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# LAND GOVERNANCE ASSESSMENT

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Zambia Country Report



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## LIST OF ACRONYMS

CBD	Convention on Biological Diversity
CBNRM	Community Based Natural Resource Management
CC	country coordinator
CSO	Central Statistical Office
CUDP	Comprehensive Urban Development Plan
DMMU	Disaster Management and Mitigation Unit
ECZ	Environmental Council of Zambia
EDM	Electronic Document Management
EI	Expert Investigators
EIA	Environment Impact Assessments
ENRMD	Environment and Natural Resources Management Department
GDP	Gross Domestic Product
GEF	Global Environment Facility
GIS	Geographic Information System
GMAs	Game Management Areas
GRZ	Government of the Republic of Zambia
GVD	Government Valuation Department
HSIA	Housing (Statutory and Improvement Areas)
IDPs	Integrated Development Plans
JFM	Joint Forest Management
LGAF	Land Governance Assessment Framework
MLNREP	Ministry of Lands, Natural Resources and Environmental Protection
MoFNP	Ministry of Finance and National Planning
NAP	National Agriculture Policy
NGOs	Non-governmental organisations
NHA	National Housing Authority
NHP	National Housing Policy
NPCC	National Policy on Climate Change
NPE	National Policy on Environment
NRP	National Rating Programme
PFAP	Provincial Forestry Action Programme
RVT	Rating Valuation Tribunal
SCB	Survey Control Board
SEA	Strategic Environmental Assessments
SG	Surveyor General

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## Executive summary

### Introduction

The LGAF process is an important ingredient in the land governance of the country as it reveals the strengths and weaknesses in the Zambian land governance system in light of international best practice. At the same, it identifies the key areas for intervention. These will be inputs in the design of measures that will be used to reform the land governance system, for instance, the current consultation process for reviewing the draft land policy. The design stage may generate new policy, legislation, or new technology.

### Contextual background

Zambia currently has a total population of 13.1 million (2010) people rising from about 5.7 million in 1980. About 58.5% live in rural areas and are dependent on agriculture for their livelihoods. The economy is highly dependent on copper mining industry which accounts for 95% of export earnings. Zambia is a multi-party state whose supreme law is the constitution which has been amended a number of times with the latest amendment in 2016. The amended constitution continues to guarantee land rights and introduces the establishment of the land commission. Further, the constitution devolves administrative power to local governments. Although there are several policies related to land, currently Zambia does not have a specific policy on Land. It has been grappling with drafting the Land Policy for almost three decades. The draft land policy is under public consultation. In addition there are several pieces of legislation that affect land, the main one being the Lands Act of 1995. To fill the gaps of the Lands Act a Customary Lands Bill is being drafted.

### Tenure system

Zambia has a dual tenure system consisting of leasehold (Statutory) and customary tenure. This duality has persisted since the colonial times. The term of leasehold is limited to a maximum of 99 years. Other terms of leases include 14 year leases which are provisional, a 30 year leases for resettlement schemes and a 30 year occupancy licences for housing improvement areas and 10 year land records which are issued by local authorities. An important form of land holding is land that is reserved for public use e.g. forests and national parks. This category overlaps leaseholds and customary areas. In addition to leasehold and customary tenure there is also the unrecognised/ de-facto tenure which actually constitutes large portion in and around urban areas e.g. in Lusaka it is estimated that over 60% of holdings are informal. It is estimated that 90% of the rural population subsist on customary tenure.

### Institutional arrangements

There are several institutions which play various roles in land governance some of which overlap. The main institution dealing with land is the MLNREP. The ministry deals with general administration of land including allocation, surveying and registration. Other key players include the Ministry of Agriculture, MLGH, the Vice President's office and Ministry of Tourism and Arts and Ministry of Chiefs and Traditional Affairs. Chiefs play an important role in the administration of customary land. There are 4 paramount chiefs, 8 senior chiefs and 240 chiefs country wide.

## **Substantive findings**

### ***Good practices***

The preliminary assessment found a number of good practices in the Zambian Land governance system with regard to international best practices and these include:

- The formal recognition of tenure rights in rural areas (individuals and groups) as specified under the Zambian Constitution and Lands Act;
- Possibility of regularising of urban informal settlements as provided by the new Urban and Regional Planning Act of 2015. This aspect was also included in the repealed Housing (Statutory and Improvement Areas) Act;
- The prompt transfer of acquired land to destined use and timely compensation of owners;
- Collection of most agreed payments from private parties on the lease of public lands;
- A one stop shop for investment applications which is housed at the Zambia Development Agency;
- Searchable public land register/cadastre which are easily accessible with published fee schedules and contain private encumbrances, restrictions and spatial records; and
- Valuation rolls which are publicly accessible for all taxable properties

### ***Weaknesses/Issues***

The identified weaknesses (issues) in the land governance system as compared to international best practices are summarised below:

- Less than 50% land rights are protected in practice or recorded and mapped (including women's rights);
- The cost of on-demand recording of rights and property transfer exceeds 5% of the property value, hence illegal transactions are high;
- Less than 50% of public land is not disposed of through open tender and lack benefit sharing information;
- There is no policy for prior land identification for investors and for cross sector coordination on land use;
- Non-documentary forms of evidence are almost never used (in statutory areas) to obtain recognition of claims to property;
- Different public land registers are not synchronized, linked nor regularly updated;
- The formal court system takes too long to dispose of most land related cases;
- There is no effective mechanism for dealing with institutional overlaps in land related matters



# 1 Introduction

The question of land governance has eluded many countries across the world. Many have struggled to find solutions to persistent problems of dealing with indigenous and/or customary tenure, balancing the goals of equity, efficiency and sustainability in the development and management of land. The question has been complicated by the contextual nature of land issues and the lack of a consolidated global assessment framework. Zambia has also gone through various legal and institutional reforms to try and fix some emanating governance issues. The reforms started just after independence in 1964. The major ones were the enactment of the Land (Conversion of Titles) Act in 1975 and the Lands Act in 1995. Further, Zambia has grappled with drafting a guiding land policy. It has been on the cards for over two decades. Part of the challenge for the policy completion has been in agreeing the content of the Policy between the different interest groups, complicated by the emerging issue of transfer of public or customary land to private, largely foreign, investors.

In rural and peri-urban areas the challenge has been the protection of customary rights without creating additional risks for the rights holders. In urban areas, the problem of informal settlements has persisted for as long as the Country has been independent. Reviews of land ownership suggest that land ownership is skewed towards the male population (the gender issue). Zambia is land abundant but the majority of the population still lives on less than a dollar a day. It is a paradox. Institutions tasked with the mandate of managing land face various technical, institutional and financial barriers. Formal resolution of land disputes takes overly long. Registers of land information in public institutions are not synchronised while identification of land for investment is mostly ad hoc.

Land Governance Assessment Framework (LGAF) was developed by The World Bank in conjunction with its partners to help countries to check land governance status against global good practice using a common framework. It highlights areas for legal, policy or procedural reform to improve governance in land administration over time. LGAF allows to assess arrangements in these countries compared to global good practice along a large number of dimensions, each of which are ranked by stakeholder panels on a 4-level scale (A to D). These cover key areas of good governance identified in 5 topic areas, namely:

1. Recognition and respect for existing rights (legal and institutional framework)
2. Land Use Planning, Management and Taxation
3. Management of Public Land
4. Public Provision of Land Information
5. Dispute Resolution and Conflict Management

These focus areas are analysed in nine (9) modules or panels, namely (i) land tenure recognition; (ii) rights to forest and common lands & rural land use regulations; (iii) urban land use, planning, and development; (iv) public land management; (v) process and economic benefit of transfer of public land to private use; (vi) public provision of land information; (vii) land valuation and taxation, (viii) dispute resolution and (ix) review of institutional arrangements and policies. For each module/panel a series of land governance indicators, each divided into several dimensions, have been selected based on international experience. For each dimension, pre-coded statements are given for scoring (from best practice (A) to weak practice D) based on international experience (see the LGAF website for a manual).

Beyond the substantive content, the LGAF process at the country level aims to be inclusive and establish a consensus and priority actions on (i) gaps in existing evidence; (ii) areas for regulatory or institutional change, piloting of new approaches, and interventions to improve land governance on a broader scale (e.g. by strengthening land rights and improving their enforcement); and (iii) criteria to

assess the effectiveness of these measures. It also aims to put in place a structure and process to systematically track progress in improving land governance over time.

This report synthesises the nine panel reports into one. Section 1.1 deals with the LGAF implementation process highlighting the main steps involved. Section 1.2 discusses the methodology that was followed. The tenure typology and institution mapping is discussed in section 2. Section 0 presents the main findings from the assessment for all the indicators and dimensions.

