



REPORT

OF THE

COMMITTEE ON AGRICULTURE, LANDS AND NATURAL REOSURCES

ON THE

REPORT OF THE AUDITOR GENERAL

ON

GOVERNMENT'S EFFORTS
TO ENSURE ACCESS TO LAND IN AN EFFECTIVE MANNER

FOR THE SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY
APPOINTED ON 20TH SEPTEMBER, 2017

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REPORT OF THE COMMITTEE ON AGRICULTURE, LANDS AND NATURAL REOSURCES ON THE REPORT OF THE AUDITOR GENERAL ON GOVERNMENT’S EFFORTS TO ENSURE ACCESS TO LAND IN AN EFFECTIVE MANNER FOR THE SECOND SESSION OF THE TWELFTH NATIONAL ASSEMBLY APPOINTED ON 20TH SEPTEMBER, 2017

Consisting of:

Mr M J B Ng’onga, MP, (Chairperson); Mrs M C Mazoka, MP (Vice Chairperson); Mr E Mulenga, MP; Mr S K Michelo, MP; Mr B Hamusonde, MP; Mr P C Mecha, MP; Mr D Mung’andu, MP; Mr N Mwene, MP; Dr M Imakando, MP; and Mrs R C Fundanga, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir

Your Committee has the honour to present its Report on the Report of the Auditor General on Government’s Efforts to Ensure Access to Land in an Effective Manner for the Second Session of the Twelfth National Assembly.

Functions of the Committee

2.0 Your Committee is mandated to carry out the functions set out below.

- i. study, report and make recommendations to the Government, through the House, on the mandate, management and operations of the Ministries of Agriculture, Lands and Natural Resources, and Fisheries and Livestock, departments and/or agencies under their portfolios;
- ii. carry out detailed scrutiny of certain activities being undertaken by the Ministries of Agriculture, Lands and Natural Resources and Fisheries and Livestock, departments and/or agencies under their portfolios and make appropriate recommendations to the House for ultimate consideration by the Government;
- iii. make, if deemed necessary, recommendations to the Government on the need to review certain policies and/or certain existing legislation;
- iv. examine annual reports of Government ministries and departments under their portfolios in the context of autonomy and efficiency of Government ministries and departments and determine whether the affairs of the said bodies are being managed according to relevant Acts of Parliament, established regulations, rules and general orders;
- v. consider any Bills that may be referred to it by the House;

- vi. consider International Agreements and Treaties in accordance with Article 63 of the Constitution;
- vii. consider special audit reports referred to them by the Speaker or an order of the House;
- viii. where appropriate, hold public hearings on a matter under their consideration; and
- ix. consider any matter referred to them by the Speaker or an order of the House.

Meetings of the Committee

3.0 Your Committee held six meetings during the period under review to receive submissions on the Report of the Auditor General on Government's Efforts to Ensure Access to Land in an Effective Manner.

Procedure adopted by the Committee

4.0 To help it appreciate the issues raised in the report, your Committee requested both written and oral submissions from the stakeholders listed below.

- i. Non-Governmental Organisations Coordinating Council (NGOCC).
- ii. Ministry of Gender.
- iii. Ministry of Local Government.
- iv. Ministry of Lands and Natural Resources.

AUDITOR GENERAL'S COMMENTS

5.0 The Auditor General reported that the Performance Audit Report on Government's Efforts to Ensure Access to Land in an Effective Manner, was conducted in accordance with the provisions of Article 250 (1) (c) of the Constitution of Zambia.

Background to the Audit

5.1 According to the Vision 2030 for Zambia, Zambians aspire to live in a strong and dynamic middle-income industrial nation that provides opportunities for improving the wellbeing of all by 2030. The land sector vision is to secure, fair and equitable access and control of land for sustainable socio-economic development. Several policy documents have highlighted the need for reforms and improvements in the management of land administration.

