

# Seeing like the state? Customary land pressures and fracturing tenure systems in rural Zambia

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## ARTICLE INFO

### Keywords:

Customary land pressure  
Development control  
Land grabbing  
Rural Mafinga  
State authority  
Zambia

## ABSTRACT

This paper explores mechanisms that render different state actors capable of exerting customary land pressures, land grabbing or facilitating conditions for doing so. Specifically, the paper examines provisions state actors rely upon in the acquisition of rural customary land and implications. Using the test case of a rural district of Mafinga in eastern Zambia, we collect qualitative data from policy analysis, multi-level semi-structured interviews, and group discussions with local actors. Results show that land conversion has been heightened by creation of new districts across the country, which has advanced an urgent need to open up rural lands. Whereas chiefs have been co-opted into councils as agents of development, winners are not always local. Land acquisition processes reveal state actors are active 'land grabbers,' all calculating, and all-seeing in acquiring and converting customary land to statutory land, drawing on multi-dimensional and multi-level elements to exert pressure on customary land spheres. Several policy and legal tools, formal and informal processes enable and are increasingly relied upon by state actors to grab land – processes framed as development. Ultimately, this effectively shifts risks and burdens of neoliberal framings of development to rural customary spheres. Overall, this paper sets us to think about state's power, influence and authority in driving land conversions and in fracturing tenure systems, which raise the need to strengthen informal capacities at local level.

## 1. Introduction

“Land deals are nothing more (or less) than transformations in the ground on which states are formed” (Wolford et al., 2013, p.194).

The post-2007/2008 has witnessed a dramatic increase in large-scale land acquisitions (LaSLAs), framed as transfers from public hands to foreign or domestic investors – what has been dubbed as global 'land grabs' (Carrero et al., 2022; Petrescu et al., 2020; Busschera et al., 2018; Tura, 2018). This surge in LaSLAs has increasingly exerted pressure on customary land in the global south, including sub-Saharan Africa (Chikaya-Banda and Chilonga, 2021; Chitonge et al., 2027; Umar, 2022; Borras et al., 2011; Manda et al., 2019). Much has been written about land grabbing in the past, but this largely focused on private sector grabs for agriculture, mining, tourism, infrastructure, etc (Borras et al., 2011). How and in what ways state actors exert pressure on customary land remains an interesting question for political economy sort of analysis. A more critical national level analysis is still needed, including one that

interrogates policy and legal mechanism relied upon by state actors to exert customary land pressures. We refer to specific provisions actors rely on in the acquisition of customary land on the one hand and specific land-use area (e.g., environmental conservation, government construction, agriculture, mining, tourism, etc.) on the other in rural geographies – what we can call pressure points. In this vein, Van Leeuwen (2014) has called for increased attention to the local dynamic and policy implications of land tenure reforms. In response, scholars such as Umar and Nyanga (2022) are examining customary land certification; with others interrogating how institutional multiplicity works out in practice (Van Leeuwen, 2014). One strand of literature has placed opprobrium on post-independent states particularly where governance of the land sector and tenure security are weak (Arezki et al., 2011; Deininger et al., 2011). The argument is that countries such as Zambia are unable to provide the sort of tenure security or formal land markets that can guarantee order. This has followed calls for improved governance to address problematic elements of land transfers such as forced dispossession; corruption and a general lack of transparency (Li, 2011 gives a

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critique of these assumptions). Multilateral organisations have thus focused on improving the legal and bureaucratic mechanisms within which deals are conducted – securing transparent and effective land rights (World Bank, 2011). Resulting land administration literature emphasises equitable and pro-poor outcomes – what has been referred to as ‘managing great expectations’ (Hendriks et al., 2019; Deininger, 2009; Zevenbergen et al., 2013). However, what can realistically be achieved in state driven land grabs/land pressures and the accompanying processes are less understood. This includes complex human relationships to land, and the way in which land itself mediates relationships between human beings to each other on the one hand, and the state on the other (Wolford et al., 2011). There are vernacular understandings of land by local people, diverse perspectives on land and strange bedfellows championing formalisation processes (Deininger, 2009; Deininger et al., 2011). In countries underpinned by dual land tenure systems such as Zambia, land pressures stemming from conversions of customary to statutory land tenure driven by state actors, which raises serious consequences in rural geographies – land availability, access, utilisation and wellbeing (Manda et al., 2019). This paper provides an analysis of land acquisitions that draw upon insights of politics to illuminate national and sub-national processes that enable different state actors to exert customary land pressures. We change the direction of travel from private grabbers to invoke ‘the state’ as a key player in land acquisitions, how it deforms the logic of customary land ownership and the conditions for doing so. The primary objective of this paper is to explore mechanisms that render state actors capable of exerting pressures in customary land spheres. We ask four questions:

1. How and in what ways are the existing policy and institutional processes shaping state land acquisitions in customary land in rural Zambia?
2. Who are the key actors driving customary land acquisitions by state actors, and what are the related processes for doing so?
3. What are the actual land use pressures and dynamics in rural Zambia?
4. What are the wider implications of the existing state driven land pressures for land governance and rural development in Zambia?

These questions help us to interrogate how the dynamics of land pressure in customary are underpinned by the law, key actors at various levels and their implication on rural development. The paper enables us to reflect on how state-driven neoliberal narratives shift risks to local and rural geographies. It also helps us to reflect on how existing land governance can be strengthened in order to improve prospects for rural development, and equitable distribution, access and utilisation of land. This includes reflections on the future direction, specifically how state actors exploit neoliberal policy and legal provisions to grab rural land in poor communities. Thus, we think of the state as not being a homogeneous category and with a collective voice. On the contrary, there are different actors (Land Authorities, Development Agencies, and Ministries, e.t.c.) at different levels advancing diverse policy narratives and practice and reshaping relationships with rural custodians (Chiefs) and other landowners. How state actors exert land pressure in rural geographies and implications is central to this paper.

The rest of this paper is organised as follows. Section 2 focuses on theoretical frames around state authority and customary land pressures whilst Section 3 is the research design and methodology. Section 4 presents results and the paper ends with a discussion and conclusion in Sections 5 and 6 respectively.