## 1.1 Process of Implementation of the LGAF

The country coordinator (CC) oversaw the implementation process supported by one assistant. The process started in June 2015 after the CC signed the contract with the World Bank and ideally should have ended in December 2015. It was however extended to June 2016. The process consists of a number of discrete steps as summarised in (Figure 1 ) (The World Bank, 2013):

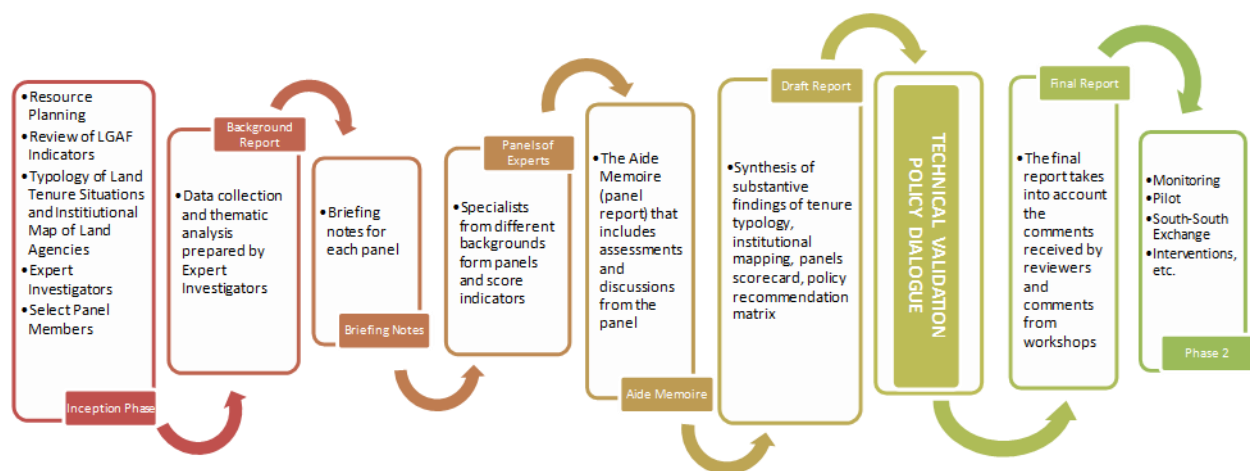


Figure 1: Implementation steps

## 1.2 Methodology and comments

Preparation consisted of reviewing the LGAF definitions, indicators and dimensions, assembling a team of expert investigators and potential panel members, and compiling the inception report. The inception report was submitted to the LGAF Africa Secretariat for approval. After approval, the team of EIs began the process of collecting data, analysing it and then compiling the background reports<sup>2</sup>. Background reports were first reviewed by the CC, LGAF Secretariat and finally by the Technical Advisory Group (TAG) who sent back the comments back to the EIs via the Secretariat.

<sup>2</sup> Data collection and report compilation took much longer than anticipated to various problems including EIs not giving the assignment the needed attention due the low fees that were assigned, some members pulling out and difficulties of accessing data.

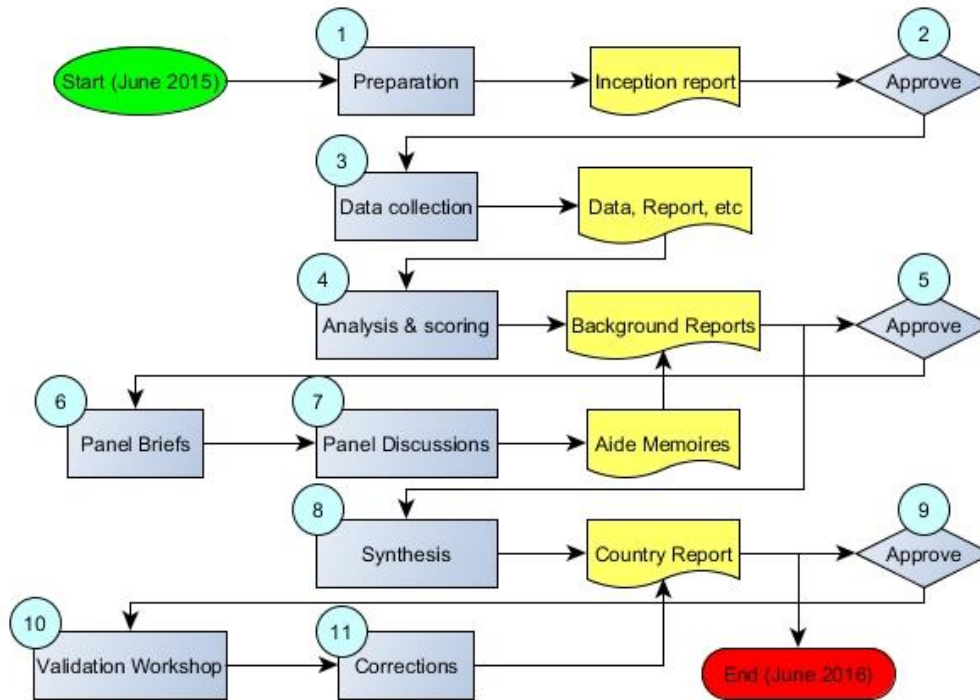


Figure 2: LGAF methodology

The EIs revised the reports after receiving the reactions of the TAG and re-submitted the reports to the CC who then prepared the panel briefs for each panel topic. The briefs and full background reports were sent to the respective nine panel participants. Panel discussions were held in the last week of February and first of week of March 2016. Participants for each panel discussion were drawn from the private sector, non-governmental organisations, community based groups, local government, national government and academic institutions. Efforts were made to identify participants who were experts in their field and or held a senior position within government or working on a related land governance aspect. A combination of internet searching and professional networking was used to identify the key people to be selected. The number of participants in each panel session ranged from 5 to 7 persons. Each session lasted for three hours. Each panel session included an introduction of the LGAF process and aims of the discussion, review of all the dimension scores and policy recommendations. The results of the panel discussions were Aide Memoires compiled by the CC and thereafter distributed to the respective EIs. The Aide Memoires comprised the discussions and conclusions of each panel in terms of scores and policy recommendations. The EIs then revised their respective reports and submitted to the CC.

The revised background reports were then used to compile the country synthesis report. The synthesis report was submitted to the Secretariat for review and go-ahead for the national validation workshop. The participants were again drawn from various sectors based on experience or expertise. The workshop reviewed all the scores and policy recommendations, and made recommended immediate future action points. The national was held on 4<sup>th</sup> May 2016 in Lusaka. The results of the workshop were used to compile the final country synthesis report which was submitted to the World Bank.

## 2 Context analysis, tenure typology, and institutional mapping

### 2.1 Context analysis

#### 2.1.1 Socio-economic situation

Zambia has a mixed economy consisting of a rural agricultural sector and a modern urban sector that, geographically, follows the rail line. Currently, construction sector contributes 14 percent of the gross domestic product (GDP), agriculture contributes 9 percent of the GDP, manufacturing sector and mining each contribute 8 percent of the GDP (CSO, 2014)). For many years, the modern sector was dominated by parastatal organisations, while private businesses dominated the construction and agriculture sectors. Historically, the country's economy has been based on the copper mining industry, accounting for 95 percent of annual export earnings and contributing 45 percent of government revenues during the decade following independence (1965-1975).

After several years of stagnation, the annual average economic growth rose from 2 percent prior to 2002 and reached 6 percent during 2006 - 2010. This is attributed to prudent macroeconomic management, market liberalisation, privatisation efforts, expansion of investments in the copper mining industry and related infrastructure, and a steep increase in copper prices (MoFNP, 2013).

According to the Living Conditions Monitoring Survey 2010, 60 percent of Zambians are classified as poor. In the Zambian context, poverty is defined as lack of access to income, employment opportunities, and entitlements, including freely determined consumption of goods and services, shelter, and other basic needs. As of 2010, poverty continued to be more prevalent among rural than urban residents (78 percent and 28 percent, respectively) (CSO, 2011).

Table 1: Demographic characteristics

Table 1 presents selected demographic indicators from the 1980, 1990, 2000, and 2010 Zambia Population and Housing Censuses. The 2010 census reported a population of 13.1 million and a population growth rate of 3 percent per annum. The population increased steadily from 5.7 million in 1980 to 13.1 million in 2010. During the 2000-2010 inter-censal period, growth rates varied by province, ranging from 2 percent in Western to 5 percent in Lusaka (CSO, 2012)). The population density in Zambia increased from 8 people per square kilometre in 1980 to 17 in 2010. Average density by province in 2010 ranged from a high of 100 people per square kilometre in Lusaka to a low of six people per square kilometre in North Western. In addition to being the most densely populated provinces, Lusaka and Copperbelt are also the most urbanised. The rural population stands at 58.5 percent of the total population.

Selected demographic indicators, Zambia 1980, 1990, 2000, and 2010

Indicator	Census year			
	1980	1990	2000	2010
Population (millions)	5.7	7.8	9.9	13.1
Density (population/ km <sup>2</sup> )	7.5	10.4	13.1	17.4
Percent urban	39.9	38.0	35.0	39.5
Total fertility rate	7.2	6.7	6.0	5.9
Completed family size (women age 45-49)	6.6	7.1	6.9	6.0
Infant mortality rate	97	123	110	76
<b>Life expectancy at birth</b>				
Male	50.4	46.1	48.0	49.2
Female	52.5	47.6	52.0	53.4

Source: Central Statistical Office, 1985a, 1985b, 1995, 2002, 2003, 2012

### 2.1.2 Legislation

There are various pieces of legislation in Zambia, which have a direct or indirect bearing on land tenure or land administration in the country. Some new Acts have been introduced and others have been repealed or amended since 1991. Still others are being drafted e.g. the Customary Land Bill.

#### **Constitution of Zambia 1991**

Zambia is a unitary, multi-party state. The Constitution is the supreme law of Zambia. It was enacted in 1991 to repeal the 1973 constitution. Further amendments were made in 1996 and 2016. Some important highlights concerned with land matters are contained in the sections dealing with fundamental rights and freedoms.