In this regard, in 2012, the Government embarked on reforms aimed at ensuring security of tenure for both state and customary land, decentralisation of land administration to district level and conducting a land audit for all categories of land in order to plan for its sustainable use.

Further, in the revised Sixth National Development Plan (SNDP) 2013-2016, the Government stated that the management of a land tenure system, acquisition and general land usage are critical to economic and national development. According to the SNDP, it has been difficult to ascertain total land availability and usage patterns in the Country due to information gaps.

In the SNDP, the Government confirms that a land audit will be undertaken (during the plan period) with the aim of improving land administration and increase ground rent revenue collection. With the coming to an end of the SNDP in 2016, the newly launched 7NDP (2017-2021) has re-emphasised the need for reforms which will focus on land mapping, audit and titling.

The Ministry of Lands and Natural Resources is the main body mandated to carry out functions of land administration as provided for in the *Lands Act of 1996* Cap 184, *Lands and Deeds Act of 1994* Cap 185, *Lands Survey Act of 1965* Cap 188, *Land Acquisition Act of 2010* Cap 189 and *Land (Perpetual Succession) Act No.39 of 2010* Cap 186 and the *Lands Tribunal Act*.

The Commissioner of Lands, in the Ministry of Lands and Natural Resources, is mandated by the Statutory Instrument No. 7 to award land to any person who qualifies, subject to direction of the Minister responsible for land matters. All local authorities, which fall under the Ministry of Local Government, are mandated to administer land on behalf of the Commissioner of Lands. The local authorities process applications and select suitable candidates and make recommendations to the Commissioner of Lands, who may accept or reject the applications.

According to the strategic plans for the Ministry of Lands and Natural Resources for the period, 2002 to 2006 and 2012 to 2014, the mission statement was to efficiently, effectively and equitably deliver land, maintain up to date land records and provide land information. For the period 2015 to 2016, the strategic plan was still in draft form.

Motivation for the Audit

5.2 The audit was motivated by the factors set out below.

- (i) Parliament, through its Committee on Lands, Environment and Tourism, in its report to the National Assembly in 2013, recommended to the Government that a land policy be put in place, all laws relating to land, land administration and management be reviewed and functions of the Ministry be decentralised to all districts and that the nation-wide land audit be completed.
- (ii) Lack of comprehensive data on ownership of stocks of land and any changes that may have occurred from 1964 to date.

- (iii) Failure by local authorities to follow laid down procedures in allocating land and delays in issuance of offer letters arising out of the poor correspondence systems and logistical challenges as well as centralisation of land alienation functions.

Audit Objective

5.3 The audit objective was to assess to what extent the Ministry had established a system that ensured effective land alienation.

Audit Questions

5.4 Based on the audit objective, the audit was designed to answer the questions below.

- (i) How does the process of land alienation ensure equal access to land in a transparent manner?
 - a. How does the land alienation process conducted by the councils ensure equal access to land?
 - b. How do the councils and the Ministry ensure a filing system and record keeping that allows for easy access to information concerning the land alienation process?
- (ii) How does the Ministry follow up, through monitoring and control, the local authorities responsible for land alienation?
 - a. To what extent has the Ministry established a system for monitoring and controlling of local authorities responsible for land alienation?

Scope of the Audit and Limitations

The audit was to examine activities carried out by the Ministry of Lands, Natural Resources and Environmental Protection and Ministry of Local Government and Housing, through the Councils, to assess to what extent the Ministry established systems that ensures effective land alienation. The audit covered activities relating to the years 2012 to 2016. The audit was limited by the client's failure to provide sufficiently documented information.

Methodology

The audit was conducted in accordance with the provisions of Article 250 of the constitutional of Zambia (Amendment) Act No.2 of 2016, the Public Audit Act No. 13 of 1994 and the Public Finance Act No. 15 of 2004 and the International Organization of Supreme Audit Institutions (INTOSAI) Standards and audit

policies and procedures established by the OAG which conform to the requirements of International Standards on Auditing.

