

# Transparency Watch

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## DIRECTORS NOTE

Welcome to the first edition of the 2023 **Transparency Watch Newsletter** where we share corruption related issues and TI Z's interventions. This edition highlights people's experiences on land corruption and theoretical and practical perspectives of women, land ownership, lessons learnt, and emerging issues in land administration and the local authority. Land continues to be a bone of contention particularly in urban areas.

Most urban areas in Zimbabwe continue to face exponential population growth.. This has prompted a land rush and opportunities for corruption. Unfortunately such land-rush has necessitated land grabbing by land barons and in some instances, council officials or politically exposed persons. Women, youth and other marginalised groups continue to face challenges in accessing land. Through this edition, TI Z brings to the fore, some of the complex dynamics of land corruption in Zimbabwe. This edition seeks to generate debate on transparent and accountable land governance in Zimbabwe. Happy reading !!



image credit: CIMYYT

## The Gap between Theoretical and Actual Land Ownership of Women in Zimbabwe.

By **Thubelihle Ncube**

On paper, women and men in Zimbabwe have equal rights to own land and other properties. *Section 71(2)* of the Constitution provides for property rights to every person in any part of Zimbabwe. The Constitution of Zimbabwe gives provision for women to fully enjoy and claim property rights, normally referred to as *"bundle of rights."* The term *"bundle of rights"* describes the set of legal rights associated with ownership of real property. The bundle of rights are made up of 5 different rights: the right of possession, the right of control, the right of exclusion, the right of enjoyment, and the right of disposition. However, in reality, women own very little of that property and face resistance to acquiring it.

This could be as a result of patriarchy, cultural beliefs and general weak policies that should be supporting women's access to land.

TI Z through its **Land Corruption in Africa Project II** continue to receive land-corruption related cases. Mrs. M, (*name withheld*) has been a victim of violation of property rights in Zimbabwe. Her husband passed on after they had acquired a residential stand through the **Garikai Hlalani Kuhle Resettlement Scheme in Cowdray Park** and completed the foundation. The residential stand was repossessed by the authorities in less than a month since the passing of her husband and has since been sold to a viable bidder. The new owner proceeded to build his house on top of her foundation without any form of compensation. Efforts to claim full ownership of her residential stand have led to endless referrals from one office to the next with the relevant officials refusing to take responsibility and furnish her with a reasonable explanation.



Image Credit: Land Portal

In instances where she has been given attention, huge amounts of money have been demanded in exchange for the assistance. She has been asked to pay amounts ranging between \$400-\$2000USD for legal fees and other facilitation fees.

She is a vendor, surviving on a “hand to mouth” basis with little to spare for the “facilitation fee”. **Mrs. M** is amongst several women who have approached the **TI Z Advice and Legal Advice Centers (ALAC)** seeking redress in land rights and ownership cases. Most of the cases show that the gap between theoretical and actual land ownership by women can be traced to graft. Corruption is disadvantaging Zimbabwean women in accessing land and acquiring property ownership, because most women have nothing of value to give in return for land and property rights.

**The International Human Rights Law** requires equal protection of property rights of both men and women. Property rights are human rights. Women’s rights to land and property being the inalienable human right is also related to adequate standards of living, right to housing and freedom from forced evictions. Zimbabwe is signatory to international instruments that

guarantee such rights. The Universal Declaration of Human Rights guarantees every person’s right to own property and protection from arbitral deprivation of the property. **The Convention on the Elimination of All Forms of Discrimination Against Women** of 1979 states that women and men should be treated equally in their right to land as well as in land resettlement schemes and enjoy adequate living conditions.

Moreover the **Beijing Declaration of 1995** emphasizes women’s rights to ownership of lands and demands that all governments take legislative and reform measures to remove disparities. Testimonies from communities received by **TI Z ALAC** vary from illegal selling of housing of stands, double allocation of residential stands, repossession of estates and dubious housing schemes continue to record women as the largest victims. In turn this raises concern on Zimbabwe’s efforts in ensuring that women land rights are protected.