## 2. State, authority and customary land pressures in Zambia

In order for our analysis and prescriptions of state-driven customary land acquisitions to be accurate, we need to know more about the nature of the states themselves, motivations of particular actors, capacity of governments, and political cultures that shape pressure on land. There

are calls that analysis of land governance must include a focus on formal legal mechanisms and power dynamics at play by different actors (Fairbairn, 2013; Burnod et al., 2013). This is necessary to shift discussion on land acquisitions away from Manichean portrayals (Deininger et al., 2011) (or as neo-colonial scramble for land and resources by predatory investors at the expense of poor communities in the global south) to the state actors themselves. This shift necessitates a focus on what Wolford et al. (2013) call ‘narration of legitimation and subject making. In relation to the role of the state, we make three assumptions. *First* is that states are not simply passive victims in land acquisition and are not coerced. Instead, the state is active, calculating actors in land acquisitions, putting in place policy and legal mechanisms that can be relied upon in exerting land pressures and acquiring it. The state calculates which land can be acquired for its own purposes/agenda or territorial reserves for foreign investments (see Oliveira, 2013). The state legitimises its own role as a development facilitator and in so doing support acquisitions for various purposes with local chiefs implicated in between. *Second* is that the state does not speak in a single tongue. There are various interests, motivations and ‘actors who exploit unevenness wherever they can and often act against each other in an attempt to mediate access to land (Fairbairn, 2013; Burnod et al., 2013). *Third* is that the actors can articulate different kinds of power within the state, including force (Grajales, 2013). In making these three arguments, we focus on legal and policy extensions of state power on the ground, authority, the role of different actors at multiple scales (policy provisions, subjects and subjectivities). As with Wolford et al. (2013), these elements are difficult to analyse in that they are relationships shaped by power dynamics and struggles embedded in every day practices and discourses (not things and fixed identifiable natures and responsibilities). The state draws authority from a set of principles and roles that shape political hierarchy and legal practices, and can seize authority through everyday practices and negotiations, oversight and formal rules. There are also citizens who participate in state making, but citizenship is highly variable across class, age, gender, ethnicity and capability.

To this end, we converge different actors that altogether shape the direction of travel and customary land pressures – unbundle the state – to explore governance processes and changing relationships thereof. To develop this approach, we focus on state authority on the one hand and subjects on the other, ‘not as static, but relationships produced in and through place, property and production’ (Wolford et al., 2013, p.189). Foucault argued that the modern nation states organise its subjects (people and things) in ways that makes them easier to govern – by rationalising and standardizing what was a social hieroglyph into a legible and administratively more convenient format (Scott, 1998, p.3). In Zambia, there are state officials and experts that advance development narratives, create a technocracy that discipline individuals to internalise and accept the conditions of their rule (Mitchell, 2002). Analysing this balance requires working at multiple scales to see the ways in which seemingly local actors are influenced by state interests and actions at broader scales (Oliveira, 2013) while at the same time taking on crucial roles of mediating access to land (Baka, 2013; Burnod et al., 2013; Fairbairn, 2013).

This relates to authority of the ‘all seeing state,’ vested in top-down set of institutions – capacity to assume decision-making power in a given context. In Zambia, the constitution vests all land in the President on behalf of the people. However, conversion of customary land to statutory land requires consent from chiefs/traditional leaders as custodians of land (Nolte et al., 2014). We view authority as a relationship between two or more parties in which some claim and deploy the right to make decisions. Authority in land acquisitions relate to decentralisation authority *vis a vis* neo-liberalisation, but the state itself still exerts influence through its territorial reach. Authority of the state takes place in different forms and multiple and overlapping domains, complicating land claims (strengthening and/or weakening community access to land). Competition over ‘access control’ occurs both in state and

non-state domains; state and local elites both strive to impose new constraints on customary land to assert their authority over land management and consolidate formal control over territory (Wolford et al., 2013).

Zambia is a fittingly relevant case study for a study interested in land pressures and diverse policy and legal mechanism for exerting land pressures. The Zambia Development Authority (ZDA), through its Land Bank Programme, has alienated approximately one million hectares of former customary land to create 10 new commercial farm blocks. While the putative goal for this process of state alienation of land is to attract domestic and foreign investment in commercial agriculture (ZDA 2014), the fact that the government has become active in acquiring land raises significant concerns about conflicts of interest and abuses of authority in land allocation (German et al., 2013). The combination of permissive land policies, demographic changes, rising urban incomes, and an active central government are likely altering the conditions for customary land access in important ways. Meanwhile, the Land Act of 1995 laws intended to promote decentralisation of land management and legal recognition of customary land are poorly enforced, and land governance is increasingly becoming recentralised (Schoneveld, 2017). Some of these point to the creation of farm blocks, industrial zones and settlement schemes for national development (Manda et al., 2019). These acquisitions/conversions require expropriation, and go on to acquire legitimacy in the eyes of the nation (if not eyes of the dispossessed) because the goal is seen as benign – modernisation and development. Across these dynamics of narrative legitimation, and expressions of state authority, actual legal tools and policy mechanisms relied upon to exert land pressure, and implications remain less understood.

There are legal frameworks (e.g., the 1995 lands Act) that facilitate access to land under wider narratives that Zambia is land surplus (Deininger et al., 2011). The narrative of land abundance, and the land policy inertia it engenders serves important political and economic purposes. On the one hand, the land abundance narrative is often mobilized in development strategy documents and policies, including those aimed at attracting foreign investment to Zambia are agricultural and mining sectors (e.g. Zambia Development Agency, 2014). The general policy towards land has advanced a market-oriented dynamic driven by the post-1990s neoliberal reforms. Before the enactment of the 1995 lands Act, formalization, conversion or titling of customary land was rare in Zambia (Roth and Smith, 1995), and only state land transacted like that: customary tenure was reserved exclusively for Zambians in respective communities and allocated by traditional authorities. However, under the current policy and legal framework, a person (Zambian and Non-Zambian) who obtains consent from the traditional leader and local authority can convert customary land to leasehold tenure. This has led to many well-resourced Zambians as well as foreign investors acquiring large chunks of land from chiefs and converting the customary land to leasehold tenure (Nolte, 2014) – but the state is equally active. The policy of opening up the countryside to development entrenches one land tenure system at the expense of the other. Creation of state-driven farm blocks and related global interest in land all contribute to the land governance dynamic in which rural land is systematically up for grabs (Manda et al., 2019). Consequently, pressure on customary land is mounting, raising concerns among rural populations about land access, utilisation and wellbeing. The form that these conversions take, and the tools increasingly relied upon to exert these pressures are central to this paper.