The audit inspections covered the management of land administration activities carried out in both the southern and northern regions into which the Country is divided administratively by the Ministry.

The methods used to conduct the audit included:

i. Document Review

A review of documents was conducted to obtain an understanding of the processes involved in land alienation. Documents such as the Lands Act, parliamentary committee reports, related circulars, selected individual property files, Council minutes, selection criteria and other relevant documents used by the different councils during land alienation were all reviewed.

The purpose of the document review was to establish to what extent the Ministry had implemented and achieved the planned activities.

ii. Interviews

Structured interviews were held with relevant officials from both the Ministry and the Councils. This method of data collection was used to corroborate and explain information from the document review such as. Minutes of the interviews were recorded and maintained.

iii. Physical Inspections

Physical inspections were carried out to corroborate evidence collected from document reviews and interviews such as levels of encroachment.

Audit Criteria

5.5 The performance of the Ministry was assessed against the criteria drawn from the sources below.

- a. *The Lands Act No 20 of 1996* Chapter 184;
- b. *Lands and Deeds Act of 1994* Chapter 185;
- c. The Administrative Circular No. 1 of 1985;
- d. Statutory Instrument No.7 of 1964 and Gazette Notice No.1345 of 1975; and
- e. The Vision 2030 section 2.2.

CONSIDERATION OF SUBMISSIONS ON THE AUDIT FINDINGS AND OBSERVATIONS

6.0 Your Committee considered submissions from the identified stakeholders and the Controlling Officer of the Ministry of Lands and Natural Resources. The submissions of these stakeholders and the Controlling Officer as well as the observations and recommendations made by the Committee are set out below.

a. Allocation Process (page 8-10)

It was reported in the Auditor General's report that according to the Administrative Circular No.1 of 1985, after the Commissioner of Lands has provided numbers for the proposed plots and confirmed availability, the councils may go ahead and select suitable candidates to allocate the plots to. Once land has been numbered and surveyed, the local authorities may advertise the stands in the news media or any transparent medium, inviting developers to apply to the Commissioner of Lands through the local authorities.

Upon receipt of the applications, the local authorities will select the most suitable applicants for the stands and make recommendations in writing to the Commissioner of Lands, giving reasons supporting the recommendations. This recommendation letter will be accompanied by the full set of Council minutes.

According to the Ministry, apart from the Administrative Circular, councils have not been provided with any further guidance on selection methods or criteria. As such, councils may decide whether to advertise in the press, on their notice boards or select from applications already submitted to management, and may or may not conduct interviews. This process has the following weaknesses:

(i) Criteria not Equitable

A review of the selection criteria used in the councils visited requires that applicants should either provide a bank statement, pay slip or proof of residence and should indicate ability to develop. This is inclined to favour those in formal employment who are able to provide pay slips and individuals that are able to provide bank statements. This tends to marginalise the less privileged as they are unable to provide the formal requirements, going against the objective of equitable access to land by an ordinary citizen.

(ii) Unclear Selection Process

Where interviews were conducted, evaluation sheets were used to rate suitable candidates. An examination of the evaluation sheets used during interviews showed that there was no clear basis of selecting one candidate over the other

even when they all provided the necessary requirements. For example, how capacity to develop was assessed was not clear.

In other cases, interviews were not conducted. For instance, at Solwezi Municipal Council, management indicated that interviews were not conducted when allocating plots in Mitukutuku Area because the number of applications was less than the plots and therefore all applicants were allocated plots.

iii. Resale of Plots Based on Recommendation Letters

After the selection process, successful candidates are given letters of recommendations which should be submitted to the Commissioner of Lands, who will prepare an offer which should be accepted by paying the consideration prescribed. A lease agreement will then be prepared and signed by both parties after which title will be issued. However, successful applicants have been selling the plots to other individuals based only on a recommendation letter from the Council, without the consent of the President, contrary to the Lands Act.

In response, the Ministry indicated that this occurred at local level before submissions to them and hence had no information of the extent of occurrence. Therefore, the extent could not be established as no documentation was readily available.