Women’s property rights are also implicit in **Millennium Development Goals, specifically Goal 1** on eradicating extreme poverty and Goal 3 on gender equality. Women property rights promote gender equality. Lack of these

rights lead to underemployment of women and keeps them impoverished.

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*The goals to reduce or eradicate poverty and achieving gender equality will remain distant if women are not granted property rights.*”

As a country there is need to revisit the gap between written legislation and the implementation of such. Gender equality advocates need to continue with advocacy in terms of the promotion of women rights and the interpretation of some of the normative frameworks that promote women’s rights. Narrowing that gap will ensure that women freely enjoy their land rights and eliminates the corruption routes associated with attaining them.

# Lessons of Experience and Emerging Issues in land Administration: The Garikai/ Hlalani kuhle Housing Project Saga

By *Keith Bruce Sibanda*

Land remains a fundamental element for poverty reduction, food security, economic growth and sustainable development. With a shift in population growth, land has greatly become a scarce resource. Varying complexities that include use of land as political currency, lack of access to and, compromised enjoyment of land rights and tenure insecurity are not a new wave in Land administration. Generally, there has been increased competition for land from numerous groups such as companies, urban elites, churches, businesspeople, individuals and politicians. Likewise, tensions in the quest for land acquisition have since intensified due to inequitable land distribution system that is mainly hinged on mendacity, corruption, resource insufficiency, maladministration and political implications over the scarce resource. Following the fast Track Land Reform Program in the early 2000s, Zimbabwe's Land Administration frameworks are alleged said to have had major structural adjustments that have no bearing to the human rights outlook and economic liberation. Hence, distribution of land has been skewed and its administration processes questionable, albeit the role of state shrinking in as a result of deliberate policy orientations, lack of institutional capacity and continued land politicking to facilitate chaos and corruption in the administration process.

In the year 1993, the government evicted 4000 people from the Churu Farm leaving them short of alternative accommodation or any decent shelter. Shortly into the 21<sup>st</sup> century, on the 7<sup>th</sup> of March 2002, 6 600 stands were

officially handed over to 5 housing consortiums in Hatfield by former President Robert Mugabe as Campaign trail for elections which were scheduled to take place that year.

This gave birth to a suburb that was later known as Hatfield Extension which later housed some of victims of the Churu Farm Saga. This earmarked an epoch of statutory/ state tenure security reflex that limited access to land. The government launched an act of gross human rights violations under the disguise of what it called a clean-up exercise in cities. On the 26<sup>th</sup> of May 2005 the Zimbabwean Republic Police and army personnel wreaked havoc in cities as they demolished vending marts, back rooms/cottages and what they defined as illegal structures. Urban city dwellers together with informal economy sector workers were victims of Operation Murambatsvina. Human Rights Organisations and the United Nations reported that over 700 000 people lost their homes with over 2,4 million people affected.

Areas like Hatfield Extension (Harare), Killarney (Bulawayo) and other suburbs across the country were hard hit by this exercise. This act was abrupt and affected individuals lost not just that houses, they lost identity documents, property and their dignity. Presumptuously, statistical data flagged by parties involved in Operation Murambatsvina/ Restore Order remain indistinct. The Bulawayo City Council argued that 10 000 structures were demolished within Bulawayo while the Zimbabwe Republic Police reported that only 5 100 structures were demolished.

However, in efforts to address the housing crisis and a ballooning housing list, the government of Zimbabwe embarked on nationwide housing scheme called Garikai/ Hlalani kuhle Housing Project. Its objective was to build 15 000 houses in 2 phases as a way of tackling the housing crisis perpetuated by Operation Murambatsvina/ Restore Order.