Part III, article 16, states that no individual can be compulsorily deprived of any property without adequate compensation, unless under an Act of Parliament or in such cases as where the acquisition is for recovery of tax, the land is abandoned, the land is required for exploiting minerals, or for the implementation of a land policy. Part III, article 17, prohibits the search of property or entry on premises without the owner's consent, unless under terms set by the constitution, such as collection of tax. Part XIII, article 127, allows for continuation of the existence of the Institution of Chief in any area of Zambia in accordance with the culture, and traditions of the peoples concerned. In addition, Article 128 of Part XIII allows the Institution of Chief to operate as a corporation and to hold assets or properties in trust for itself and the peoples concerned.

Special mention should be made of articles 127 and 128. The recognition of the chiefs' establishments as institutions, that they should continue in existence according to their traditions, and that they can hold property in trust for their people, has significance in relation to how customary land should be administered. Chiefs are already custodians of customary land, and if they should continue in existence according to their traditions, it means even administration of land should continue to be based on those same traditions. Since they do already hold land, it can be said that they do constitutionally hold that land in trust for their people.

#### **Land Policy**

The Zambian Government currently does not have a land policy. The last draft policy was made available in October, 2006. An attempt to put in place a national land policy has been held up for more than two decades now. A national land policy formulation process was initiated in 1993, and a Draft Land Administration and Management Policy were issued by the Ministry of Lands. The same remains in draft form to-date... It is said to be "a working document and not a formal policy document" and that it "should not be quoted and interpreted as the policy of the Government of Zambia or any other government ministry or department until it has been finally agreed and adopted" (GRZ, 2006:1).

The draft policy does however provide indications of the direction of government thinking regarding critical land issues in the country. It states that the vision of the Government is to have an efficient and effective land administration system that promotes security of tenure, equitable access and control of land for the sustainable socioeconomic development of the people of Zambia.

#### **National Policy on Environment (NPE)**

The National Policy on Environment (NPE) was approved in 2009, with the objective of harmonizing different sectoral development strategies, rationalize legislation concerning the use and management of land, and attain an integrated approach to environmentally-sustainable development. The NPE was designed to create a comprehensive framework for effective natural resource utilization and environmental conservation. The NPE widely covers issues pertaining to the agricultural sector and climate change.

### **Draft National Policy on Climate Change (NPCC)**

The draft NPCC falls under The Ministry of Lands, Natural Resources and Environmental Protection. In April 2012 the first draft of the National Policy on Climate Change was crafted whose vision is a prosperous climate change-resilient economy by 2030 that will have significantly increased living standards of the population and reduced its vulnerability to the impacts of climate change. Land use for agriculture has been well recognized in the NPCC. The NPCC seeks to promote sustainable land-use management practices through the development and promotion of sustainable agricultural practices such as conservation agriculture.

### **National Agriculture Policy (2004-2015)**

The overall objective of the current National Agriculture Policy (NAP 2004-2015) is to facilitate and support the development of a sustainable and competitive agricultural sector that assures food security at national and household levels and maximizes the sector's contribution to Gross Domestic Product (GDP). The NAP is currently being revised. The draft or revised NAP 2013 seeks to utilize the available natural resources in an efficient and more sustainable manner to promote growth of the agricultural sector. The policy has explicitly included objectives that directly inform on land use issues. For instance, there is an objective on the promotion of sustainable management and use of natural resources that has such measures as the: promotion of sustainable land management technologies (including conservation agriculture, appropriate stock densities); promotion of afforestation, community woodlots and agro-forestry, among others.

### **Decentralisation Policy**

The Decentralisation Policy of 2002 aims to devolve authority, functions and responsibilities to district level in order to improve quality of service delivery at the sub-national level, including management of natural resources. Although the process of decentralization was stagnant for some years it is now fully supported by the current Patriotic Front government, building on the Sixth National Development Plan (2011-2015) and the Revised Decentralisation Implementation Plan (2009-2013).

#### ***2.1.2.1 Acts related to land registration, surveying and planning***

##### **Lands Act (no. 20, 1995)**

All land in Zambia is subject to this Act, but no land can be alienated for a term longer than 99 years. The Act provides for the continuation of leaseholds and leasehold tenure; for the continued vesting of land in the President and alienation of land by the President; for the statutory recognition and continuation of customary tenure; and for the conversion of customary tenure into leasehold tenure. In addition, the Act provides for the establishment of a Lands Tribunal and a Land Development Fund. The Act describes 'customary area' as all land, which until the Act was referred to as Reserves and Trust land. 'Land' means any interest in land whether the land is virgin, bare or has improvements, but does not include any mining rights as defined under the Mines and Minerals Act. Though all land in Zambia is vested in the President, the actual alienation is delegated to the Commissioner of Lands.

##### ***(a) Administration of Land***

The President can alienate land to any Zambian or non-Zambian. A non-Zambian can be granted land if the person is a permanent resident, an investor, has prior written Presidential consent, or is a registered company, a charitable organisation, or a registered commercial bank. The President can also grant land if the non-Zambian is inheriting the land, obtaining land under a lease agreement, or if he has been granted a concession or right under the National Parks and Wildlife Act. However, the President cannot alienate any land held under customary tenure without consulting the responsible chief, affected person, *or if the applicant has not obtained prior approval of the chief and the local authority*. The chief is a recognised institution by constitution.

An applicant is required to pay a consideration<sup>3</sup> in money and ground rent for land alienated to him/her, except if land is intended for a public purpose or is being converted by the owner from customary to leasehold tenure. A person cannot sell, transfer, or assign any land without the prior consent of the President. Every piece of land in a customary area held under customary tenure immediately before the commencement of the Act has continued to be so held and recognised. The recognition of customary tenure, however, does not bring about the registration of ownership rights. It is just meant for the protection of use and occupancy rights.

A lease can be renewed for a further term of 99 years, if it is not liable to forfeiture, and none of its conditions has been contravened. If it is not renewed, the lessee is entitled to compensation for the improvements on the land only. In case of succession, ground rent, covenants, a provision contained in a lease or any Act of Parliament having reference to the subject matter of the lease remains attached to the estate being succeeded. Similarly, every condition or right of re-entry, except ground rent, contained in the lease remains attached to the land regardless of how the lease was severed. Further, where a lessee breaches a term or condition of covenant, the President may notify the lessee within three months of his intention to cause a certificate of re-entry to be entered in the register for the land in question. The certificate may be registered if the lessee fails to justify his cause for the breach.

It is illegal to occupy vacant land, whether state or customary, without lawful authority and any person so occupying is liable to eviction. For customary land, this authority may be a chief's permission since the chief is a recognised institution by constitution.

Through a statutory instrument, the President sets ground rent, which each lessee should pay. If the rent is not paid on the date it is due, the lessee is liable to pay a penalty of twenty-five percent of the rent due. The rent<sup>4</sup> is paid annually and the initial amount per year is indicated in the lease document.

#### ***(b) Land Development Fund and Tribunal***

Neither the Fund nor the Tribunal existed before this Act. The Minister of Lands administers the Fund. It is intended to fund new land developments. Any district council wishing to develop land in its area can apply for money from the Fund. The Fund consists of all moneys appropriated through Parliament, 75 % of the consideration paid when the President alienates land, and 50 % of ground rent collected from all land.

The Tribunal was set up as result of tremendous delays in solving land disputes. Thus, the tribunal has jurisdiction to inquire into and make amends in any dispute over land, compensation or land rights, and obligations. Concerning compensation, this statement suggests the role of the Compensation and Advisory (Land Acquisition) Board has been taken over by the Tribunal. A person aggrieved by the Tribunal's decision can appeal to the Supreme Court within 30 days. The Tribunal is on the same level as the High Court. Its operations started in November 1996. There now exists a new Lands Tribunal Act enacted in 2010 for the administration of land disputes.

#### **Land Survey Act (CAP 293, 1960)**

The Act provides for the Surveyor General (SG) to supervise all surveys, to preserve all survey records, and to generally administer the provisions of the Act. The Act also provides for the establishment of the Survey Control Board (SCB), chaired by the SG, to regulate the practice of the survey profession, to conduct examinations and trial surveys for purposes of licensing surveyors, to maintain a register of land surveyors, and to hear complaints against land surveyors.

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<sup>3</sup> Consideration fee is the fee paid to MLNREP based on the size/value of land being alienated according to the Lands Act.

<sup>4</sup> The ground rent is paid to central treasury whether land for all types of land



A Government surveyor is allowed to examine survey records lodged for approval with the SG, and may prepare, certify and issue at request copies of approved diagrams filed with the SG. However, he is not liable for any defective survey or work done by another land surveyor regardless of whether such survey or work has been approved or registered. The law does not restrict the obtaining of licences to professional surveying graduates only. As long as one is above 21 years of age, has more than five years of practical experience, and has passed the law examination which is offered once or twice every year depending on the professionals' demand and the trial surveys set and approved by the SCB, he can get a licence. However, every land surveyor is responsible for the correctness of all his/her works to the SG. It is an offence to practise cadastral surveying without a licence.

### **Lands and Deeds Registry Acts (1914 and 1994)**

#### ***(a) Registration of documents***

Every document purporting to grant, convey, or transfer land or any interest in land, or to be a lease or an agreement for a lease or permit of occupation for a longer term than one year must be registered. Similarly, a document purporting to create any charge upon land, whether by mortgage or otherwise, must be registered. Any document that evidences the satisfaction of any mortgage or charge, and bills of sale of personal property where the grantor remains in apparent possession must also be registered. All bills of sale must be registered within three months of their execution, whilst all other documents must be registered within thirty days, ninety days or one year, if within same district as the registry, within Zambia or outside Zambia, respectively. If such documents are not registered within the prescribed time, they become invalid.