Stakeholders' Submission

Stakeholders contended that the criteria used in land allocation which demanded formal documentation such as bank statements and pay slips was an impediment to access to land for those not in formal employment. Therefore, they were of the view that the application requirements should be flexible to allow equitable access for all.

Controlling Officer's Response

The Controlling Officer stated that the Ministry recognised the principle of equitable access to land by ordinary citizens. The Ministry and the local authorities administered only 6 percent of the land whilst the bulk of it fell under customary tenure. For customary land, such criteria were not applicable as there was no minimum development clause. On the other hand, for state land, the criteria referred to was only applied in situations where available land was less than the number of land applicants, in which case a vetting system became inevitable in order to ensure that those who had capacity to develop were given the opportunity to do so. This was even more imperative since there were development clauses attached to land allocation, requiring offerees or lessees to develop land within a specified period of time.

The Controlling Officer stated that the Ministry in many instances had waived the requirements of bank statements or pay slips in order to empower citizens with land. Further, there were other Government programmes that had been commissioned to make land available to the less privileged. For instance, under the office of the Vice President, the Resettlement Programme was one such an initiative.

He further stated that it was also worth noting that there were districts, especially new ones, where the requirement to provide proof of capacity to develop did not apply due to the low numbers of people applying for land.

Committee's Observations and Recommendations

Your Committee observes that the selection criteria used by the local authorities in allocating land to applicants is not clear and could be subject to abuse. Your Committee, therefore, strongly urges the Government to ensure that the selection criteria for use by local authorities are clear and transparent. In this regard, clear guidelines should be issued to local authorities.

Further, your Committee notes that the service charges demanded by the local authorities are beyond the reach of most Zambians and services are often not provided. Your Committee recommends that service charges should be reviewed downwards while measures should be put in place to ensure that local authorities provide the services paid for by applicants.

iv. Double Allocation of Stands/Plots

It was reported by the Auditor General that when recommendations are made by the council, council management will generate temporary offer letters which detail the pre-conditions which should be met before they are recommended to the Ministry for an offer letter. Once these pre-conditions are met, which include the payment of premium fees, a letter of recommendation is generated to refer the prospective land owner to the Ministry.

There were instances of double allocation of plots in all councils, although information on the extent of the problem was not provided. In response, the Ministry and councils attributed this to, among other factors, poor record keeping and regular transfers of council officers.

Stakeholders' Submission

Stakeholders stated that the increase in cases of double allocation of plots in council areas was evidence of poor record keeping and a lack of transparency and was a recipe for corruption. This should be minimised by improving information management systems in the local authorities.

Controlling Officer's Response

The Controlling Officer submitted that this problem was prevalent in a number of councils. The setback was mainly due to poor land record management by the respective local authorities. The absence of an electronic integrated land management information system by the councils was the main cause of double allocation and the use of unapproved numbers.

He submitted that the Ministry had been sensitising all councils on the need for proper land record management, information sharing and use of approved numbers from Ministry of Lands and Natural Resources to avoid double allocation of plots. Further, Administrative Circular No. 1 of 1985 stipulates that only approved numbers can be allocated to a client. In a bid to minimise or stop double allocation of plots, the Ministry had been suspending the agency of councils that were found wanting. The Ministry would, in the near future, embark on interfacing the Zambia Integrated Land Management Information System (ZILMIS) with all district councils/local authorities.

Committee's Observations and Recommendations

Your Committee observes that the instances of double allocation of plots in all councils are rampant and need to be resolved without delay. Your Committee, therefore, recommends that the improved information management systems must be rolled out to all councils and implemented immediately. Further, your Committee recommends that councils should not give temporary numbers in areas where the Ministry should give title. They should wait until the numbering has been completed by the Ministry and punitive measures must be instituted against any erring officers in this regard.

v. Failure to Apply Policy on 30 Percent Women Empowerment

It was reported by the Auditor General that in 2010, the Government enacted a policy to ensure that 30 percent of all advertised council or state land should be allocated to women. Women can then compete with men for the remaining 70 percent.