In their second report on progress made by government on operation Garikai / Hlalani kuhle programme, the Portfolio Committee on Local Government narrated that on the 30<sup>th</sup> of June 2005, the Zimbabwean Government broke ground on their Phase I housing scheme which targeted to have constructed 5 000 housing units nationwide. Bulawayo had a target of 700 household units under phase I with 130 individuals identified as victims of Operation Murambatsvina. Contrary to the total number of 130 victims identified, only 43 of them were said to have benefited from Phase I. The lack of verifiable statistical data of people displaced by Operation Murambatsvina/ Restore Order disproportionately disregards principles of restitution and enjoyment of land rights for those that were dispossessed of their land or those that are landless. Lack of disaggregated data from the report presented by the Portfolio Committee on land has made it difficult to triangulate beneficiary data based on demographic profiles. It should be noted that in redressing this act, there is a need for comprehensive policy frameworks that promotes values of transparency, accountability, integrity and justice in land administration processes. The policy should be accompanied by a clear mandate and jurisdiction of roles, issues, remedies and duties that have to be executed by different players in land management.

It is argued that progress in government-led projects solely depends on the availability of resources, political willingness, and apt land administration frameworks that are founded on transparency and accountability. Operation Murambatsvina/ Restore Order Phase II never saw the light of the day due to resources constrains and the government transform it to a Self-Aided Scheme where its role was just to offer ...

“*The government launched an act of gross violation of human rights under the disguise of what it called a clean-up exercise in cities.*”



...technical support while councils, consortiums, private land developers, housing cooperatives, businesses and individuals got to administrate land. This relatively unbolted a lot of opportunities for corruption while chaos brewed due to lack of strong land administration structures. Through an erudite land administration mapping exercise conducted at Holiday Inn in Bulawayo on the 18<sup>th</sup> of November 2022, Transparency International Zimbabwe (TI Z) uncovered that the Garikai/ Hlalani Kuhle Housing Project has adopted a multifaceted market-based mechanism of operation that lacks clear policy in its execution. This saw quite several community members losing large sums of money to bogus housing cooperatives, consortiums and rogue private land developers.

In an expedition to gather information on the Garikai/ Hlalani Kuhle housing

scheme, TI Z underlined that there is inadequacy of legislative frameworks that control, monitor and protect the entire land governance system. It is argued that the lack of strong and adequate policy frameworks is a deliberate move to create avenues for land corruption and grotesques land management systems that are cemented by the need to implement conventional methods of acquiring residential stands. The existence of multiple land administration players in Cowdray Park has flourished under limited monitoring, weak policies and the perpetual housing crisis nationwide. Repercussions of such land administrative shortfalls are overbearing, ushering in a trail of maladministration practices that stretch from double allocation of residential stands without compensation to alleged unprocedural acquisition and repossession of residential stands, eroding elements of good governance.

Therefore, there is need for alignment of lobbying and advocacy in existing policy frames in a bid to have distinguishable roles amongst existing land administration bodies. Leveraging on information dissemination campaigns will bridge the lack of information gap on land administration procedures and capacitate communities in the fight against land corruption. In a joint effort, state and non-state actors should setup effective and efficient grievance mechanism schemes that will deal with land dispute issues, and all forms of corruption in land administration. Government departments should adopt modern land administration protocols which ensure that all land data is correctly captured, safely stored and protected, and easily accessible to communities.



## Effects of corruption on access to urban land in Zimbabwe: A case of Epworth

By **Precious Shumba**, the Director of the Harare Residents' Trust (HRT)

Corruption has blemished local authorities' land administration process, widely compromising the quality of governance in land allocations. Such turns of maladministration practices have since seen a hasty increase in the number of people on the housing waiting lists and a drastic crack in land deals influenced by politically connected persons like council officials, councillors and politicians. Where corruption thrives, marginalised people bare the misfortunes of poor governance. They are denied access to basic services, thus worsening their situation. Communities continue to survive at the mercy of land barons who have found their niche in play land administrator while local authorities and the central government have failed to reconstruct the land administration fabric. During disorder and helm of land mis-governance land barons and private land developers have awarded themselves an opportunity to defy the orthodox land administration procedures. The society has been assailed by doubt and fear while land barons violate their land rights and foist exorbitant land prices. Hence, this paper seeks to highlight the effects of corruption on gaining access to urban land in Zimbabwe. It will use Epworth as a case study levelling on illegal settlements on industrial stands, wetlands and other spaces reserved for

either schools or health facilities.

