Shimukunami chiefdoms.

Table 3. Change in traditional land administration and purpose

Common Land conflicts	Chamuka %	Shimukunami %
How many have been displaced from their land?	24%	27%
Have you been evictions before?	34%	30%
Has your hand been encroached?	10%	14%
How many have been involved in family inheritance land conflicts?	18%	19%
How many have been involved in Illegal settlements?	14%	10%

4 Elders selected by the chief to be part of decision making in the chiefdom.

From the results presented, land related conflicts included eviction, encroachment, illegal settlements and inheritance. The results show sites variation in percentages on land conflicts such as eviction, encroachments, inheritance and illegal settlements were insignificant factor between Chamuka and Shimukunami.

Results of this study indicate that in Shimukunami, more households were involved in land related conflicts such as eviction. In depth interviews from KI in Shimukunami revealed that most household have been evicted due to state creation of farm blocks. However, the FGDs in Chamuka reported that the high demand for land had resulted in more people being evicted as the population was growing in the chiefdom.

The FGDs in Chamuka reported that households with traditional titles experienced few land related cases. There were few cases of land related conflicts as households participated in the mapping and sketching of individual plots. The participation of households in the exercise resulted in information sharing and boundaries disputes were resolved on the spot. According to the FGDs, the traditional customary certificates which were being issued in the chiefdom served as proof as it had information of landholders such as names of the landholder. The FGDs in Shimukunami cited that cases of heritance were many in the area due to lack of land title. The results showed that the differences in cases of land related conflicts between Chamuka and Shimukunami were due to differences in methods of conflicts management mechanism.

It is important at this point to mention that two related processes are being undertaken by the State, that is the national land titling programme and approval of the National Land Policy<sup>5</sup>, could potentially change land governance structures of customary tenure systems. However, the exact form and impact are subject to implementation and further research.

### **Developmental outcomes**

The discussions held in both Chamuka and Shimukunami indicated that there has been some changes in the methods used to administer land in the chiefdoms. The general agreement in the Chamuka FGDs was that the CCLO and the VLADs have significantly contributed to reducing tenure insecurity in the chiefdom. For example, the FGDs in Chamuka expressed views such as CCLO documents have changed traditional land administration. The following

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5 It is important to point out here that at the time of writing this paper, the Zambian Cabinet on its meeting of Monday 8<sup>th</sup> April 2021 approved the National Land Policy for implementation. Its impact on the ground will largely depend on its implementation.

were developmental results under customary land administration mentioned in both the study sites.

### **Improved and cheap record keeping at local level**

In Chamuka and Shimukunami, the key informants explained that all land holders' information were recorded in the registers. Land registers enabled the traditional leaders to know the number of land holders and the available land. The FGDs in Chamuka indicated that written documents were important as they served as proof of ownership which resulted in reduced risks of being evicted or displaced by the chief or outside communities. One KI discussant explained that written land records have increased information on land among households. In the words of another discussant in Chamuka, a widow,

“It’s a good thing that I now know the size of my land and that will assist me to share the land with my children”. Another woman discussant in Shimukunami echoed with sentiment with, “to me just knowing that my name, size of land is written in the register, give me the joy as nobody can encroach on it” (KI, Chamuka).

Other discussants acknowledged that land records were important as they increase information among households. Households shared information on land boundaries and size of their land. In Chamuka the key informants explained that land documents were important as traditional leaders were able to know who owned what in the chiefdom.

### **Institutional approach in increasing women land rights**

Both key informants in Chamuka and Shimukunami perceived land documents as being important in increasing women's land rights. From the documents the chiefs were able to know the number of women and men who were land holders. One headman in Chamuka chiefdom shared the following:

“The number of women land holders has increased in the chiefdom as the chief has records which shows which gender must be allocated land” (Headman, Chamuka).

The headmen further narrated that, during the land mapping exercise, women also participated in the demarcating of individual plots. More women were able to apply for land from the chief which increased their tenure rights



in the chiefdom. Women were also able to participate in land distribution process of the chiefdom.

### **Community participation in land administration**

The results presented in Table 2 suggest that in Chamuka the community had individual land certificates which contained information of their details such as names and sketch maps. The community were trained on how to use Geographical Information Systems (GIS) in the mapping of individual plots. During the mapping exercise the community were able to share knowledge which increased their social relationship centred on land.