The Ministry indicated that it had established a desk officer as gender focal point to deal with assessment of the gender database whose statistics showed that 29.0% and 29.6% of plots in 2015 and 2016, respectively, were allocated to women. However, there were no resources for the focal point person to attend to all interviews carried out in all councils and communication had also been a barrier.

There was no evidence provided in the selection processes that this requirement had been implemented and as such the audit could not establish the extent to which women empowerment on land had been achieved.

Stakeholders' Submission

Stakeholders submitted that the acquisition of land under statutory tenure required financial resources for the purchase of application forms, payment of service charges, survey and consideration fees. They contended that most women's economic position was still not at par with men and they may not have the necessary finances required for all the processes.

Controlling Officer's Response

The Controlling Officer stated that the Ministry had been making efforts to meet the 30 percent access to land by women in line with the Gender Policy of 2010. He stated that the Commissioner of Lands had since instructed all councils to ensure that the Policy was adhered to. Further, the draft Land Policy stipulated the need for women empowerment and, to this end, it had provided for a 50 percent access to land by women in line with the SADC Protocol.

The Controlling Officer stated that the Ministry had programmed activities aimed at sensitising the councils/local authorities on the need to adhere to the Policy. The Ministry was alternatively considering a system of "locking" a number of plots for reservation for women at numbering stage.

Committee's Observations and Recommendations

Your Committee observes that there is lack of seriousness on the part of the local authorities in implementing the 50:50 land allocation to women. Your Committee therefore, recommends that the Ministry of Lands should collaborate with local authorities in accelerating the implementation of the 50:50 allocation of land to women as directed by the Commissioner of Lands to all local authorities through the Circular of 27th March 2017. Your Committee also urges the Government to put in place a reporting mechanism in councils to provide evidence on the extent to which this benchmark is being met.

b. Processing of Offer Letters and Title Deeds (page 10)

The Auditor General reported that the proposed decentralisation of functions has not been done resulting in delays in processing offer letters and title deeds. The extent could not be established as the Ministry did not provide documented data on the ideal period of time the documents were to be processed and the time delayed making it difficult to assess the extent of the delay.

The Ministry attributed this to lack of proper information on land acquisition procedures, bulky physical records against lean staff, incomplete submission of

applications, number of actors in the allocation process, lack of integrated systems, lack of interfacing with other key stakeholders such as National Registration Office, Ministry of Local Government and Housing (Councils), Department of Resettlements.

The Commissioner of Lands has three assistants who are authorized to issue letters of offer; one is based in Ndola and services the northern region (North Western, Northern, Muchinga, Copperbelt and Luapula Provinces) while the other two are based at headquarters and service the southern region (Eastern, Southern, Central, Lusaka and Western Provinces).

It is against this background that in 2014, the Parliamentary Committee on Lands, Environment and Tourism also directed the Executive to expedite decentralisation of the functions of the Ministry to all districts.

Stakeholders' Submission

Stakeholders submitted that there was need to computerise the Provincial Lands Offices in order to facilitate decentralisation of processing of offer letters and titles. They further stated that there was need to increase staffing levels as well as improving the structure of the lands office by increasing number of officers to handle the processing of offers and titles.

Controlling Officer's Response

The Controlling Officer submitted that the Ministry had had challenges in decentralising its functions due to the creation of the Land Commission as provided in the 2016 amended Constitution. He stated that the Lands Commission would have presence at provincial and progressively at district levels. All land allocation functions were expected to be executed at these levels once the Commission became functional.

Committee's Observations and Recommendations

Your Committee observes that the processing of offer letters and title deeds takes too long and this is a recipe for corruption. In light of this, your Committee recommends that the Lands Commission be put in place, as a matter of urgency, to ensure that the process of decentralisation of functions is expedited.

c. Encroachments (page 11)

It was reported by the Auditor General that according to the Act, in alienating land, the President shall take such measures as shall be necessary to control settlements, methods of cultivation and utilisation of land as may be necessary

for the preservation of the natural resources and set aside land for forest reserves.