### **Background of Epworth**

Epworth is located 15 kilometres South-East of Harare. It is a dormitory town characterised with haphazard settlements. Gift July the Chairperson of the Epworth Local Board maintains that, Epworth started off as a farm where congregants from the Methodist Church lived. The farm had been bought by Methodist missionaries to house people escaping war from the rural areas during the liberation struggle. This is the time where customary land tenure was executed, having traditional leaders and kraal heads for likes of Chiremba and Charovedza settling people for free. However, with time, the village heads started getting kickbacks in exchange of land. Realising that population in Epworth had grown beyond their expectations, the Methodist Church ceded part of their farm to the government. In 1986, the government established the Epworth Local Board in order to address the haphazard settlement of people and provide structured social services in line with the Regional, Town and Country Planning Act (Chapter 29.12) and the Urban Councils' Act (Chapter 29.15).

### **Town planning and illegal settlements**

"The Epworth Local Board together with the government prepared some layout plans for the area and pegged stands," July said. "During that time the board was assembled by commissioners until in 2008 when Epworth had its first elected councillors to take over from the commissioners. Seven wards were established. The council took responsibility of administering state land."

Overspill and Glenwood were the first official stands that the local board sold to residents on the housing waiting list. Sadly, despite having a lucrative number of residential stands being availed and administrated by the local board, it did not avert the housing crisis. However, there was a significant increase in the number of illegal settlements around Epworth.

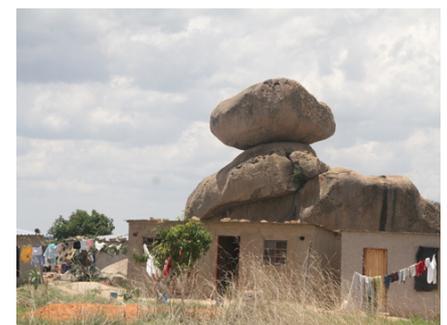




Image Credit: The Epworth Insiders

Political party activists with backing from senior politicians and other well-connected officials were responsible for unprocedural allocation of residential stands disregarding the law. This resulted in massive corruption acts. Consequently, this has created unending conflicts among residents, land barons, council officials and politicians. In view of these challenges, one may argue that the multiple uncoordinated actors involved in the land sales and allocations have made the situation untenable, with the poor always ending up as the victims of land corruption.

The increasing population of Epworth and the static size of the settlement is a huge challenge to residents and the authorities. The Epworth Local Board has indicated in several meetings with stakeholders that they have run out of land, and they have fewer stands to sell to home seekers. According to the Zimbabwe National Statistics Agency (*ZimStats*) preliminary census and households report for 2022, Epworth has seven wards with a total population of 206 365 in 56 686 households. The local board placed an advert in the Herald announcing the sale of a limited number of commercial, residential and service industrial stands by 18 November 2022. One of the conditions of applying was proof of registration on the council's housing waiting list. Hundreds of residents who responded to the advertisement were left in shock and anger when they visited the offices of the Epworth Local Board on Friday. There was so much disorder and corruption that residents left in frustration. Based on this, it can be submitted that corruption thrives where there is limited access to information for members of the public.

According to **Sarah Njanji**, a social justice activist in Epworth, the major effect of corruption in Epworth is that those with

the greatest need for residential stands are most marginalised and excluded from the local authority processes. She said the Epworth Local Board forcibly removed residents from an area in Ward 7 designated for industrial stands claiming that they wanted to do mapping for the purposes of regularisation. Despite having allocated the stands on the place to some identified beneficiaries, it has been observed that there is another parallel allocation taking place under the leadership of some corrupt councillors and land barons who are busy allocating other people on the same stands, creating perpetual uncertainty to the beneficiaries. A similar situation allegedly prevails in Ward 3 where the council claimed that they only had industrial stands yet behind the scenes some residents were being allocated residential stands. From a human rights perspective, what is happening in Epworth is unjust to the residents who believed that their local authority would be fair, transparent and accountable for their actions on the provision of housing stands to the needy. Based on these developments, it is evident that the well-connected will always have control of the council stands' allocation system which further pushes the most vulnerable in society away from their hope of ever being officially allocated their own residential, commercial or industrial stands.