### **Improvement in land administration**

The FGDs in Chamuka perceived the authority of the chief to have reduced with the introduction of the VLABs to the chiefdom's traditional structure. The FGDs asserted that VLABs and CCLO protected their land and if the chief wants land, he can be taken to court. The VLABs consists of selected members from the community. The VLABs were perceived as important in the chiefdom as they assisted the chief in the selection of applicants which reduced the excessive powers of the chief. KI in Chamuka also explained that, the government agents powers have been also reduced as all developmental projects land allocation had to be negotiated directly with the community or an individual. The KI's discussions further stated that individual plots were made visible by planting of tress to reduce land encroachments:

“I have planted trees as demarcation so that I know exactly where my boundaries start and begins. A person cannot come and farm on land as trees makes boundaries visible”  
(Chamuka KI, June 2020).

However, both Chamuka and Shimukunami FGDs thought nothing had changed with regards to the authority and the excessive powers of the chief over customary land. The discussants generally trusted their traditional leaders to manage land pressures which came from the government and outside local communities. However, they were uncertain about how CCLO and the land registers would protect them from the governments as both had no legal backing. In discussions regarding the traditional leaders powers, both Chamuka and Shimukunami key informants confirmed that traditional leaders fail to protect them from government agents despite the introduction of the land registers and the CCLO. One male key informant from Shimukunami shared the following:

“Even after the introduction of the CCLO and the VLABs people in the villages were still replaced by government. Pieces of land were being taken over by government to create farm blocks at different times. I failed to go to court as my land is under customary tenure.” (KI Shimukunami, May, 2020)

The KI in Chamuka attested to the discussions on traditional leaders’ excessive powers even after the introduction of the VLABs to the structure, and noted the following:

“Though the VLABs handle all application from the communities the chief had the final authority as he decides who to give land and where? The VLABs and the chiefs have no changed any rules, if you disobey and disrespect the headmen and the chief you will be chased from the chiefdom” (KI Chamuka, June, 2020).

### **Comparing changes in traditional land administration between Shimukunami and Chamuka chiefdoms.**

The entry point for this article was that customary land governance structures are changing in rural Zambia. This conforms to the recent understanding that customary tenure is not as static as it is thought to be in neo-liberal literature which advocates for full private property rights (De Soto, 2000; Deininger, 2003). These changes, while subtle in some cases, are more visible in others, such as documentation of land rights through local initiatives. In order to support its case, this article collected data from two chiefdoms of Chamuka and Shimukunami, where an array of documents was found, such as farm permits, traditional holding certificates. At the organisational level, these chiefdoms were found to have established some form of land registries for recording of allocations of land in their jurisdictions; this is a huge shift from the way customary land was traditionally administered.

The study then sought to examine how these nuanced changes in land governance have affected development outcomes in these chiefdoms. Just like Bromley (2008), Lawry et al. (2014; 2017) and others, this study was further premised on the understanding that top-down land reforms in sub-Saharan Africa do not always result in increased security of tenure. The reason could be as hypothesised by Lawry et al. (2014, p. 59) that customary tenure seems

to offer “pre-existing tenure security without formalisation”. Hence, instead of focusing on formal versus customary, this study compared two customary authorities, at different stage in the “evolutionary” trajectory to examine whether development outcomes can be differentiated at that level.

The theoretical argument is that commodification and documentation of land rights strengthens ownership and results in a number of positive developmental outcomes. Literature reviewed, such as Green and Norberg (2018), Jain et al. (2018), Katungula et al. (2019), Munshifwa et al. (2020) also showed that documentation of rights is a response by traditional authorities to a number of land pressures. The ultimate effect is that traditional authorities have started re-thinking how best to administer land so that the interests of their people are protect.

### **Use of customary documents as protection against land pressures**

The study observed that, changes in land holding such as the introduction informal land documents have to some extent protected local communities against increasing commercialisation of land. The study observed that households in Chamuka which had CCLO were able to negotiate with outside communities which also increased their degree of land control (Umar & Nyanga, 2022). The study had suggest solution to literature of other studies such Albania Triantis, (2020); Sitko, (2014); Horman and Chitonge, et al. (2017) on the effects of privatisation and commodification on rural communities. This study also observed that Chamuka, being closer to urban cites like Lusaka and Kabwe with high populations, experienced more land pressures as observed by Yaro (2012), Milne (2013), and Boone et al. (2019) and had strict land administration compared to Shimukunanmi. Within the boarder debates of commodification, this study’s findings support existing literature such as Cotulla (2007) and Delville (2007) that suggest that land pressures being experienced under customary tenure influenced traditional leaders to introduce paper documents in order to control land access in the chiefdom (Zevenbergen, 2002; Katungula et al., 2020; Oyama, 2022).