### 3. Research design and methodology

#### 3.1. Researching Zambia's Mafinga district

With a total surface area of 751,610 km<sup>2</sup> and a population of 18.38 million people, the population density in Zambia is among the lowest in Sub-Saharan Africa. The country arguably represents one of the most land abundant countries in the region (World Bank, 2008; 2014). Of

Zambia's total land area, it is frequently contested that 94% falls under customary systems of land governance, but recent reports show this has dropped to 54% since the early 2000 s (Government of Zambia, 2002; ZDA, 2014). By implication, this land is available for cultivation by smallholder farmers, including other land uses (e.g., livestock). Policy makers and development practitioners, therefore, rarely consider land access to be a constraint to smallholder production. Zambia has passed procedural laws, which provides guidelines for the transfer of customary land to leasehold tenure but does not seek to regulate land allocations or administrative systems (Nolte, 2014). This is the wider context within which we situate land pressures in Mafinga.

Mafinga District was declared a district in 2010. The district has about 103,887 people (50,193 males and 53,684 females) (CSO 2010). Mafinga district was selected based on its remoteness (about 1067.2 KM road distance from the capital city Lusaka). The district also responds to the new wave of districts created in the post 2010, with the country moving from 72 to 116 districts (61% increase in district declarations). As with other districts, agriculture is the dominant activity, including production of livestock (cattle/goats), maize and beans. Farmers often exploit opportunities related to cross-border trade with Malawi. Mafinga has about 409,530 ha of land with a total area forest of about 72330 (Fungwe 36,500 ha; Mafinga Hills 15,500; and Mitanga 20,500 ha). The district has 3 chiefdoms namely Chief Mwenewisi in the valley, Chief Mwenechifungwe at Thendele Boma and Chief Muyombe in Muyombe about 41 km from the Boma (Fig. 1).

#### 3.2. Data sources

We deployed a qualitative research design to collect qualitative data about policy and legal tools as well as related processes for exerting land pressures.

##### 3.2.1. Documentary analysis: policy analysis

We analysed selected policy and strategic documents, considering how customary land pressures build within official documents. A total of 18 national policies and strategies were purposively selected and analysed for content (Table 1). Policy and institutional frameworks helped understand the country's current and future direction on land administration and how these implicate customary spheres and spatial planning. Qualitative coding was conducted manually and then using NVivo, enabled examination of dominant narratives in each document and the identification and categorisation of key drivers of land acquisition processes as pressure points (Bazeley 2007). This involved drawing a comprehensive list of key themes and headings during the reading stage, collapsing similar/overlapping headings into tight categories (Hsieh and Shannon, 2005). Analysis examined dominant narratives in the selected documents, highlighting emphasised, less emphasised or missing aspects (Creswell 1998). Through an inductive grounded theory, stressors and policy shifts and implications for land pressures were examined within the national context (Strauss and Corbin, 1990).

##### 3.2.2. Multi level interviews national/ provincial/ district

Interviews across different governance scales were conducted with policy and development actors ( $n = 15$ ). This included national (3), provincial, (4) district ( $n = 5$ ) and local/village ( $n = 3$ ) level actors and how they perceive pressure points. An initial comprehensive review of official documents and preliminary interviews allowed for selection of key stakeholders. Based on this initial list and combined with a snowballing technique, the study deployed purposive sampling, allowing for identification of "cases of interest from people who know people who know what cases are information-rich" (Patton, 1990, p.175). In practice, an interview guide was used, enabling flexibility and coverage of wide-ranging topics taking the form of discussion (Babbie and Mouton, 2001). Given the COVID-19 pandemic, we combined one-to-one interviews as well as emailing interview guides to potential respondents. Donors were included because they provide oversight on policy and

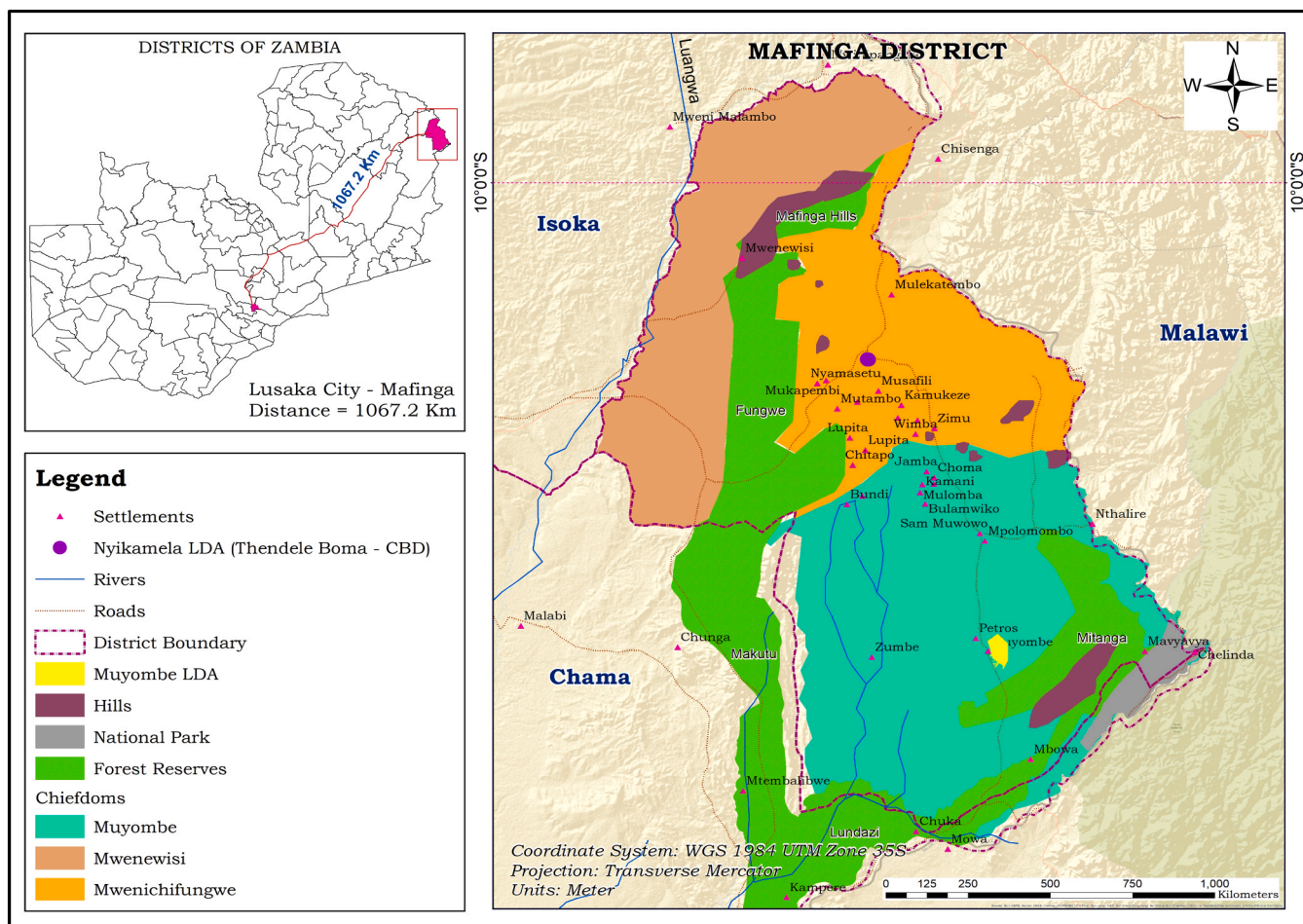


Fig. 1. : Map of Mafinga District, Location map of Mafinga District.

legal frameworks as well as influence huge land programs, e.g., Zambia Integrated Land Management Information System, ZILMIS. NGOs were also included because they also drive land use changes such as COMACO in its forest conservations programs as well as value addition in large agricultural investments (rice and groundnut).