**July Moyo** denied these allegations. He said their major problem as Epworth Local Board is that most Epworth residents are so used to the illegal settlements that they have consistently resisted proper town planning, and therefore reject all efforts being made to settle people in an orderly and legal manner.

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*It has been observed that there is another parallel allocation taking place under the leadership of some corrupt councillors and land barons who are busy allocating other people on the same stands*

Modern urbanisation requires that housing developments be accompanied by proper sewerage, water reticulation and well-planned road infrastructure with allocations for educational, health, recreational and business facilities. For the residents to have all these facilities, July argued, residents have to deal only with the Epworth Local Board and not through any other third parties or officials working outside the proper system. He admitted that corruption was contributing to the chaotic situation in most Epworth settlements where some people were competing against the local authority to give residents access to land for housing developments.

In conclusion, this article has highlighted the nature and character of corruption and its effects on access to urban land by residents of Epworth. The long-lasting effect of corruption in Epworth is that while the majority of the residents struggle, and even fail to secure residential, commercial or industrial stands due to the deep-seated corruption, the real perpetrators of the corruption could be part of the Epworth Local Board, known land barons and politicians. When a local authority's housing delivery system is opaque, corruption thrives, and access to information is compromised. The weak and vulnerable in society will continue to be exploited by the powerful in accessing urban land.

# The local Authority's fiduciary duty to Safeguard Land Rights and Combat Corruption Through Transparent and Accountable Land Administration Processes in Urban Areas.



By **Keith Bruce Sibanda**

It is apparent that land management processes are flawed and need urgent interventions to safeguard the universal right to land, land tenure security, complexities on accessibility, transparency and accountability in land management systems across board. Reflections on land governance frameworks and their inadequacies have brought visibility on emerging corruption issues allied to local authorities in land management processes. Owing to the responsibility debate on closing the accessibility gap, land corruption taps, and doing away with ambiguous institutional land administration systems, a reform strategy should be devised. A shift in dedication to strengthen land administration mechanisms is desired. Paving a way for the adoption of contemporary land policies and frameworks that are effective, sustainable and equitable in land use/management is ideal for local councils in the novel movement of land administration. *Section 71 (2)* of the Constitution of Zimbabwe is the foundation of land rights. Existing legal frameworks such as the urban councils act, Constitution of Zimbabwe Act number 20 of 2013 give urban councils a mandate to manage/ administrate land.

In their vagueness, provisions cited in the Urban Council's Act are broad in nature and lack fundamental modalities

on the establishment, promotion and protection of substantive land rights. The unavailability of laws with specific interest in advancing land rights in urban cities is a cause of concern. In its entirety, Part *x* of the Urban Councils Act speaks on acquisition, expropriation and management of land at an institutional level and it is silent on the aspect of land rights at a community level. Hence, there is need to review policy or rather develop a stand-alone legal framework on land rights as encouraged by section 71 of the Constitution of Zimbabwe Act 20 of 2013.

Drawing reference from the current land administration wave in Zimbabwe, land corruption storms involving council officials, politically connected individuals, high ranking government officials and financially powerful business people facilitated by imprecise legal frames, existing multiple land management players, tainted staff integrity in land management processes, lack of anti-land corruption policies and grievance mechanism schemes and limited knowledge on land administration procedures and policies have been the order of the day.

The Central Government's ambiguous Land Administration Processes have since been highly opposed. It has disregarded the conventional method of

acquiring land for residential stands, eroding elements of good governance and creating opportunities for corruption in land administration processes. Land remains an important economic and cultural asset for both rural and urban communities in Zimbabwe. In a bid to redress the housing crisis, government has since introduced a number of interventions which include opening the land administration process to multiple private land developers, companies, co-operatives and individuals. This department has given land administration dominance to non-state players who are said to be flouting town planning regulations and defrauding citizens, having uncoordinated incremental development without any approved development plans, non-approval of housing cooperative plans due to poor monitoring mechanisms triggered by lack of institutional funds/ resources.