### **Use of paper documentation to improve land distribution**

The study found that in both sites, written land records were important as they were used as a means of recognising claims to land and chiefdom membership (Lund, 2017). The results show it was possible for traditional institutions to use land records such as land registries to plan on the use of resources. Information on landholders provided the chief with knowledge of who owns what

and where, which enabled him to distribute land efficiently in the chiefdom (Mathieu, et al., 2002). This study showed that, in both sites, traditional leaders' hand written land registers noted all land holders and resources, a change from primarily oral documentation (Duvail, et al., 2006; Deininger, et al., 2011). These findings are similar to Yaro (2012) study which revealed that traditional land administration must be based on finding solutions in the face of land shortages and competition by changing from fixable to strict land access.

The inclusions of CCLO in Chamuka also resulted in the increase of female land ownership as anyone was free to apply for any piece of land in the chiefdom. The findings suggest that the introduction of CCLO enabled women access to land without seeking male consent, thus allowing for households headed by widows, divorced and singles to apply for land in the chiefdom (Bezabih, Holden and Mannberg, 2011; Doumbia, 2018). This study's findings are similar to Holden and Deininger (2011) observation in Ethiopia that, after the introduction of individual certificates on customary land, women were able to apply for land thereby increasing the number of female land holders.

The study showed that the introduction of CCLO had led to equality in decision making process between female and males at household level as both had defined rights to specific areas of land (Holden, et al., 2011; Ossome, 2014). The study found that CCLO in Chamuka included names of the husband, wife and children which meant that family land could not be sold or otherwise decided upon without consulting each other. Further, the study found that both male and female children were included on the CCLO which resulted in the reduction of land conflicts among families (Umar and Nyanga, 2022). Land registration strengthened females' position and ability to decide on land without the risk of losing it to their male counterparts (Holden and Deininger, 2011). Furthermore, their study showed that land certification in Ethiopia resulted in increased female participation in decision making at household and chiefdom level.

The study observed that use of land application controlled community members from having more than one piece of land so that land was distributed equally among households. Also, it was possible that in Chamuka the inclusion of application letters were methods aimed to regulate and control community access to land under perceived scarcity. These findings are similar to Spiller (2011) who observed that communities were likely to change behavior and consider opportunist costs when faced with resource constraints. Other studies

by Cotula (2007) and Delville (2007) also established that traditional land governance has changed in resource governance to suit the socio-economic conditions of the present. Community members are able to rent out their land without seeking permission from their leaders as they had land documents as evidence of ownership.

### **Use of land documents to secure community tenure land rights**

As demonstrated by the results from Chamuka, the introduction of land documents such as CLO was a change from communal land rights to individual land ownership. This study showed that communities were able to apply and pay for CLO to be considered as members of the chiefdom. The study observed the use of simple and cheap methods of land documents by both sites such as land registers and CLO to exclude outside communities from being able to access land in the chiefdom (Mkumbwa, et al., 2019; Munshifwa, et al., 2020). This study shows that under state policies of privatisation and accommodation, traditional tenure have evolved towards individualised tenure with clear ownership of rights (Triantis, 2020). The inclusion of land documents increased tenure security as landholders' certification was done by chief which provided evidence of claims to land (Mkumbwa, Liversage, & Sylla, 2019). Therefore, land documents increased tenure rights of the community as the chief had records of names of land holders in each village which provided evidence of ownership (Green and Norberg, 2018).

### **Use of technology to record individual tenure rights**

The study observed that the use of digital and spatial information to improve record keeping resulted in land allocation efficiency at chiefdom level (Holden, Deininger, & Ghebru, 2011). The results showed that apart from formal land titles, local communities were able to use technology to record individual plots, also resulting in improved tenure rights. The advanced land documents in Chamuka included details of land holders such as names and size of land. In order to update individual tenure rights, the Geographical Information Systems (GIS) was used to record coordinates and location on the map (Duvail, et al., 2006; Doumbia, 2018). Local communities were able to draw their sketch maps using descriptive information such as physical features which contributed to recording boundaries of individual plots (Lemmen, et al., 2007; Green & Norberg, 2018; Katungula, et al., 2020; Umar & Nyanga, 2022). This study shows that apart from formal titles (Lund, 2017; Chimhowu, 2019), informal documents can also be used to establish conditions under which property rights can be held under customary tenure such as applying for a CLO (see Delville, 2002; Umar & Nyanga, 2022).