Land planned for development such as Mitengo and Mushili in Ndola and Kamunza in Choma were taken over by unauthorised settlers. In addition, Forest 55 in Chipata, Forest 22 Dambwa North, Livingstone, and Solwezi forest reserves have been encroached.

As a measure to curb this vice, demolition has been used, however this has proved to be an unpopular measure due to the fact that certain areas have been invaded for too long and people have built houses. Authorities have regularised these areas there by failing to curb this vice. This has fuelled the increase in unplanned settlements as squatters take over land with the view that Councils will later regularise. It was difficult to establish the full extent as the Ministry could not provide documented details of the extent.

d. Inadequate Monitoring and Control Mechanisms (page 12-13)

It was reported by the Auditor General that according to the *Lands Act*, the Commissioner of Lands is mandated to administer land in Zambia on behalf of the President. In 1985, pursuant to the policy of decentralisation and the principle of participatory democracy, it was decided that District Councils should participate in the administration and allocation of land which led to the issuance of Administrative Circular No. 1 of 1985.

The Ministry has the responsibility to carry out land administration and is in charge of land policy. The following were the weaknesses/observations made:

(i) Lack of Monitoring

The relationship between the Commissioner of Lands and councils is one of principle-agency and as such the latter has the duty to monitor activities of the agent. This is to ensure that the agent is conducting assigned activities according to laws and regulations.

The audit established, through interviews, that the Ministry did not plan for any monitoring activities on land alienation carried out by councils. However, they did carry out sensitisation of the local authorities, interventions where disputes had arisen or deviations from approved plans were observed.

The Ministry does not have documented information on activities or irregularities that have occurred in the councils such as encroachments, double allocation of plots and other irregularities.

(ii) Lack of Land Policy

The audit established that there was no land policy in place to provide an overarching policy framework that will secure rights over land and provide for sustainable socio-economic development, investment and the reduction of poverty in line with the Government's overall development objectives.

In 2014, the Parliamentary Committee on Lands, Environment and Tourism requested a timeframe in which the land policy would be put in place as the Ministry had indicated that it had commenced work to finalise the policy. In addition, the Executive stated that a comprehensive review of the various land related pieces of legislation would only be undertaken once the land policy was in place. The committee, therefore, requested a report on the progress made so far on the land audit exercise which the Government had provided for in the Estimates for Revenue and Expenditure 2014.

Despite the Government embarking on developing a land policy in 2006 which was done through countrywide consultations, and culminated into a draft land policy which was submitted to the Executive, as of December 2016 the land policy had not been approved.

Stakeholders' Submission

Some stakeholders who appeared before your Committee submitted that the Government should expedite the validation of the National Land Policy and the National Land Audit as the documents generated would provide a guide in the management and administration of land in Zambia.

Other stakeholders contended that the rampant encroachment on land earmarked for development was being perpetrated mostly by political party cadres who operated with impunity because of the perceived lack of political will by the political parties to discipline their erring members.

Controlling Officer's Response

The Controlling Officer submitted that the Ministry was in the process of finalising the National Land Policy. In coming up with the draft National Land Policy, consultations were conducted with relevant stakeholders such as traditional leaders, local authorities, government ministries, parliamentarians, professional organisations such as the Law Association of Zambia, Surveyors Institute of Zambia, Zambia Chambers of Commerce and Industry, non-governmental organisations and other key stakeholders.

The validation meeting on the National Land Policy was initially scheduled to take place on 8th January 2018. This meeting was rescheduled because of the outbreak of cholera. The Controlling Officer stated that the Ministry would

make further consultations with the Ministry of Health to set a new date for the meeting before the end of 2018.