Three types of registers are kept; the lands register, the common leasehold register and the miscellaneous register. The lands register contains documents relating to land other than land that is on common leasehold. The common leasehold register registers documents relating to strata titles. Any other document is registered in the miscellaneous register. Any document relating to land that is lodged for registration must describe the land by reference to a diagram, plan, or description of the land, quoting the year and the Surveyor General's number of the plan, diagram, or description. A diagram means a diagram derived from survey measurements, drawn and approved as per Land Survey Act. A plan means 'a plan of a piece of land which has been approved by the SG as sufficiently detailed, where the SG is satisfied that for the time being an actual survey is impractical'. A description means a 'sketch plan of land, showing with reasonable accuracy the position of boundaries of the land in relation to the position of the adjoining land, approved by the SG...' The interpretation of the meaning of plan and description is left to the Surveyor General. The introduction of 'plans' and 'descriptions' was intended to circumvent cadastral surveys.

Registration does not cure defects in a document. Registration of a document comprises the filing of the document, or a certified copy, and entry in a register of the names of parties, date of the document, date of registration, and a brief description of the document. The registers and their related files are kept separately. Documents are filed consecutively. The registry may be searched and examined by anyone, and certified copies may be obtained, if required, upon payment of a prescribed fee.

Bills of sale are based on the provisions of the Bills of Sale Acts, 1878 to 1882, of the United Kingdom. These together with the Land Transfer Act, 1897, and the Conveyancing and Law of Property Act, 1881, are too old to be entirely valid today.

#### ***(b) Provisional certificate and certificate of title***

To register a document for dealing in land for a term longer than fourteen years, one first needs to have a certificate or provisional certificate of title. The certificate of title, provisional or final, is



conclusive evidence of ownership from the date of registration, and the registered proprietor is protected against ejection or adverse possession, except in the case of mortgage, fraud, or mistakes in the certificate such as wrong description of boundary or grant to more than one person. However, a court may upon good cause, cancel or amend a provisional certificate. To get a provisional certificate or certificate of title one has to apply for it to the registrar (under the Deeds and Registry section). The registrar will investigate the title and make advertisements in the Government gazette and one newspaper, before issuing the certificate. After obtaining the provisional certificate, one has to wait for six years before applying for the full certificate of title. However, in the case of an original grant of land, a certificate of title is issued without any provisional certificate.

***(c) Transfer and transmission of registered land***

A purchaser from a registered proprietor of any estate or interest in land, in respect of which a certificate of title has been issued, is not required to inquire into the circumstances under which the proprietor got his estate or interest in land. A bona fide purchaser or mortgagee for valuable consideration is also not liable for recovery of damages, or possession, or deprivation of land in respect to which a certificate of title had been issued. This stands regardless of whether his vendor or mortgagor became a registered proprietor through fraud, error, or a void instrument.

A registered proprietor with a provisional certificate or certificate of title may create various estates in his land. The Land Transfer Act, 1897, of the United Kingdom, controls transfer of registered land, in case of a deceased proprietor or carrying through a charge contained in an assent. The power of sale of property subject to an unredeemed mortgage lays with the mortgagee, as of the Conveyancing and Law of Property Act, 1881, of the United Kingdom. The mortgagee has the same protection and remedies as if the mortgage operated as a transfer or lease of the mortgaged estate or interest. Whenever the mortgage is wholly or partially discharged, it is noted in the register and on the outstanding instrument of title.

***(d) Trust and caveats***

Trusts<sup>5</sup> cannot be entered in the Lands Register or on a provisional certificate or a certificate of title, except those that are specially authorised. All trusts declared by deed or instrument may be registered in the Miscellaneous Register. Any person claiming to be entitled to or to be beneficially interested in any land or estate by virtue of any unregistered agreement, instrument or transmission may lodge a caveat with the registrar. The caveat protects the estate or interest in land against any dealing, until it is removed. Such caveat is notified to the registered proprietor.

**Common Leasehold Act (1994)**

The **Common Leasehold Act** was enacted to allow for the registration of “horizontal” rights (strata title) for high-rise flats and semi-detached buildings. The Act thus provides for the division of land and buildings into units with separate titles by means of common leasehold schemes. Upon registration of the scheme, the unit-holders become a corporate body with perpetual succession and a common seal. Incorporation of the scheme members has the same effect as a contract under seal. Amongst other things, the body corporate can make by-laws, enforce by-laws, and control and manage the common property (that which is not part of any one unit). The Act only allows Quantity Surveyors and Architects to prepare plans. The Surveyor General must approve the plans before registration.

**Urban and Regional Planning Act of 2015**

The Act aims to provide for development, planning and administration principles, standards and requirements for urban and regional planning processes and systems; provide for a framework for

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<sup>5</sup> Section 74 subsection 2 of the Lands and Deeds Registry Act stipulates that Trusts affecting land may be declared by any deed or instrument, and such deed or instrument may be registered in the Miscellaneous Register.

administering and managing urban and regional planning for the Republic; provide for a planning framework, guidelines, systems and processes for urban and regional planning for the Republic; establish a democratic, accountable, transparent, participatory and inclusive process for urban and regional planning that allows for involvement of communities, private sector, interest groups and other stakeholders in the planning, implementation and operation of human settlement development; ensure functional efficiency and socioeconomic integration by providing for integration of activities, uses and facilities; establish procedures for integrated urban and regional planning in a devolved system of governance so as to ensure multi-sector cooperation, coordination and involvement of different levels of ministries, provincial administration, local authorities, traditional leaders and other stakeholders in urban and regional planning; ensure sustainable urban and rural development by promoting environmental, social and economic sustainability in development initiatives and controls at all levels of urban and regional planning; ensure uniformity of law and policy with respect to urban and regional planning; repeal the Town and Country Planning Act, 1962, and the Housing (Statutory and Improvement Areas) Act, 1975.

The current Act provides for establishing planning authorities, and supervises and controls land use and the preparation and implementation of development plans. A planning authority is a public body with delegated authority to undertake town and/or regional planning. A district council may be appointed as a planning authority. For this purpose, twelve municipalities in Zambia are designated as planning authorities. These are Chililabombwe, Chingola, Kalulushi, Kitwe, Luanshya, Mufulira, and Ndola in Copperbelt province; Kabwe in Central; Chipata in Eastern; Kasama in Northern; Lusaka district in Lusaka; and Livingstone in Southern province. Under this Act, a land user is required to obtain planning permission before undertaking to develop the land.

#### *2.1.2.2 Additional legislations*

Various other statutes exist which control the environment, water abstraction, the use of agricultural land and thus in one way or the other affect land administration. These include:

- Land Acquisition Act, CAP, 296, 1970, provides for the compulsory acquisition of land by the President in the public interest. If such land is not developed, no compensation is given.
- Agricultural Lands Act, CAP 292, 1960, is concerned with the establishment of the Agricultural Lands Board. The Board controls dealings in agricultural land and ensures its good management.
- Water Act, CAP 312, 1949, authorises members of the public to abstract certain volumes of water for their purposes for a particular period under set conditions. It establishes the Water Board for this purpose.
- Land (Perpetual Succession) Act, CAP 288, 1926, provides for incorporation of trustees of an association in order to facilitate perpetual succession to land and to incorporate associations that lacked capacity to hold land on title.
- National Parks and Wildlife Act controls the allocation of land in national parks for tourism purposes.
- Local Government Act. The Local Government Act empowers district councils to administer land within their districts and have responsibility for land-use planning, in coordination with the Town and Country Planning Department. The district councils, as agents for the Ministry of Lands, Natural Resources and Environmental Protection, process applications for leases of state land and evaluate requests for the conversion of customary land to state land.
- Zambia Wildlife Act No. 12 of 1998. The Act provides for the establishment of the Zambia Wild life Authority to be responsible for all Game Management Areas and National Parks (including water catchment areas in these parks) covering approximately 33 percent of the total land area of Zambia.
- Forests Act Cap 199 of 1973. The Act provides for the conservation and protection of forests and trees.
- Fisheries Act, Cap 200 of 1974. The Act deals with the control and development of fishing.