### 3.2.3. Group discussions

We used our district collaborators to conduct focus group discussions divided across gender ( $n = 2$ ). Specifically, we conducted focus group discussions with members of village communities. Group discussions asked about livelihoods, land-use dynamics and perceptions of state driven land pressures (7 Females/8 Males). Discussions helped to collect wider experiences of people, including their perceptions of pressures and implications for wellbeing.

In terms of analysis, we manually figured out patterns in the data, revealing concepts and elements beyond the awareness of study participants. We assessed these concepts in theoretical terms (Gio et al., 2012). First level analysis generated/adhered to informant terms, codes/categories. Second level analysis asked: what is theoretically going on in the first order data, linking grounded insights to wider narratives around land grabbing. We coded, generated and reviewed emerging themes in relation to the study objectives. We used NVivo to create nodes as themes and content analysis to gain understanding of local experiences (Maclean et al., 2021). NVivo nodes provided the basis for answering our questions, allowing solid thematic areas to emerge. As much as possible, results have been presented in way as to maintain grounded narratives and maintain local richness of experiences (Char-maz, 2002).

## 4. Results

### 4.1. Policy and institutional frameworks underpinning customary land pressures in Zambia

To understand policy and legal frameworks underpinning customary land pressures in Zambia, we conducted a review of different policy and legal tools and assessed what is emphasised. Results show the legal and policy frameworks that allow different state actors to acquire customary land in Zambia vary from legal instruments to formal/informal links. Table 1 shows there are different laws and policies relied upon by state and other actors to exert land pressure specifically in customary land administration. Most legal mechanism emphasise development objectives/imperatives (land transfers for development reasons) ( $n = 6$ ), and these are frequently relied upon in advancing local level conversations. There are provisions related to Presidential acquisitions of land for local authority and other purposes ( $n = 3$ ), including land conversions and registrations ( $n = 2$ ); integrated development processes ( $n = 2$ ); and ministerial acquisitions ( $n = 2$ ). In rural land acquisitions, the Local Government Act 2019 is a key document that cuts across several pathways for grabbing land.

Interviews confirm land pressures coincide with neoliberal policy reforms of the post 1990 s. Since 1991, a clear set of legal and policy mechanism has emerged which enhance 'land grabbing' across the country under the auspices of national and rural development. District interviewees reported the role and importance of personal relations between local councils on the one hand, and with national state actors and traditional leaders as custodians of land on the other. Meanwhile, residents themselves acquire land through family ties as gifts or

**Table 1**  
Key legal and policy mechanism for land acquisition in Zambia: a focus on what is emphasised in existing tools (Black Cells=Element is missing/less emphasised; Blank=Element is missing/less emphasised; DP=Development plans; LF=Legal framework; PD=Policy document.

| Document Name/Themes related to land acquisition & pressures in customary spheres  | Lands Acquisition Act of 1972 (LF) | Cabinet Circular # 15 of 1985 (PD) | Land Act (1995) (LF) | Vision 2030 (2006) (DP) | Urban & Regional Planning Act 2015 (LF) | The Forests Act, 2015 (LF) | The Mines & Minerals Development Act, 2015 (LF) | Constitution of Zambia (Amendment) [No. 2 of 2016] (LF) | 7th National Development Plan (7th NDP) (DP) | The Local Government Act, 2019 (LF) | National Land Policy 2021 (PD) |
|--|------------------------------------|------------------------------------|----------------------|-------------------------|---|----------------------------|---|---|--|-------------------------------------|--------------------------------|
| Development objectives/imperatives (Land transfers for development reasons)<br>Promoting land access as a pathway to empowerment for different actors<br>Land conversion and registration<br>Integrated development processes<br>Presidential acquisitions under the Office of the President but granted to local authorities & for other purposes<br>Ministerial acquisitions<br>Foreign access to land |                                    |                                    |                      |                         |   |                            |   |   |  |                                     |                                |

repayment after conflicts. People can directly approach village headmen as land custodians. Traditional leaders also participate in Development Committees that oversee the allocation of land where applicants apply and pay (in formalised processes).

Five actors were identified as important in driving land acquisition. These include: 1), national actors (Zambia Development Agency, Ministry of Lands) 2) Provincial actors (office of the Vice President, Resettlement) 3) District actors as Local Authority, and 4) Traditional leaders, and 5) Investors. These actors interact with the Land Act No 20 of 1995 in their works as well as the National Land Policy. The Local Government Act of 2019 was mentioned by local respondents more than the national respondents which clearly indicate that the higher levels of governance do not interact with lower-level aspirations. Analysis reveals this is a reason why decisions made top-down in most cases do not favour the grassroots. District interviews frequently explained that institutions such as ZDA would acquire land in consultation with the Ministry of Lands (National level) and approach a district without involving the district council. And that they would “*access land without letting the matter pass through council meetings for consideration*” (District Interview 2022).

To understand how different actors deploy and exploit policy and legal provisions for acquiring land, we conducted an analysis of policy and legal tools and asked respondents which of these are frequently relied upon in the acquisition and conversion of customary land (frequency) and by which players (key players) (Table 2). Whereas different areas/land use focus areas exist, state actors remain prominent. Of interest is that the role and importance of chiefs/traditional leaders. Although Chiefs are custodians of land, “*their incorporation in the Local Government Act of 2019*” and inclusion as part of the Council facilitates state driven land grabs. Some national interviewees expressed opinions these processes altered allegiance of Chiefs from villagers to government (what NGOs see as co-optation). Indeed, Chiefs have increasingly been framed as facilitators of development, drawing allowances/salaries from the government. Meanwhile, analysis reveals that existence of different tribes, customs and norms further divides traditional authorities. Specifically, the introduction of the House of Chiefs alongside acknowledgement of duo land governance in Zambia seems to erode the autonomy of chiefs. In Mafinga, all three chiefs have been incorporated as part of the Council.