Committee's Observations and Recommendations

Your Committee observes that it is difficult to administer land due to lack of a Land Policy to provide an overarching policy framework that will secure rights over land. Your Committee recommends that the process of validating the draft Land Policy must be done expeditiously. In this regard, your Committee urges the Ministry to ensure that the final document is ready before the end of 2018.

(iii) Lack of Sufficient Land Data/Information

The audit established that there was insufficient information on quantities of land held under customary and state tenure, resulting in conflicts and disputes. These included encroachments on National Protected areas like National Forests, National Parks and other Government properties by surrounding villages. However, the Ministry could not provide comprehensive documented data on the full extent of the problem.

In 2014, a National Land Audit Programme (NLAP) was implemented by the National Land Audit Commission. The land audit was to bring out key data on land ownership as well as land use patterns in Zambia which would aid planning, decision making and policy formulation. However, as of December 2016, this had not been conducted.

In response, the Ministry stated that it had embarked on new programmes namely; National Land Audit and National Titling programmes which are basically looking at taking inventory of all land in Zambia and regularisation of informal settlements especially those falling under state land.

Stakeholders' Submission

Stakeholders contended that lack of sufficient land data had created a challenge in land management. They therefore, urged the Government to, as a matter of urgency, conclude the Land Audit and put in place monitoring and evaluating mechanisms.

Controlling Officer's Response

The Controlling Officer submitted that inadequate financial resources and low staffing levels had made it difficult for the Ministry to carry out monitoring activities on the operations of the local authorities in land alienation and allocation.

The Ministry had further embarked on reviewing and amending the pieces of legislation relating to land, whose provisions had become inadequate over time to deal with emerging land matters. As an immediate measure and in an effort to strengthen the regulations dealing with land, Administrative Circular No. 1 of 1985 was being reviewed for it to have the force of law. The regulations would provide for a Land Alienation Committee with a presence at provincial and district level countrywide. This was to enhance the principal-agency relationship and improve oversight and supervision of the councils by the Ministry.

He submitted that in the long run, the amended Constitution had provided for the establishment of the Lands Commission which would be at provincial and progressively at the district level to provide oversight over land administration and management. This would be operationalised once the consequential legislation regarding the Lands Commission was in place.

Committee's Observations and Recommendations

Your Committee observes that the National Land Audit and National Titling Programmes, which were meant to take inventory of all land in Zambia and regularise informal settlements especially those falling under state land, have not been concluded. Your Committee recommends that this process should be completed with utmost urgency.

e. Efforts for Dispute Resolution (page 13-14)

The Government has put in place measures to settle disputes and curb illegal land activities in the country such as the Lands Tribunal and Lands Task Force. However, these efforts are centralised around Lusaka.

(i) Lands Tribunal

The Lands Tribunal was to be a circuit court to promote fair adjudication of land disputes and appeals and give the public a fast-track method of resolving these in the country. It also has a mandate to sensitise members of the public about its existence, functions and land acquisition procedures.

The audit established that this measure has not been fully functional within Lusaka due to a number of challenges. It was usually not possible to circuit as members are part-time and had other duties to attend to, compounded by inadequate resources for travel and allowances for circuiting members.

(ii) Task Force on Illegal Land Allocation

On 23rd July 2014, a task force on illegal land allocation and acquisition was launched, which comprises the ministries of home affairs, lands, natural

resources and environmental protection and Local Government and Housing, chaired by the Minister of Home Affairs.

The overall objective of the task force was to curb illegal land acquisitions and allocations in Zambia. The sub objectives were to enforce the legality of authenticated land ownership and all land related legislation. They would also protect life and property in view of illegal invasions on land and ensure sustainable development and increase revenue collection by Government.

The task force would achieve this by providing concerted and coordinated efforts in curbing illegal land allocation and acquisition, and apprehend and prosecute all perpetrators involved in such vices. They would also proactively identify areas in the country affected by illegal land dealings through intelligence, complaints and reports, and sensitise the citizenry on legal methods of land acquisition.