- Mines and Minerals Development Act No. 7 of 2008. The Act provides for environmental protection during prospecting, mining, decommissioning and abandonment of mines. During mine dewatering, the Act provides for best practice of how to treat water from mine operations before discharging into the natural environment to avoid pollution and land including farmlands degradation in mining areas.
- Zambia Development Agency Act No. 11 of 2006. The Act provides for fostering economic growth and development by promoting trade and investment in Zambia through an efficient, effective and coordinated private sector led economic development strategy. The Act provides incentives for all sectors including agriculture and energy aimed at attracting investments. The ZDA Act provides for legal protection and facilitates acquisition and disposition of all property rights such as land, buildings and mortgages. Leasehold land, granted under 99-year leases, may revert to government if it is ruled to be undeveloped after a certain amount of time (generally five years).
- Environmental Management Act of 2011. In 2011, the Government passed the Environmental Management Act, which upgrades the functions of the former Environmental Council of Zambia (primarily focused on pollution) to become the Zambia Environmental Management Agency, with broader environmental oversight functions. Subsidiary legislation to this Act is the Environmental Impact Assessment Regulations that guide the execution of the environmental impact assessment studies for projects such as agriculture, aquaculture or irrigation projects that have a likelihood of causing environmental damage. It also provides for the development of management plans on how to mitigate such envisaged damage to ensure that the project safeguards environmental sustainability.
- Disaster Management Act. In April 2010, Zambia adopted a Disaster Management Act, conferring the Disaster Management and Mitigation Unit (DMMU) and its national and regional offices the mandates to prevent, mitigate and respond to disasters. It also provides for the establishment of a Disaster Management Information system responsible for early warning information and inventory on related resources, and a National Disaster Relief Trust to fund emergencies. The Act addresses disasters induced by climate change such as floods and droughts that have an impact on land management, agriculture and food security. The increases in frequencies of floods and droughts due to climate change have been noted in the Act.
- National Water Resources Management Act. The Zambian Government has recently adopted a new Water Act that promotes participatory management and water resources development in an integrated and sustainable manner. The Act provides for an autonomous regulatory body for the sector – the Water Resources Management Bureau – which is responsible for water allocation and licensing, and for regulation of all waters in Zambia (including international waters and groundwater). Given that many of the land use or management projects involve the water sector, the legal and institutional framework for water resources management is central to discussions on land management and agricultural production in Zambia.
- International agreements. Zambia has signed, ratified and domesticated international agreements and implemented national strategies and programmes that contribute to sustainable management and development of its land resource. The Ministry of Lands, Natural Resources and Environmental Protection (MLNREP) serves as the focal ministry on multilateral land and environmental agreements such as the United Nations Convention to Combat Desertification (UNFCCC), the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol, the Convention on Biological Diversity (CBD), the Global Environment Facility (GEF), among others. For example, Zambia has made major strides towards implementation of the obligations under the UNFCCC. The country has developed a number of legal and policy frameworks relevant in meeting some of the UNFCCC obligations and requirements. These include the National Policy on Environment, the Environmental Protection and Pollution Control Act (EPPCA), the Energy Policy of

1994, the Energy Act, the Wildlife Act and policy, the Fisheries Act and policy, the Forest Act and policy, the Agricultural policy and many more.

## 2.2 Tenure typology

Zambia has a dual tenure system comprising on one part statutory or legal tenure and on the other part customary or indigenous tenure. Statutory tenure is that which is both recognised at law. Leasehold tenure is mainly practised on state land, which is defined under the Lands Act, No 20 of 1996 as “land which is not situated in a customary area”. The latter is defined, under the same Act, as “notwithstanding section thirty-two, the area described in the Schedules to the Zambia (State Lands and Reserves) Orders; 1928 to 1964 and the Zambia (Trust Land) Orders, 1947 to 1964”. The main form of holding land under this statutory tenure is leasehold. There is no freehold.

### 2.2.1 Statutory tenure

According to available *official* figures, 6 percent of the total land area of Zambia (753,000 square kilometres) is state land. The rest (94%) are “customary areas”. The land, rights and attendant private and public restrictions are recorded in the public registers (Lands, Common leasehold or Miscellaneous).

The following are the terms of the leases and related conditions:

- 99-year lease with certificate of title is granted based on an approved diagram prepared from a survey done by a licensed land surveyor. Due to various problems, including shortage of licensed surveyors this is difficult to get.
- 14-year lease with provisional certificate based on sketch plan is granted where land has not been surveyed. This was intended to offset the delays in the granting of the leases due to lack of surveys. It is renewable and, if a survey has been done and the corresponding diagram is approved, it can be extended to 99 years.
- 30-year lease for Government (re) settlement schemes based on a site plan prepared from topographic maps.
- 30-year occupancy licences within housing improvement areas in urban areas. The district councils hold the land comprised in such areas on leasehold as a block (see Housing (Statutory and Improvement Areas) Act). In order to give such licences the district council may subdivide the area.
- 10-year Land Record Card. These are issued by local authorities (councils).

### 2.2.2 Customary tenure

Customary tenure is recognised at law, however, it is not recorded or the records that pertain to it such as maps of chiefs' areas are not part of official registers. Customary areas are home to the majority rural Zambian population or approximately 60 percent going by the CSO 2010 census.

Though customary tenure is now legally recognised, through the Lands Act, there is no further practical, beneficial, consequence to the customary system. The only consequence is that the holder of land under customary tenure cannot forcibly be removed from his/her land (Normally they have to negotiate for a compensation).

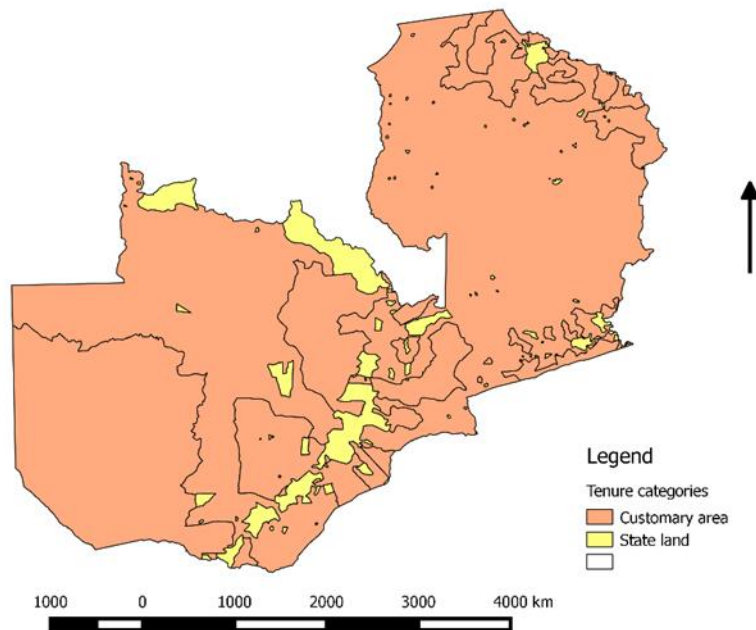


Figure 3: Land tenure areas

However, the holders enjoyed this security to a large measure even before the Act was enacted. In cases where leasehold has been granted within a customary area, any further land dealings, such as transfers, exclude customary institutions. It has been argued that the conversion as provided in the Lands Act does not remove the land in question from customary areas ( (UN-HABITAT, 2012b)). This is the legal position as may be deduced from Appendix 9 of the Lands Act (Orders in Council 1928 – 1964). This needs clarity from the law as it can lead to conflicts. (van Asperen, 2014), for instance, points to three potential conflicts that may arise due to overlapping tenure; informal over statutory tenure arising from emergence of informal settlements within city boundaries, statutory over customary tenure arising from conversions, and customary over statutory due to counter claims from traditional and state authorities.

One key aspect of traditional tenure is free access to land by all members of a community. Even junior members of a family may have their own fields to cultivate, obtained from the family, though they may not have the rights to dispose of the land outside that family. Generally, there are similarities in the structure of rights in customary areas, though as noted above there are still variations between the various tribes in the extent and practise of these rights. Three types of basic rights can be recognised in customary areas ( (Mvunga, 1980)):

- individual ownership
- concurrent interests, and
- communal interests.

Individual ownership means the landholder has more rights in the land than any other person. The individual owns the land for as long as he/she wishes. The rights can only be terminated by absolute transfer, e.g. by way of gift, to another party, by death and abandonment of the land. Where death occurred, an individual's rights could be transmitted to an heir. Concurrent interests refer to parallel interests in the same piece of land. This may occur, for instance, where other persons have access to wild fruits or, after harvest, can graze animals on another person's field. The exercise of these interests does not mean the person in whose field the cattle are grazing ceases to be owner. This is an important

facet of traditional tenure that may be confused with communal tenure. Communal ownership instead involves the use of certain tracts of land, which are not individually owned (Mvunga, 1980). One's entitlement to the exercise of any of the rights is based on membership to the community within which the land is situated. Therefore, a member is entitled to the use of a well, grazing grounds or produce of the wild forest.

### 2.2.3 Public land

According to the Zambian Lands Act, Cap 184, section 4 (2), "public purpose" includes the following:

- a) for the exclusive use of Government or for the general benefit of the people of Zambia;
- b) for or in connection with sanitary improvements of any kind including reclamations;
- c) for or in connection with the laying out of any new township or the extension or improvement of any existing township;
- d) for or in connection with aviation;
- e) for the construction of any railway authorised by legislation;
- f) for obtaining control over land contiguous to any railway, road or other public works constructed or intended at any time to be constructed by Government;
- g) for obtaining control over land required for or in connection with hydro-electric or other electricity generation and supply purposes;
- h) for or in connection with the preservation, conservation, development or control of forest produce, fauna, flora, soil, water and other natural resources.

Public land is constituted through Acts of Parliament and published through government gazette notices, which include the written descriptions of boundaries. Public land can be found on either state land or customary areas. Most of this land is mapped and includes:

- a) Forest reserves. These are categorised into National and local forests, the former being for protection of nature and the latter for production and are managed by the Forest Department under MLNREP. According to MTENR (2008), of the total forest land, about 30,751,000 hectares are located on customary land and 11,824,000 hectares are located on State land. Privately owned forests with legal land titles, accounting for 5,283,000 hectares fall under State land.
- b) National Parks and Game Management Areas (GMAs). These are now managed by the Department of National Parks and Wildlife under the Ministry of Tourism and Arts. No exploitation is allowed in National Parks. In GMAs, settlements are allowed and villagers can undertake some livelihood activities such as farming, though this usually brings about the problem of human – animal conflicts.
- c) National monuments. These include natural heritage and cultural conservation sites.
- d) Zambia is a signatory to a number of international conventions and agreements. Through these a number of conservation areas have been declared such as the RAMSAR sites (wet lands) and Man and Biosphere reserve.