Respondents gave mixed responses on the question of possible contradictions in land administration in Zambia that contribute to customary land pressures. Some argued contradictions existed because land under the President can also fall under a Traditional Authority. Majority respondents, perceived coordination challenges: “*what are there are gaps and lack of coordination in the land administration process. This includes the lack of laws on how customary land is to be planned for and allocated and how customary land rights are to be protected to give them the legal effect similar to that provided under leasehold,*” explained one Officer (Provincial interview 2022). Donors acknowledged customary land should be better managed to ensure rural land rights and sustainable development, including by “*providing legislation to protect and govern allocation of customary land*” (Donor interview 2022).

The Urban and Regional Planning Act of 2015 provides for planning agreements with traditional leaders, but this requires that local government through the concerned council and traditional leaders involved are in agreement on the direction development will take. One District Officer explained an agreement is required to allow for coordinated planning because these municipal services will eventually need to be paid for by users. Coordinated planning can enable councils to increase their own revenue collection because property rates can be collected in areas where council provides roads, creates provision for water as well as electricity. District interviews disclosed that “*this process however can be cumbersome because both traditional leaders and their subjects must accept the terms and conditions that come with such coordinated planning such as loss of land due to creation of roads*” (District interview 2022). Outcome of these processes are not straightforward.

**Table 2**  
Prominent Statutes and Players in customary Land Administration in Zambia and the extent to which they are relied upon (N = National; P = Provincial; D-District; L=Local, S=State actor; TA=Traditional Authority).

|    | Statute   | Frequency in Interviews | Focus Areas (areas relied upon to drive acquisition)   | Key Player (s)/ Level)   |
|----|---|-------------------------|--|--|
| 1  | Land Administrative Circular No. 1 of 1985        | • 3                     | • Land Allocation Procedures   | Commissioner of Lands Local Authority (N, S) Traditional leaders (L, TA)   |
| 2  | Lands Act No. 20 of 1995                          | • 9                     | • Land Alienation<br>• Conversion of tenure  | Commissioner of Lands (N, P, L, S) Traditional Authorities (L, TA)   |
| 3  | National Land Policy of 2021                      | • 6                     | • Effectiveness and efficiency in land administration  | Ministry of Lands (N, P, L, S) Local Authority (D, S) Traditional leaders (L, TA)  |
| 4  | District and Provincial Boundaries Act            | • 1                     | • Land   | Local Authority (D, S) Traditional leaders (L, TA)   |
| 5  | Local Government Act No. 2 of 2019                | • -                     | • Local Authority Boundaries<br>• Decentralization   | Local Authority (D, S) Traditional leaders (L, TA)   |
| 6  | Wildlife Act No. 14 of 2015                       | • 1                     | • Land alienation – Tourism purposes<br>• GMAs and National Parks  | Director National Parks and Wildlife (N, S)  |
| 7  | Forest Act No. 199 of 1973                        | • 3                     | • Conservation of forests and trees  | Green Environment (N, S)   |
| 8  | National forest Act                               | • -                     | • community to own community forest  | Local Authority (D, S) Traditional leadership (L, TA)  |
| 9  | Agriculture and Livestock                         | • -                     | • Crop Farming, Livestock development  | Agriculture, Livestock, Resettlement   |
| 10 | The Urban and Regional Planning Act No. 3 of 2015 | • 4                     | • Integrated Development Planning<br>• Development control<br>• Unplanned settlements<br>• Planning Agreements – customary | Director Planning – Ministry of Local Government and Housing (N, S) Local Authority (D, S) Traditional Authorities (L, TA) |
| 11 | Land Perpetual Succession Act                     | • 1                     | • Perpetual succession rights  | Commissioner of Lands (N, S)   |
| 12 | Resettlement Policy                               | • 1                     | -  | -  |
| 13 | Customary law                                     | • 1                     | -  | -  |
| 14 | Mines and Minerals Development No. 7 of 2008      | • 1                     | • Protection of land during prospecting, mining, decommissioning, closure of mines   | Minister of Mines  |
| 15 | Zambia Development Act 2011                       | • 2                     | -  | -  |
| 16 | Housing Policy                                    | • 1                     | -  | -  |
| 17 | Public Private Partnership Act                    | • 1                     | -  | -  |

**Table 2 (continued)**

|    | Statute                      | Frequency in Interviews | Focus Areas (areas relied upon to drive acquisition) | Key Player (s)/ Level) |
|----|------------------------------|-------------------------|--|------------------------|
| 18 | Environmental Management Act | • 1                     | -  | -                      |

The law provides for what action government authorities can take in a case where development is hindered by failure of traditional leaders and communities to cooperate and grant land (coercion). In a case where the council and the Provincial Office fail to reach a planning agreement with the traditional leader concerned, the matter can be referred to the Provincial Permanent Secretary who is in charge of the Provincial Planning Authority. The PPPs can first engage the chief concerned directly or escalate the matter to the Minister of Local Government and Rural Development through the Permanent Secretary. Beyond this, the President can come in and override land discussions. Thus, the President has powers to authorize any land development “*provided it is in the interest of the people*”, using legal tools such as the Urban and Regional Planning Act of 2015. In the recent past, the government sought additional land from chiefs for Multipurpose-Economic Facility Zones and over 10 000 Ha was availed by traditional leaders in various areas around the country. In 2017, the office of the Vice President through the Resettlement Department using the Resettlement Policy as well as agricultural development policy managed to grab land (36 000 Ha earmarked for farming blocks) from two out of the three chiefdoms. Overall, relied upon policy and legal mechanism enable state actors to penetrate rural areas and exert land pressures, with various ways to render ineffective any ‘political reactions’ from below.

**4.2. Key actors exerting customary land pressures in rural Zambia**

Analysis reveals customary land pressures depend on actors and the purpose of land acquisition. First are state actors (Table 3). The government is a major driver and key actor shaping pressures, which have been driven by infrastructure projects, settlement schemes and construction of new townships. The government has been requesting Chiefs to surrender portions of their land to Local Authorities for establishment of Central Business Districts (CBDs), advancing development narratives. One chief confirmed, “*there has been an increased demand for customary land in the last 10 years due to the creation of new districts.*” The declaration of new districts without consulting with traditional leaders forced chiefs to surrender part of their land as Land Development Areas to house CBDs. Government influence is expressed through 1) Planning Authorities, 2) Local Authorities, and 3) Land Resettlement. Government also expresses itself through 4) Ministry of Agriculture (e.g., farm block creation); 5) Ministry of Lands and Natural Resources and 6) other departments such as Zambia Development Agency (ZDA). Government has since moved to create land banks – a direct attempt to convert customary land for various business investments within.