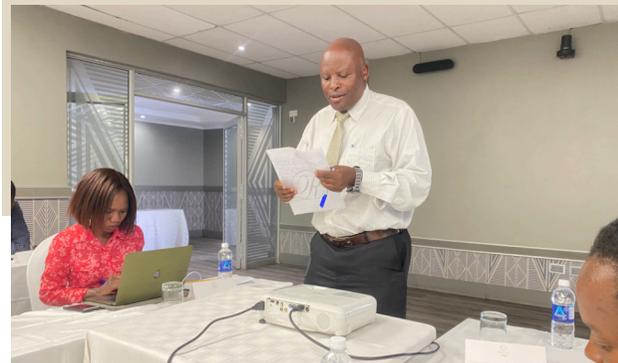
Increased demand for urban land across the country has been driven by multiple factors including high rates of urbanisation, increased rural-urban migration, urban population growth and serious challenges in housing provision post-independence. With increasing densities and competition, systems of law and authority become increasingly important, and that means state capacity is vitally important. Institutions and organisations involved in land tenure have been changing creating unhealthy relationships between local and central government with regards to the delivery of urban housing land. Since the turn of the millennium, land administration functions have been affected by land invasions, resulting in a massive shift in spatial arrangement and physical boundaries. Poor economic conditions further compound the situation as both residents and local authorities fail to afford and finance housing development, access to land increasingly becoming political. In a bid to tackle corruption in the administration and processes for land management it is overbearing for both state and non-state actors to adopt good land governance is a necessary first step to address land corruption. It and needs to be applied at the policy, legal, institutional and administrative levels. Reforming land development and planning rules on how land will be distributed should be made transparent. In their ideal form land agencies should provide 'efficient and accessible land registration services, transparent land information, and clear ownership records to prevent disputes', ensuring an accurate record of property rights for example mapping of land titles and introduction of technology into land administrative processes. There is also a need to focus on building staff integrity in key agencies involved in land transactions. It is an important area for reform since codes of conduct and professional ethics are common in many sectors and can equally have value in the land sector.



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# LAND

## & CORRUPTION IN AFRICA PROJECT

# IN PICTURES

*A compilation of pictures from various workshops that were conducted in Harare and Bulawayo to develop land rights and also land conflict resolution mechanisms, mapping exercise on land and administration.*



# FREQUENTLY ASKED QUESTIONS

ON LAND ADMINISTRATION AND LAND RIGHTS

## Who is responsible for Land Administration in Zimbabwe?

The ultimate power in land administration lies with the state. The Ministry of Lands, Agriculture and Rural Settlements, the Ministry of Local Government, Public Works and Housing, and the Ministry of Justice, Legal and Parliamentary Affairs.

## What are their responsibilities?

The Ministry of Lands, Agriculture, and Rural Settlement is responsible for land acquisition, valuation and transfers, resettlement, and estate management and the Department of Surveyor General (DSG) falls under it.

The Ministry of Local Government, Public Works, and National Housing deals with the identification of land for compulsory acquisition and it controls the operations of all local authorities.

The Ministry of Justice, Legal and Parliamentary Affairs oversees the Deeds Office under which the land registration is administered in Zimbabwe. The office records ownership, lease, mortgage, consolidation, and inheritance rights.

## What procedures are to be followed when acquiring urban/ Peri-urban Land?

### ACCESSING URBAN-LAND CHECKLIST

- Proof of ownership in the form of a Title Deed.
- Approved Sub-division permit- issued by the relevant authority.
- Approved Survey Diagrams from the Surveyor General
- Approved infrastructure , engineering designs for water, sewer, and water which have been approved by council-relevant departments

### ACCESSING STATE-LAND CHECKLIST

- Approved Engineering Designs for water, sewer and roads signed for by the council.
- Certificate of compliance issued by the Council certifying that all the mentioned relevant documents are in order
- Valid offer/allocation letter and Agreement of Sale between Government/Council and the seller (In their name)
- Check for approved layout plans

REPORT LAND CORRUPTION

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