### 2.2.4 De facto tenure

However, in addition to these two systems, there is another, albeit unrecognised, informal (*de facto*) tenure or *squatting*. This is largely common in and around urban areas or centres of employment. Its spatial distribution is unknown. In some urban areas such as Lusaka it is estimated that over 60% of urban land for new development is informal. There are a number of reasons for this informality. Among them include lack of financial, planning and administrative capacity by local authorities to develop and implement a pro-poor land delivery system. Moreover, the land delivery system is not only slow to address the huge demand for land (especially for low cost housing) in cities, but is also riddled with bureaucratic hurdles. In this regard, the majority poor tend to find easy access to land in illegal settlements. Further, this situation is compounded by corrupt practices where civic leaders and

other political actors get involved in fraudulent land allocations or sales (Chitonge & Mfunu, 2015)). A consequence of this situation is that a large number of urban dwellers tend to lack formal rights recognition and protection.

### 2.2.5 Tenure overlaps

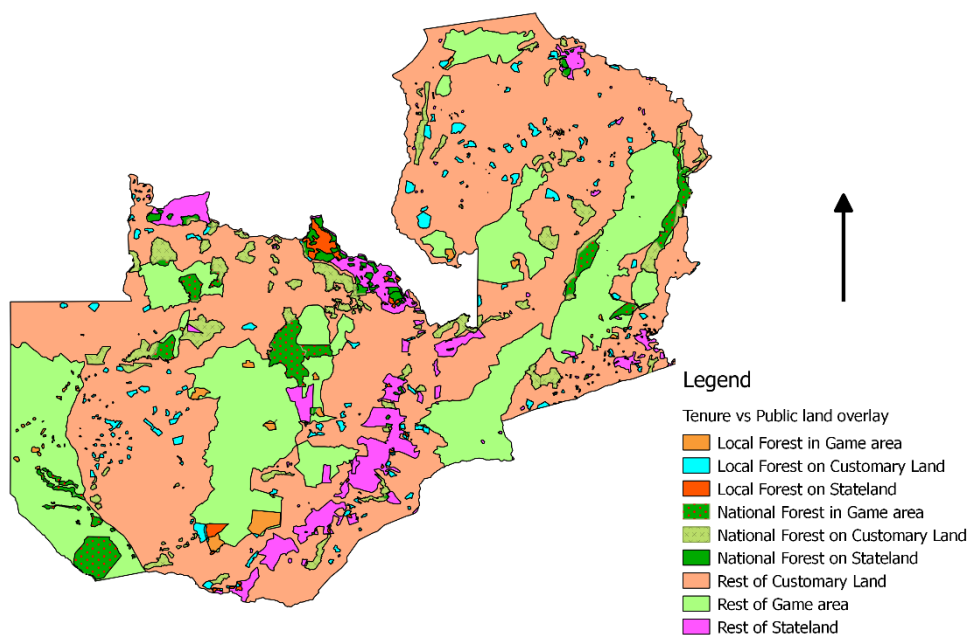
Public land<sup>6</sup> overlaps both state land and customary areas. In addition, the Lands Act allows conversion of customary tenure to leasehold. However, the Act is not explicit on the status of the land under the converted tenure. The Act does not mention of any new inclusions to or exclusions from customary areas as described in its Schedules. This may suggest that the figures of 6 and 94 % for state land and customary areas, respectively, still stand today. The map (**Error! Reference source not found.**) above shows the distribution of the land types. If the public areas are overlaid with the state land and customary areas, the picture changes dramatically, especially for customary areas. These overlays show that there are overlaps in terms of jurisdictions and further implications on reversions. For instance, does the land for a degazetted national forest on customary land revert to customary status or remains state land? However, the overlaps do not necessarily entail confusion in the management of the relevant resources. The issue here is to differentiate management from ownership. These rights may not vest always in one person or institution. The overlay also shows that if protected and restricted areas are excluded, the size of customary areas reduce to 58 percent of the total land area of Zambia (Table 2). Note that water bodies and other protected areas have not been removed from this figure.

Table 2: Overlay of Public lands with Tenure

CATEGORY	COUNT	AREA [Ha]	%
Local Forest in Game area	52	505,476	0.7
Local Forest on Customary Land	278	1,363,403	1.8
Local Forest on State land	50	359,218	0.5
National Forest in Game area	42	2,087,524	2.8
National Forest on Customary Land	119	3,161,303	4.2
National Forest on State land	86	517,777	0.7
Rest of Customary Land	4	43,867,518	58.3
Rest of Game area	12	19,790,380	26.3
Rest of State land	104	3,647,748	4.8
<b>Total</b>		<b>75,300,348</b>	<b>100.0</b>

Source: Mulolwa 2011, compiled from existing maps

<sup>6</sup> It is possible to have public land in Customary or in state land



**Figure 4: Overlay of public lands with Tenure**

Based on the Integrated Land Use Assessment (ILUA I) data collected from 248 sample plots between 2005 and 2008, the distribution of land ownership amongst various types of owners, shows that the amount of land owned by private individuals across the country is 10.5 % and that by the state is at 19 %.

**Table 3: Land ownership**

	Total Hactares	%	Cumulative %
<b>Private Individual]</b>	44.6	10.5	10.5
<b>Private Industry</b>	6.4	1.5	12.0
<b>Private Other</b>	6.0	1.4	13.4
<b>Public State</b>	80.9	19.0	32.4
<b>Public Local Government</b>	0.0	0.0	32.4
<b>Public Customary</b>	262.1	61.6	94.0
<b>Unknown (No information)</b>	24.3	5.7	99.7
<b>Other (Not specific)</b>	1.3	0.3	100
<b>Total</b>	425.5	100	

Source: Mulolwa 2008, compiled from ILUA I data



Table 4: Summary of tenure typology

Tenure Sub category	Legal recognition	Registered or Recorded	Land area [Km <sup>2</sup> ]/population	Comment	
<b>Lease</b>					
99 years	Lands & Deeds Registry Act, Common Leasehold Act	Surveyed and registered, includes land held under common leasehold and converted customary land	Official figure is 6 % of 753,000 km <sup>2</sup> (45,180 km <sup>2</sup> ). However, current estimates put this at about 13 % (see Table 3) Est. population: 47% on leasehold including informal tenure	This includes private and public institution land for own use. Full certificate of title is offered.	
14 years	Lands & Deeds Registry Act	Mapped and registered		Provisional certificate of title is offered (temporary measure before survey)	
30 years	Lands & Deeds Registry Act	Mapped and registered		For (re) settlement schemes	
<b>30 year occupancy license</b>		Housing (Statutory and Improvement Areas) Act	Block surveyed and registered		Occupancy license not as considered ownership
<b>10 year land record card</b>		Local Government			
<b>Public/Gazetted areas</b>					
National Forest	Forest Act	Surveyed and registered	7.7 % of 753,000 km <sup>2</sup> (57,981 km <sup>2</sup> )	This is public land for public use or benefit. Figures may change after exitions and degazettions. Overlaps with state land or customary areas	
Local Forest	Forest Act	Surveyed and registered	3 % of 753,000 km <sup>2</sup> (22,500 km <sup>2</sup> )		
National Park	Zambia Wildlife Act	Surveyed and registered	8.0 % of 753,000 km <sup>2</sup> (60,548.40 km <sup>2</sup> )		
Game Management Area	Zambia Wildlife Act	Surveyed and registered	22.1 % of 753,000 km <sup>2</sup> (166,188.29 km <sup>2</sup> )		
Other national monuments	Various related Acts	May be mapped, surveyed or registered	No data		
<b>Customary areas</b>		Constitution, Lands Act, various customary laws	Not registered		
Individual					
Communal (grazing, water, etc. rights)			Est. population: 53% on customary land	Can be converted to leasehold under the Lands Act. Status of converted land is not certain	
<b>Informal settlements (de facto tenure)</b>	Not recognised, considered illegal/informal	Not registered	Not registered	No official figures	In urban areas can be formalised under Housing

Tenure Sub category	Legal recognition	Registered or Recorded	Land area [Km <sup>2</sup> ]/population	Comment
				(Statutory and Improvement) Areas Act, or on public land through degazettion

## 2.3 Institutional framework

### Ministry of Lands, Natural Resources and Environmental Protection (MLNREP)

In terms of institutional framework, the MLNREP is the principal ministry responsible for land administration and for the formulation and coordination of all legislation that is related to land management in the country. The MLNREP is divided into six departments, four of which deal directly with matters of land administration, namely (a) the Lands Department, (b) the Lands and Deeds Department (c) the Survey Department, and (d) Forestry Department. The other two departments are the Department of Human Resources and the Department of Planning and Information. The MLNREP also houses several key statutory bodies and departments. There are several specialized agencies and departments with specific mandates. Because of their specialized mandates, they are best described as separate key stakeholders. These include the Zambia Environmental Management Agency (ZEMA), Lands Tribunal and Zambia Forestry College at Mwekera. The functions of these specialized departments or agencies are highlighted in the sections below.

#### (a) The Lands Department

The Lands Department is divided into three sections: Land Administration, Legal, and Estates and Valuation. The Land Administration Section has administrative responsibility for all land matters in the country in addition to ensuring the proper development of areas planned by the local authorities under the direction of the Department of Physical Planning in the Ministry of Local Government and Housing and the Land Husbandry Section of the Ministry of Agriculture and Cooperatives. The Commissioner of Lands is the head of the Lands Department and administers land throughout the country through delegated authority from the Republican President.