Furthermore, use of GIS increased individual participation as everyone was eager to access information and awareness of tenure rights as land was linked to the owner (Umar & Nyanga, 2022). The study further observed that customary land documents between Chamuka and Shimukunami were used to control resources, improve tenure rights, and manage land at the local level. This present study revealed that level of control was dependent on the perceived land pressures that were being experienced in the chiefdoms. Though studies by Chu & Phiri (2015) and Chitonge et al., (2017), had highlighted that rural land displacements were due to state reforms, this study shows the use of informal documents as protection of tenure rights and land demands that may have existed in the area.

In addition, the study found that the use of technology such as GIS to map individual plots had resulted in increased community's tenure rights at local level (Duvail, Hamerlynck, Nandi, & Mwanbeso, 2006). For instance, each household with CCLO in Chamuka had knowledge of the exact size of their land and its location on the globe which reduced risk of encroachments. This finding matches Lemmen, et al.'s 2007 study on the importance of Social Tenure Domain Model (STDM) to improve tenure security. The inclusion of CCLO in Chamuka increased their tenure security as the documents were recognised by everybody in the community. The study observed that individuals consolidated land claims in Chamuka by planting trees along individual boundaries.

### **Use of documents to consolidate local authority**

In relation to authority, the study observed that chiefs were the only one who kept the land registers which provided safety nets for the marginalised people against privatisation and commodification (Schoneveld & Mwangi, 2013). The study results showed that in both traditional areas, leaders used land registers to collect information on the land holders which assisted them in decision making process in the chiefdom. Land records provided local leaders with information on who was eligible, visibility of land rights to those outside or within the community (Umar & Nyanga, 2022). In the same vein, the study results show that, even though *Indunas* were involved in the land allocations in both sites, the final authority was with the chief (Green and Norberg, 2018). Similarly, studies by Ferree et al. (2022), highlighted that chiefs have introduced recorded tenure rights and gave out paper documents as a way of reducing demands for formal titles and retaining control over land in their chiefdoms. On the other hand, this study has shown that, high land pressures had influenced

communities to introduce land document which was a step further in the protection of individual tenure rights from external communities. This study also shows that, change in resource management within customary tenure can be viewed as land innovation which have been induced by land scarcity and demands.

The study shows evidence of a more devolved empowering of land management as chiefs had authority to interpret to others, maintain and consolidate control over land (Bejaminsen and Lund, 2002; Schoneveld & Mwangi, 2013). The study observed that although households were allowed to have a land title with individual details such as names and size, land was still under the jurisdiction of traditional leaders (Platteau, 1996 ; Adams, 2003). Furthermore, the study observed that CCLO were not free as households paid for it, enabling the chief to benefit from all the sales in the chiefdom. In this view, other studies have argued that it was possible the introduction of individual documents benefited the chief more than the community (Green & Norberg, 2018). This study is similar to Yaro (2012) who argued that introduction of land documents under increasing traditional land values have made chiefs become land marketers in most societies.

### **Adjustment of the traditional structure to improve land administration**

The results from this study indicate that the inclusion of VLABs to the structure in Chamuka were means of including community participation which also improved land management in the chiefdom. The results showed that in Chamuka the VLABs assisted the chief in land distribution and decisions were collectively made in the chiefdom. Evidence from study results indicated that escalating land demands in the area prompted traditional institutions to adjust their structure to include more people in order to limit resource accessed by outsiders. The study observed that, apart from the chief and the village headmen making decisions on land distribution in the chiefdom, the traditional structure included the VLABs who presented the community's interest resulting in social stability of the chiefdom. Further, the study showed that VLABs also were mediators between the chief and the community and assisted in finding solution to problems the community faced in the chiefdom. Although VLABs assisted in managing all the resources, the study observed that the chief was on top of hierarchy which was not different from Shimukunami traditional structure. These findings are in agreement with Toulmin's (2004) finding on traditional tenure where the chief was on top of the hierarchy followed by the senior headpersons and at the bottom was the community. This study showed that,

despite the inclusion of VLABs the chief still had final authority on all land allocations and kept all records in the chiefdom.