Stakeholders' Submission

Stakeholders submitted that due to lack of sufficient data on land ownership especially that under customary tenure, foreigners were having easy access to huge tracts of land at the expense of indigenous Zambians. It was felt that there should be restrictions on the amount of land foreigners could acquire and also that in the event that they had access to land, the tenure should be restricted to a maximum period of twenty-five years or to the lifespan of their investment licence.

Controlling Officer's Response

The Controlling Officer submitted that the findings were a true reflection and applied to both private and public land. However, the *Lands Act of 1995* made unauthorised occupation of land illegal. However, the Act did not provide penalties for such acts. The Ministry was in the process of reviewing the *Lands Act* to stiffen the law on illegal occupation of land. Further, the Ministry had administratively been actively engaging property owners on a case by case basis on the need to acquire certificates of title to land and protect their land by either fencing or clearing boundaries to avoid encroachments.

A task force had also been formed to deal with issues of illegal land allocation and encroachments.

Committee's Observations and Recommendations

Your Committee observes that the Lands Tribunal and the Task Force on Illegal Land Allocation are centralised and not very effective in handling land disputes and recommends that these be decentralised and better funded. Your Committee further observes that the Lands Tribunal is not autonomous and

this becomes evident when the Tribunal has to make decisions against the same Ministry it falls under. It is against this background that your Committee recommends that the Tribunal be placed under the Judiciary so that it can become an independent court with full powers to adjudicate.

CONCLUSION

7.0 Your Committee is grateful to you, Mr Speaker, and to the Clerk of the National Assembly for the support rendered to it during the consideration of the Report of the Auditor-General on Government's Efforts to Ensure Access to Land in an effective Manner. Your Committee is also indebted to all the witnesses who appeared before it for their cooperation in providing the necessary memoranda and briefs.

Mr M J B Ng'onga, MP
CHAIRPERSON

February, 2018
LUSAKA

APPENDIX

List of Officials

National Assembly

Ms C Musonda, Principal Clerk of Committees
Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)
Mr S Chiwota, Acting Senior Committee Clerk (SC)
Mrs M K Siwo, Committee Clerk
Ms L Chilala, Typist
Mr M Phiri, Intern
Mr M Chikome, Committee Assistant
Mr D Lupiya, Parliamentary Messenger

APPENDIX II

LIST OF WITNESSES

Office of the Auditor General (Permanent Witness)

Mr R Mwambwa, Auditor General
Ms M Munkanta, Assistant Director
Mr B Muyoba, Senior Auditor
Ms C Chituta, Senior Auditor
Mr R Nkausu, Senior Auditor
Ms C Musonda, Principal Auditor
Ms E Chikale, Public Relations Officer

Ministry of Lands and Natural Resources

Mr T Kaunda, Permanent Secretary
Mr W Muma, Commissioner of Lands
Mr J Minango, Surveyor General
Mr I Makumba, Director
Mr E M Shitima, Chief Natural Resources Management Officer
Mr O Mugara, Chief Accountant
Mr C Silwimba, Chief Lands Officer
Ms A N Banda, Acting Chief Registrar
Mr G Sindila, Chief Lands Officer
Ms A Mporokoso, Chief Planner
Ms N P Chellah, Planner
Ms S M Chanda, Principal Legal Officer
Mr N Chikuba, Senior Internal Auditor

Non-Governmental Organisations Coordinating Council (NGOCC)

Ms C C Siwale, Programmes Manager
Ms E M Banda, Head Capacity Building and Networking

Ministry of Gender

Mr W Nguluwe, Assistant Director
Mr W Kaputo, Head – Planning and Information
Mr S Kapilima, Assistant Director
Ms M Mondoloka, Acting Senior Planner
Mr P Chilambwe, Monitoring and Evaluation Officer

Ministry of Local Government

Mr A Malupenga, Permanent Secretary

Mr N Banda, Director

Mr P Phiri, Assistant Director