#### (b) The Lands and Deeds Department

The principal function of the Lands and Deeds Department is to register ownership and real rights in and over immovable property in order to provide security of title; ensure a complete record; provide easy access to information; ensure speedy registration of all documents lodged; and be cost effective. As such, the registry keeps records of all land transactions and issues title deeds to all land situated in state land areas, as well as customary land that is being converted to statutory leasehold.

#### (c) The Survey Department

The Survey Department is responsible for the provision of accurate land information to the general public and to specific sectors. The land information is made through the provision of surveys and mapping services. The department is divided into cadastral, survey and mapping branches. The Cadastral Services Branch is responsible for the accurate fixation and recording of legal title and addresses issues of boundary disputes. The Mapping Services Branch deals with services related to the production and revision of national topographic and specialized mapping. The Survey Services Department deals with the establishment and maintenance of a reliable national control network for use in cadastral mapping, engineering and other surveys.

#### (d) The Forestry Department

The institutional arrangement for managing forests in Zambia falls under the authority of the Forestry Department of the MLNREP. The Forestry Department has a central office in Lusaka and an office in each of the 10 provinces and within each of the districts. It has the mandate to manage forest resources and enforce regulations in state reserves, classified as National Forests and Local Forests, and on plantations. Whilst the Forestry Department has jurisdiction over forest resources on state lands, the majority of forest resources are found on customary land, which fall under customary law and management systems. Here the authority is with the local Chiefs and Village Headmen.

**(e) The Environment and Natural Resources Management Department (ENRMD)**

The Environment and Natural Resources Management Department (ENRMD) is responsible for the overall policy formulation on environment, natural resources and pollution control in the Ministry which is the focal point for all environmental and natural resource management issues in the country. The Department also co-ordinates, monitors and evaluates the operations of the executive agencies that have been created to implement policies on behalf of the government.

**(f) The Lands Tribunal**

The Lands Tribunal is a statutory, administrative body under the Ministry of Lands whose objective is to arbitrate in disputes arising under the Lands Act.

**The Ministry of Finance**

The Ministry of Finance (MoF) is responsible for developing the country's macro-economic framework and planning of all national public investment programmes, including lands as well as mobilization and allocation of financial resources. Through provision of financial resources the MoF plays a critical role in the efficiency of land policy formulation and implementation.

**Ministry of Agriculture**

Through the Land Husbandry Section, the Ministry of Agriculture is responsible for identifying, planning, demarcating and recommending land for agricultural purposes, and monitors land use changes. The ministry plays a crucial role in identifying and opening up suitable land for agricultural use.

**Ministry of Justice**

Land holding entails legal procedures that are enshrined in various statutes and covenants. The Ministry of Justice acts as legal adviser to the Ministry of Lands in the interpretation of land law and the overall management of land matters as well as the drafting of new laws to enable government achieve its objectives in land management.

**The Ministry of Local Government and Housing and District Councils**

The Ministry of Local Government and Housing has the responsibility to coordinate all developmental activities carried out at District Level and is as such directly involved in the coordination of planning and implementation of all land management related projects or programmes. District councils, under the general direction of the Ministry of Local Government and Housing, have the power to control the development of land in their areas. Councils have the power to deal with state land, in which they act as agents of the state under the direction of the Commissioner of Lands. As mentioned above, at the central level, the Commissioner of Lands within the Ministry of Lands exercises authority on behalf of the President.

**Government Valuation Department**

Through the Government Valuation Department, the Ministry of Local Government and Housing advises the Ministry of Lands (Estates and Valuation Section) on property valuation and any other

matters pertaining to real estate management. The department also utilizes property data from the Lands and Deeds Registry of the Ministry of Lands to prepare valuation records.

### **Ministry of Commerce, Trade and Industry**

The Investment Centre under the Ministry of Commerce, Trade and Industry cooperates with the Ministry of Lands in identifying suitable land for various developmental projects. The Ministry facilitates the speedy registration of companies to assist would-be investors acquire land for various investments.

### **Zambia Development Agency (ZDA)**

The ZDA operates under the Ministry of Commerce, Trade and Industry. ZDA and its ZDA Act (2006) is in charge of all investors and investments in the country and any industry, except (a) military industries, and (b) industries manufacturing poisons, narcotics, dangerous drugs and toxic, hazardous and carcinogenic materials; and (c) industries producing currency, coins and security documents. ZDA provides facilitation services to registered foreign investors which cover: (1) Acquisition of land; (2) Obtaining water, electric power, transport, and communication services and facilitation for the investments; (3) Regularizing their immigration status; (4) Acquiring other licenses required to operate a business in any particular sector; and (5) Access any other after-care assistance that may be required.

### **The Ministry of Tourism and Arts**

The Ministry of Tourism and Arts is in charge of all natural resources related to wildlife management. It houses several key statutory bodies and departments. These include the Zambia Wildlife Authority (ZAWA) and the National Heritage Conservation Commission. Wildlife management are important aspects which can directly affect land and agriculture production dynamics through issues of human-wildlife conflicts. The Ministry assists entrepreneurs in the identification of land suitable for tourism purposes on land in game management areas. The Ministry provides advice to the Ministry of Lands on the suitability of land for specific purposes such as resource conservation and protection of the environment. The Zambia Wildlife Authority (ZAWA) under the tourism portfolio gives concessions on land in areas demarcated as game management areas and national parks. The Authority prepares development plans with land information produced by the Ministry of Lands and also regulates the development of tourism enterprises.

### **The Ministry of Chiefs and Traditional Affairs**

The Ministry of Chiefs and Traditional Affairs was set up in 2011 for the purpose of administering and promoting chief's affairs, traditional governance systems, conservation and preservation of Zambia's heritage, culture and arts. As part of its mandate, the Ministry deals with various land matters or disputes in various chiefdoms. Customary land is administered by local traditional leaders. The chiefs and village-level headmen have authority under formal and customary law to oversee customary land and protect their community's welfare. The traditional leaders grant occupancy and use-rights, oversee transfers of land, regulate common-pool resources (opening and closing grazing areas, cutting of thatch), and adjudicate land disputes. They are often the main point of contact between state officials, donors, and rural communities (Chileshe, 2005); (Brown, 2005)

### **Office of the Vice-president**

Through the Department of Resettlement, the Office of the Vice-President identifies land for resettlement particularly for retirees and other urban residents in need of land so that they can own land on title and have some means of earning a livelihood. To identify suitable areas and have them designated, planned, demarcated and developed, the office is required to work in close collaboration with the Ministry of Lands. The Office of the Vice-President also superintends the Disaster Management and Mitigation Unit (DMMU) which is mandated to implement the 2010 Disaster Management Policy or Act.

### The Zambia Environmental Management Agency (ZEMA)

The ZEMA which was formerly called the Environmental Council of Zambia (ECZ) was established in 1990. ZEMA’s functions include among others, providing for integrated environmental management and the protection and conservation of the environment and the sustainable management and use of natural resources; providing for the preparation of environmental management strategies and other plans for environmental management and sustainable development; providing for the conduct of strategic environmental assessments of proposed policies, plans and programmes likely to have an impact on environmental management; providing for the prevention and control of pollution and environmental management.

### The Zambia Meteorological Department (ZMD)

The ZMD under the Ministry of Transport, Works and Supply and Communication provides meteorological data essential in improving early warning system to enhance adaptation to climate change and land management. The provision of meteorological information to support early warning for disaster preparedness is the most fundamental aspect of public weather services provided by ZMD to the Disaster Management and Mitigation Unit (DMMU) and Zambian communities.

The roles of the institutions are summarised below in the table.

Table 5: Institutional roles in land administration

Organisation	Agriculture	Commerce	Central Government	Environment	Lands (MLNREP)	Local Government	Lending Institutions	Mines	Private Lawyers	Private Surveyors	Tourism	Traditional Rulers	Vice President	Education
Site planning	s				iu	isu		isu					s	
Surveying & mapping					isu					su				
Land allocation		s			isu	isu		isu			s	s	s	
Registration					su		u	u	is					
Mutations	s				su	su		su	isu				s	
Land monitoring				is	isu	isu		isu						
Revenue collection					isu	isu		isu						
Valuation					su	su				su				
System administration					isu			isu						
Policy formulation			is		u									
Education & research					u									s

NB. i: initiate action; s: supply information or advice; u: use information or advice

### 3 Substantive findings

#### 3.1 Recognition and respect for existing rights

##### 3.1.1 Recognition of a continuum of rights

LGI	Dimension description	Score					Score
		A	B	C	D	N <sup>7</sup>	
<b>Recognition of a continuum of rights: the law recognizes a range of rights by individuals (incl. secondary rights, rights by minorities and women)</b>							
1.1.1a	Individuals' rural land tenure rights are legally recognized	1					Existing legal framework recognizes rights held by more than 90% of the rural population
1.1.1b	Individuals' rural land tenure rights are protected in practice.				1		Existing legal framework protects rights held by less than 50% of the rural population
1.1.2	Customary tenure rights are legally recognized and protected in practice.		1				There is legal recognition of all customary rights but these are only partly protected in practice
1.1.3	Indigenous rights to land and forest are legally recognized and protected in practice.					1	
1.4	Urban land tenure rights are legally recognized and protected in practice.				1		Existing legal framework recognizes and protects rights held by less than 50% of the urban population

#### Rural Land Rights

Approximately 7.9 million (60.5%) of Zambian population live in the rural Zambia ( GRZ, 2010)), Census of Population and Housing). A large percentage of this population wholly depend on land for their day to day livelihood by way of farming, fishing or animal husbandry. In Zambia individuals' rural land tenure rights are recognized by both statutory<sup>8</sup> and customary law. The majority of rural people, however, hold land under customary tenure. Rural people's right to access, use and administer such land is well recognized by the Lands Act (1995).