The study found that traditional leaders' recording of communities in the registers was important as the information was used to control and regulate access to land. The study showed that in Chamuka local people had to apply for a piece of land which was a shift from what other studies such as Hasam (2002) had observed where communities were free to possess land as long as they were members of the lineage or tribe. Earlier studies by Loenen (1999) and, later, Adams and Turner (2005), noted that under customary tenure individual accessed land from the chief verbally; however, this study found that in Chamuka, local communities had to follow stipulated procedures in order to access land in the chiefdom. In this regard, this study revealed that all community members had to apply for land and their names and size were recorded in the land document. Writing down of information of land holders resulted in improved methods of record keeping as land claims were considered subjects of the chiefdom.

### **Use of land documents to enhance local participation in decision making processes**

The study showed that land related cases were collectively resolved at individuals/household level due to the degree of sensitisation which made communities recognise the importance of CCLO in the chiefdom. This is similar to Mamimine and Mandivengerei's (2001) observation on evolution under traditional tenure as being ever changing along economic lines of the present. Further, the introduction of CCLO in Chamuka allowed community members to participate in sketching of individual plots by enabling community members improve information sharing on boundaries (Duvail, et al., 2006). This study showed that the inclusion of land document resulted in the reduction of land related conflicts at village level as it assisted communities to interpret the relationship between special objects and tenure right. This is similar to Gebara (2018) on how local communities can transform their institution to promote stability and reinforcement towards a more secure tenure.

### **Land records as conflicts resolution mechanism**

The study results showed that though households were involved in land related cases such as encroachments, displacement and inheritance, the community were able to resolve them at chiefdom level. The study found that, land related



conflicts were few in the site where the community had CCLO as they used them as proof of claims. The study revealed that land related conflicts were managed at local level as CCLO and land registers were used as a basis for negotiation in both Chamuka and Shimukunami. The study showed that land documents provided local institution with authority which increased their level of authority of who to include or exclude in the decision making process (Mwangi and Markelova, 2009).

The study observed that the use of Social Domain Model in CCLO resulted in community developing confidence in conflict resolution processes as they had participated in the drawing of sketching maps and of individual boundaries (Mushinge, 2017). As earlier studies by Shipton and Goheen (1992), and Mathieu, et al. (2002) show, traditional institutions have perceived evolution in land administration from the weaker to a more substantial individual or family claims. As the study observed, the use of geographical maps in Chamuka provided a basis for communities in Chamuka to participate in resolving land conflicts at local level (Duvail, et al., 2006; Lund and Boone, 2013;). Further, the use of maps reduced land related conflicts such as inheritance disputes as, in CCLO, families' rights were clearly recorded and recognised on the land documents.

## **Conclusion**

This study shows that indigenous land governance structures have changed both in Chamuka and Shimukunami chiefdoms, although these changes or improvement are not at the same pace. For instance, while Chamuka is now able to issue some form of informal certification, Shimukunami has not yet gotten there. These changes were seen as a response to rapid population, state intervention and urbanisation which had increased demand for customary land. Therefore, the study has revealed that land documents and a village board were introduced to provide more control and regulations on how customary land is governed. It was found that the introduction of Certificate of Customary Land Occupancy in Chamuka have heightened the feeling of security on land and reduced land-related conflicts compared to Shimukunami.

Further, the study revealed that development outcome between the two sites were not significantly different. This points to the fact that whatever changes or improvements on documentation, they may not significantly alter the status quo. Therefore, this paper argues that customary land ownership certificates cannot stimulate economic benefits for Chamuka because they lack legal recognition. However, keeping Lawry et al.'s (2014) findings in mind, this could also imply that even state backed land reforms, such as the current

national titling programme, may not result in the envisaged improvements in tenure security, investment and agricultural productivity without other supporting empowerment programmes.

This study confirms that traditional governance institutions are indeed not static but evolve to suit socio-economic trends of the present. However, the impacts at each stage of this evolutionary trajectory needs nuanced investigations in different contexts. This study contributes to literature by showing that just like state-led reforms, individual customary land certification do not result in significant increase in tenure security and associated development outcomes. As this study found, there is little differential effects in tenure security and land developmental outcomes between Chamuka and Shimukunami, with the former having a more improved documentation process. The Zambian government's policies such as the approved National Land Policy and the National Land Titling Programme (NLTP) should thus be attentive to these research findings. We recommend future studies to focus more on recent demand-driven approaches that allow the local communities to participate in identifying solutions to their tenure security problems.

**Informed Consent Statement:** All participants were allowed to withdraw or leave without feeling an obligation to continue the interviews. All participants' names were changed in the study to guarantee anonymity.

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