Land pressure in Zambia reflect a practice of territorial alienation whereby multiple state actors exert customary land pressures and facilitate conversion of customary land under certain conditions. If customary land acquisition point to territorial alienation, it follows therefore that rural communities can claim a violation of their rights specifically access and utilization of resources (National Donor Interview 2022). States’ territorial reach obscures local participation in activities such as zoning, land use, property regulation and environment sustainability. State driven customary land pressure is seen in isolation but linked to wider currency driven by donor interest. The Zambian Government also invests heavily in the ZILMIS program aimed at improving land registration and record management (see the 7thNDP).

State expressions of land pressures operate through local authorities (councils). The declaration of Mafinga as a district has heightened the

**Table 3**  
Actors and perception of their level of influence in land pressures.

| Actor   | Level of influence   | Narrative on the Direction of Land Use  |
|---|--|---|
| National Government institutions                          | High   | <ul style="list-style-type: none"> <li>• Central Business Districts (CBDs)</li> <li>• Advancing development narratives.</li> <li>• Influence expresses through Planning Authorities, Local Authorities, and Land Resettlement. Ministry of Agriculture (e.g., farm block creation) Ministry of Lands and Natural Resources and other departments (including spending agencies).</li> </ul>  |
| Local authority (Council)                                 | High   | <ul style="list-style-type: none"> <li>• Legal and policy provisions mandate councils to administer both land (statutory) and social services (amenities such as health, education and recreation infrastructure) of local (Mafinga) residents. There are services related to provision of municipal services such Public health, waste management, land administration, engineering/ construction, planning, district Procurement, project monitoring and evaluation.</li> </ul> |
| Traditional leaders (Chiefs and headmen)                  | High but can be overpowered by state laws and result in low level of influence | <ul style="list-style-type: none"> <li>• Land custodians</li> <li>• Advance authority on which land can be converted and incorporated into mainstream development narratives</li> </ul>   |
| NGOs (e.g. COMACO)  | Medium   | <ul style="list-style-type: none"> <li>• Environmental conservation and livelihood resilience</li> </ul>  |
| Donors  | Medium   |   |
| Private Sector investors                                  | Low  | <ul style="list-style-type: none"> <li>• Private sales of land sometimes without proper scrutiny from state entities.</li> <li>• These have exerted pressure through construction, mining and agriculture ventures, often characterised as large-scale land acquisition.</li> </ul>   |
| Individuals (foreign and local (e.g., local urban elites) | Low  | This has been compounded by demographic growth, Government driven relocations of civil servants   |

role and importance of the local authority. Legal and policy provisions mandate councils to administer both land (statutory) and social services (amenities such as health, education and recreation infrastructure) of local residents. However, insufficient funding from the central government not only present “*challenges in executing council functions*” but has also heightened council’s interest in land administration itself as pathway to revenue generation. “*It is the policy of government to ensure revenue collection is enhanced as much as it is a desire of each government to provide modern social amenities*” (District Interview 2022). Local councils have power to displace people provided they have a resettlement plan and as such can influence Chiefs to give more land provided justification is given. The council can renegotiate for better land locations through the extended Local Area Planning and the influence of the elected council officials (councillors) – who are part of the council.

In Zambia, majority land is customary land and is predominantly in the hands of local traditional leaders. Chiefs and headmen have

authority to make land available and grant access for various land-uses in conjunction with the local authority or independently with private sector actors. The profitability potential related to making land available has led to reports of corruption and abuse of land by traditional leaders as “*chiefs are selling land to the highest bidders*” (National interview 2022).

Meanwhile, traditional leaders have made land available for various purposes. They have made land available for a new Airstrip in Thendele, farming blocks under the office of the Vice president as well as Land Development Areas (Nyikamela, Thendele and in Muyombe). These parcels of land were obtained at different times after 2011 and in 2019. The state sought additional pieces of land from Chiefs for communal projects under the TRALARD project funded by the World Bank (e.g., farming projects).

The major NGO organisation in Mafinga is COMACO, which advance forests and climate friendly agricultural practices. For instance, COMACO has over 20,000 ha of land under community conservation aimed at earning carbon credits and livelihood resilience. NGOs work with Chiefs to access communal and other pieces of land as the new Forest Act gives power to the communities to manage forests in programs called Community Forest Management (CFM).

Donors also play a crucial role in funding large-scale land development projects such as mining and agriculture, opening up rural areas for private sector investments. Donors influence huge land programs in Zambia such as ZILMIS aimed at ensuring Zambia meets its 5000 000 land titling target by 2021. District actors further expressed optimism mining projects might be underway. Analysis showed different levels of influence on customary land – but state actors dominate (Table 3).

Private sector investors have also exploited customary land markets. Commercialisation of land in Zambia since the Lands Act 1995 has allowed private sales of land sometimes without proper scrutiny from state entities. These have exerted pressure through construction, mining and agriculture ventures, often characterised as large-scale land acquisition (see Manda et al., 2019). There also individuals (local and foreign) that acquire customary land for various purposes. This has been compounded by urbanisation and demographic growth. The influx of workers in Mafinga drives land acquisitions for housing, with civil servants also buying land for speculative purposes, farming and other land use developments.

#### 4.3. Land pressure dynamics in mafinga

##### 4.3.1. Demand for land in Mafinga

Broadly speaking, there seems to be low demand for customary land in Mafinga for several reasons. The district is new and remote, with poor infrastructure and amenities. In reality, however, many people (local and external) have come to realise the importance of ‘secure’ statutory tenure, and are quickly converting their lands. The District Planning Office revealed that few people that have managed to acquire customary land had already started converting to statutory tenure, further increasing demand for registered land within the district. Most of the people who have expressed interest in acquiring land from the local authority have been predominantly civil servants and *indigenous* residents. This in part is due to related registration costs. Interview with the District Planning Department revealed the rate at which state land is being acquired could easily rise exponentially, with improved access to the district. Currently there are no people who have been negatively affected by prevailing land pressures and acquisitions, with Chiefs such as Chief Mwenechifungwe directing against displacement of people within his area. As such the council has taken an embrace position that “*all people indigenous to the areas of development must ensure that they simply standardize their properties according to the numbering system and government recommended structures within a specified period*” (District interview 2022). As a result, existing settlers were incorporated in the local area plans for both Nyikamela and Muyombe Land development areas to avoid unnecessary displacements. Meanwhile, found on land meant for government offices were relocated with the help of the chiefs.

The District Planning Office revealed new building standards enforced by the council however drove inequalities and social differentiation. Group discussion participants expressed concerns about raising land pressures and a general lack of local consultation.

#### 4.3.2. Land pressures in Mafinga

Since 2011, the state has been active in acquiring pieces of land across all the three chiefdoms for various purposes. Before 2010, majority land in Mafinga was customary. District interviews reveal no land was under the state before Mafinga was declared a district, apart from isolated patches of government buildings, e.g., schools, clinics, police post etc. The rest was under customary tenure. The Council has managed to develop 11 Ward Integrated Development Plans but *“with the increase in the number of wards there is a need to develop two more to make thirteen,”* explained one Council Representative (District interview 2022). These, however, facilitate rather than constrain land pressures and acquisition.

For instance, the state acquired two Land Development Areas in Nyikamela and Muyombe. The state acquired land with local community/people’s consent to create the Nyikamela Land Development Area (LDA) which is part of the CBD for Mafinga District and Muyombe Land Development Land. There are two farming blocks namely Chambo Resettlement Scheme (Mwenewisi chiefdom) and Luhoka Resettlement Scheme (Muyombe chiefdom). These acquisitions have been advanced in formerly customary land for different land uses, including residential, industrial, markets, farm plots, hospitals, schools and other tertiary institutions as well as agriculture, bulking centres and community forest management. The total land area for Mafinga is 413 400 ha (DSA 2020). However, this area is comprised of different land uses namely planned built area (land development areas) as well as forest areas, which are, protected. There are three protected National forests: Fungwe, Mafinga Hills, and Mitanga (Section 3.1) (Table 4).

Interviews reveal that given that the state moved from 0 ha land to owning about 42 450 within 10years is a clear expression of land pressure. Interviews with chiefs show that currently the Boma Mwenechifungwe chiefdom has the most land pressure followed by Chief Muyombe and the least is Chief Mwenewisi based on the recent influx of people. The two top areas are also the most developed in terms of economic activities and as such most people who have moved to Mafinga for work purposes want to settle and build houses in the areas thus creating a high demand for land. District interviews expressed fears *“the amount of land could be taken up by the state in the next 10 years could triple if development industries quickly open up. For instance, the Ministry of Mines confirm existence of mineral deposits in Mafinga”* (District Interview 2022).

#### 4.4. Customary land pressures and implications

Donor reports argue that up until recently, Local Area Planning (LAP) has not been a common practice in managing land and other resources particularly in customary areas (USAID 2020). In Mafinga, this creates uncoordinated development in traditional land especially that most traditional parcels of land are adjacent to state land. Almost all

**Table 4**

Major state land acquisition since 2011 in Mafinga District (based on district interviews 2022).

| S/<br>N | Land Use  | Area Before 2011<br>(ha) | Area After 2011<br>(ha) |
|---------|---|--------------------------|-------------------------|
| 1       | Community Forest Management   | 0                        | 250                     |
| 2       | Land Development Area<br>Nyikamela + Muyombe<br>(3200 +3000)                | 0                        | 6200                    |
| 3       | Farm Blocks (Resettlement Areas)<br>Chambo (11000 ha) +Luhoka<br>(25000 ha) | 0                        | 36000                   |
| Total   |   |                          | 42 450 (ha)             |

local authorities in Zambia focus on developing Local Area Plans (LAPs) in predominantly “Planning Boundaries” confining to land under leasehold tenure and usually within the vicinity of the Central Business District (CBD). However, the planning and administration of land under customary tenure is left to traditional authorities where rights of occupancy and/ownership is limited to customary certification. Where large-scale plans have been developed, land has either been converted to leasehold tenure limiting control by Chiefs. In some reports, conversion takes place haphazardly as individual lots are converted to leasehold tenure mainly dictated by the applicant’s preferred location and/or size with little consultation. District Officers and Chiefs acknowledged sustained conversion of land could compromise indigenous people’s rights through possible evictions; displacements and dispossession in the face of large-scale investments. Land-use expansion may further affect sustainable utilization and management of natural resources such as forests, streams, and wetlands due to lack of coordination in land administration practices. Ultimately, rural livelihoods may face challenges from possible land scarcity in the wider poor governance context. These processes are emerging and continue to gain momentum within a widely accepted neoliberal state expansion and territorial reach.

## 5. Discussion

This paper explored how existing policy and institutional processes shape state driven pressure points for customary land in Zambia, understand the key actors at play and examine implications of existing pressure points in rural Zambia. The study shows that there are multi-level and multidimensional mechanisms that render different state actors capable of exerting pressures in customary land spheres directly or indirectly acquiring land or facilitating conditions for doing so. Results show multi-level dynamics that exert pressure on customary land spheres, which have been facilitated by state agencies *vis a vis* neoliberal policy expansion. Several formal and informal processes enable and are increasing relied upon by state and non-state actors to exert customary land pressure. Specifically, land conversion has been heightened by creation of new districts across the country, which has advanced with less scrutiny, raising accusations of corruption in ways in which land has been made available, accessed and utilised. Overall, this study sets us to think about how neoliberal competitive tendencies can be deployed by state actors to drive land enclosures to the exclusion of local people and rural communities. This includes how policy and legal tools shape opportunities for compulsory land acquisition frequently deployed by African governments.

Neoliberal expansion in Zambia has opened a new dynamic – one that sees rural customary land as frontier for land-use expansion and one that continuously separates local communities from their environment (Haller, 2019; Nolte, 2014). There are diverse and multi-level pressures that continue to place customary land under increasing demand pressure (e.g., urbanisation, environmental conservation, mining, agriculture, infrastructure, etc). This includes policy and institutional frameworks that continue to promote neoliberal land use expansion, within the national state context. In its simplest form this is about removing legal barriers to trade in land as a commodity and placing risks in rural geographies. (Schreiber, 2017a) Across sub-Saharan Africa, pluralistic land tenure system is acknowledged as long as it does not interfere with the development objectives of the state (Van Leeuwen, 2014), but this has emerged alongside policy and legal tools for formalising customary land rights and for compulsory land acquisitions in the name of national development (Kotey, 2002; Larbi et al., 2004). State actors at national and district levels variously rely on different legal tools to exert pressure. Key state actors at national level depend on various policy and legal tools to convert customary land in the name of rural development. This is not to say there are no non-state actors such as NGOs and local elites who exploit policy spaces to exert pressure on customary land in their own ways. However, this study shows land pressure points across various uses are mainly state influenced, similar with reports from



Malawi (Chikaya and Chilonga 2021).

It is generally taken that although the national land policy recognizes customary land to be important (Umar, 2022), customary land tenure itself perpetrates poverty in rural areas. Political narratives that exploit patronage politics in land allocation advance land conversion of traditional land. This logic that underlies the current strategy of opening up customary land still remains unclear on how it addresses the challenges of poverty in rural areas (Honig, 2022). Yet, neoliberal expressions allow state actors to exert pressure and continue to relegate customary land tenure (Platteau, 2006). Land reform and tenure debates across sub-Saharan Africa are centring on the role of customary land in economic and social transformation as expansion frontier, effectively incorporating customary land into formal neoliberal framing of resource exploitation (Umar and Nyanga, 2022). This paper highlights what happens to local institutional arrangements regarding access and utilisation of customary land under forces of state pressure.

The study shows the intersection between state power and customary land tenure institutions are complex (Suhardiman et al., 2023). Proponents of land conversion (mainly government departments and officials and donor agencies) argue that formalising customary land into leasehold can generate positive sum for the local people and national economy at large, but actual processes remain complicated (Umar, 2022). Decisions to adopt the policy of converting customary land into state land advance a 'false argument' that titling customary land would effectively transform underutilized land into more productive land as new landowners drive investments on the land (Sitko and Jayne, 2014). In Zambia, this is premised on the view that opening the countryside to investment through districts can improve productivity (Chitonge, 2015), but these elements are never straightforward – there are state players and legal tools, and different actors at different levels that altogether shape land pressure dynamics. The outcomes are never straightforward. As with previous arguments, there is no single land grab, but series of emerging processes, contestations and power expressions that altogether alter land governance (Suhardiman et al., 2023; Pelusso and Lund 2011, p.669).

Debates about the role of chiefs in land administration have focused on the cooperation between the state and traditional authorities, and much less on the possible contest between these two entities (Bouquet, 2009; Benjaminsen, 2002). Our study shows Chiefs express divided allegiance between the people (under their leadership) on the one hand, and state institutions who articulate development narratives (Akateba 2019). In fact, collective agreements such as House of Chiefs further create conditions for customary land conversion – over the heads of local people/communities. Evidence shows that neo-liberal land reforms have reshaped power relations among key rural institutions in Africa (Chimhowu, 2019). Clearly, notions of neo-liberalisation of customary land tenure drive redefinitions of traditional authority and control over land. In Zambia, the Local Government Act of 2019 incorporates chiefs as part of district councils, and this raises implications for the role and importance of Chiefs (custodians of land) and the way conversation takes shape. Customary tenure regimes are being manipulated to produce exclusionary outcomes e.g., altered institutional power relations a concern which tallies with literature as seen in Behr et al. (2018). Van Leeuwen (2014) emphasises the importance of local politics, power relations and authority in defining, legitimizing and enforcing claims to land use and engendering both tenure security and insecurity (See also Sikor and Lund, 2009). However, this study shows an emphasis on the strengthening of chiefs as a form of co-option tactic deployed for the convenience of national state actors (Bae, 2021; Chigudu, 2021). The government continues to court chiefs as allies in development and land governance in rural areas where state institutions are weak or non-existent. As a result, customary land tenure systems are fracturing and failing to adapt to emerging neoliberal state driven pressures.

Our study shows there has been a gradual but intentional policy direction by the government towards acquisition of land since 1990 s through policy, legal frameworks and by –laws. Across all districts in

Zambia, including Mafinga, land registration takes place and capacity continues to be built – often with donor support (e.g., World Bank, USAID). While in some contexts, formalization of tenure means a little more than endorsing existing practices (De Soto 2000) realities in rural Zambia shows outcomes of formalization are never straightforward. The devolution of central government in Zambia has seen the creation of new districts with mass movements of civil servants as well as devolved line government ministries resulting in increased infrastructural development, which translates to land needs (Carrero et al., 2022). This study shows the framing of national and rural development has been advanced in such a way that defeats any opposition. Who can be against rural development and utilization of marginal and idle land? Chiefs and traditional leaders are constantly bombarded with narratives of rural development. However, development outcomes seem slow and ambiguous at best as land conversions continues to be justified albeit variously. In fact, assumptions of access in these rural initiatives are not clear despite a policy push in rural land acquisitions (e.g., National Development Plans, registration) (Umar and Nyanga, 2022). Thus, the claim for the state to foster development only on state land creates a mismatch between the laws that acknowledge existence and importance of customary land and how this should be approached in development. As with Chitonge et al. (2017), this is compounded by a mismatch in the bureaucratic capacity of the state to administer and implement the new laws in and across Zambia.

## 6. Conclusion

This study shows there is an increased amount of state-driven pressure in customary land spheres for various purposes. This relates to state creation of new districts in the last decade, which has increased demand for land, with state actors exploiting existing policies and legal tools in the name of development. The key actors driving this customary land pressure and related processes are state actors at national, provincial and district levels. The mechanisms that render different actors capable of exerting customary land pressures, acquiring land or facilitating conditions for doing so have been identified. Rather than a focus on foreign players as driving land grabs, this paper invokes the role and importance of national states in driving land acquisitions (Fairbairn, 2013). The state is never neutral actor and never with a collective voice. Multi-level actors rely on different policy and legal tools to systematically alienate rural land on the one hand, and communities from their land on the other. In this process, chiefs lack the necessary tools and collective voice to challenge state-driven notions of land governance. Whereas Chiefs have been incorporated as members of the House of Chiefs and have assumed positions in District Councils, and in some cases driven land conversions, these processes point to a 'house divided.' That land converted to statutory land tenure cannot be reversed reflects how chiefs are locked in a difficult situation, and probably under a false enigmatic view of customary land. Overall, these processes point to the need to strengthen land governance and capacities at different levels. There are policy and legal tools designed and frequently deployed among most African states at will to drive compulsory land acquisitions. This calls for a redefinition of not only development, but also how land – state and customary – is implicated, going beyond narrow and probably 'self-serving' eyes of the national state.

## CRediT authorship contribution statement

**Lizzy Banda:** Conceptualization, Methodology, Writing – original draft, Writing – review & editing, Data curation, Investigation, Formal analysis. **Simon Manda:** Conceptualization, Data curation, Formal analysis, Project administration, Visualization, Writing – original draft, Writing – review & editing, Validation, Data curation, Investigation, Project administration, Supervision.

## Declaration of Competing Interest

We have no conflicts of interest to disclose.

## Data availability

Data will be made available on request.

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