Despite the fact that customary law tends to recognize the rights of customary land holders, in practice, because the rights are not recorded, individual rights are often open to abuse. For example, inheritance rules and an ethnic groups' conceptualization of gender roles tend to disempower women who make up approximately 50% of the population.

The law in Zambia allows individuals to hold land under customary tenure with their rights protected within the limits of custom and tradition. While customary authorities have been granted the right to administer such land in their chiefdoms, including allowing for conversion to leasehold, there is no legal instrument that limits the chiefs' discretionary powers in the administration of land ( (Mulolwa, et al., 2009); (Gumbo & Mfunu, 2013)). For example, existing guidelines on land alienation merely prescribe procedures to be followed in land alienation and not how the exercise of discretionary power can be regulated.

The governance of customary land remains a serious concern particularly as the majority of the poor live in the rural areas under customary land administration. Although the lands Act (1995) has provided for the recognition of land under customary tenure, there are no laid down procedures or supporting statutes that protect the customary land rights. It is also observed that due to the lack of a specific legal framework on customary tenure the chiefs who are the regulators of customary land has ended up abusing their powers in some parts of the country

<sup>7</sup> N means for not scored

<sup>8</sup> Subsection 2 of Section 7 of the Lands Act of 1995 states that the rights and privileges of any person to hold land under customary tenure shall be recognised and any such holding under the customary law applicable to the area in which a person has settled or intends to settle shall not be construed as an infringement of any provision of this Act or any other law except for a right or obligation which may arise under any other law.

### Urban Land Rights

Approximately 5.1 million (39.5%) of Zambian population live in the Urban Zambia (2010, Census of Population and Housing). While the rights of leaseholders are well recognized and protected, it is important to note that the majority of urban dwellers live in municipal areas designated as unplanned settlements. In Lusaka, which is the most populated city in the country, the percentage of people living in unplanned settlements is as high as 65% percent (Chitonge & Mfune, 2015). The rights of individuals in these places are not well protected. While the Housing (Statutory and Improvement Areas) Act Cap 194 provides for the upgrading and regularization of such settlements, individuals have only been conferred with transient rights through 30 year occupancy licenses. Moreover, as (Chitonge & Mfune, 2015) indicate, the uptake of these licenses is low with only 12% of people obtaining them. The scenario which is cited for Lusaka is similar to all urban areas of Zambia.

It should again be pointed that while the law (Land and Deeds Registry Act Cap 185) provides for registration of rights on land in planned for settlements, more than 50% of land holders have not had their rights registered. This is partly due the lengthy and somewhat out of reach cost of registration of land rights to a good percentage of the population.

### 3.1.2 Respect for and Enforcement of Rights

LGI	Dimension description	Score					Score
		A	B	C	D	N	
<b>Respect for and Enforcement of Land Rights</b>							
1.2.1	Accessible opportunities for tenure individualization exist.			1			The law provides opportunities for those holding land under customary, group, or collective tenures to fully or partially individualize land rights if they so desire. Procedures are not affordable or clear, leading to discretion in their application.
1.2.2	Individual land in rural areas is recorded and mapped.				1		Less than 50% of individual land in rural areas is formally recorded and mapped.
1.2.3	Individual land in urban areas is recorded and mapped.				1		Less than 50% of individual land in urban areas is formally recorded and mapped.
1.2.4	The number of illegal land sales is low.				1		The number of illegal land transactions is high and none are unambiguously identified on a routine basis.
1.2.5	The number of illegal lease transactions is low.			1			Existing legal restrictions on land leases are clearly identified but not fully justified or accepted by land users, so that compliance is partial.
1.2.6	Women's property rights in lands as accrued by relevant laws are recorded				1		Less than 50% of the cases are effectively recorded
1.2.7	Women's property rights to land are equal to those by men.			1			Equality of women's property rights to those by men is established by law, but there are considerable limitations to exercising such rights in practice

### Rural Land Rights

The only route to complete individualization of tenure in Zambia, if so desired, is through leasehold<sup>9</sup>. Under the Lands Act, Cap 184, individuals holding land under customary tenure can also convert up to 250 hectares of the land to leasehold. In this regard, the law provides opportunities for individualization of land rights. In practice, however, bureaucratic procedures and an over-centralized land administrative system are inhibiting rural dwellers opportunities to obtain title deeds for their land.

<sup>9</sup> Subsection 1 of Section 8 of the Lands Act (1995) stipulates that after the commencement of this Act, any person who holds land under customary tenure may convert it into a leasehold tenure not exceeding ninety-nine years on application, in the manner prescribed, by way of- (a) a grant of leasehold by the President; (b) any other title that the President may grant; (c) any other law.

As it has been alluded to earlier customary land rights are rarely recorded and mapped by the people within that customary setup though the law (Lands Act) provides for that. Normally outsiders (individuals or group of individuals) from the urban areas especially tend to have it easy to register their rights on land because of financial capabilities to follow through the process (site plan, consent from the chief, approval by local council where land falls, surveying, and registration).

### **Urban Land Rights**

Despite the existence of leasehold, most land in urban areas is held informally in unplanned settlements and therefore not registered. Because so far, most individual land in most unplanned urban areas (which have far more people than planned areas) remains unsurveyed and recorded. Somehow again even though land parcels may be surveyed they may not be recorded. This means that one has not completed the process of registration and the implications of not having interests on land registered are two sided: The Land owner and the Government. On the side of the land owner, the implications are, among others, security of tenure is not guaranteed, legal transactions cannot be effected on this piece of land; while on the side of Government, the implications among others are the loss of revenue as in fees that come with the registration of rights and the regular revenue of ground rent, and the difficulty in monitoring or accounting for registered land. This normally arises from land allocated by both MLNREP and land bought from private owners as in subdivisions. This is partly because the process of surveying and registration or recording is disjointed and not wholesale.

The non-surveying and recording status of land, in practice, does not deter in any way the conducting of land transactions though by law any land transaction or dealing has to be registered. But this is only possible if such land is surveyed and registered. It is a challenge talking about statistics of illegal land sales since such dealings are not recorded however in practice we see land changing ownership and from several cases of illegal land allocations before the Lands Tribunal and the High Court (Chitonge & Mfune, 2015).

### **Restrictions on Rights**

Legal restrictions on land leases include restrictions on the size of customary land that can be converted to leasehold, duration of lease and restrictions on lease of land by non-Zambians. Lease of customary land is restricted to 250 hectares and in the absence of survey diagrams for such conversion; the land survey regulations restrict the lease to 14 years. Further, the Lands Act specifies the conditions under which non-Zambian individuals and entities may engage in lease transactions. However, the extent to which illegal transactions occur or whether the restrictions are widely accepted is not well known. Given the lack of adequate data, this dimension was not scored.

### **Women and Land Rights**

While under leasehold, the law provides for the registration of property rights including women's rights, the law does not provide for registration of property rights under customary tenure. This in turn has a bearing on women who hold land under customary tenure as their rights are not formally registered. The majority of women that rely on land are located in the rural areas, and here, customary norms and conventions that underpin the property rights of rural dwellers, including women, are often unrecorded.

Equality of women's property rights to those of men is established by both international human rights instruments and national law. However, in rural areas where land is held under customary tenure, inheritance rules, patriarchal structures and how women's gender roles are perceived tend to limit women's exercise of property rights (Sitko, 2010). Secondly, intra-household power asymmetries (where men are viewed as the heads of the family) tend to influence how women's usufruct rights are exercised. In this regard, despite the fact that the law establishes equality between men and women



in terms of property rights, the women folk do not enjoy such rights because of the various limitations to exercising these rights. Example of these restrictions is that in some customs when the husband dies the widow is not allowed to continue living on a particular piece of land as before because the land was owned by her late husbands and such rights are not transferable.

### 3.1.3 Recommendations Legal and Institutional Framework

The gaps identified in the above discussions give rise to the following recommendations:

No.	Policy issue	Proposed action
1	Protection of individual rights constrained by customary norms and practices	Adopt customary land bill (Act) to formalize customary land rights and protect women's rights to land
2	Land rights of people in unplanned urban settlements not well protected	<ul style="list-style-type: none"> <li>Implement Urban and Regional Planning Act of 2015</li> </ul>
3	Customary land is rarely recorded or	Introduce customary land register as policy measure
4	Most land in unplanned and improvement areas is not recorded and mapped	Implement Urban and Regional Planning Act of 2015
5	Illegal land sales of customary and state land	Provide for introduction of district land information systems as a policy measure aimed at reducing fraud
6	Women's rights to land not registered under customary tenure	<ul style="list-style-type: none"> <li>Enshrine women's rights in customary land bill</li> <li>Issue 'traditional titles' to women and other vulnerable groups to encourage formalization of rights</li> </ul>

## 3.2 Rights to Forest and Common Lands and Rural use Regulations

### 3.2.1 Rights to forest and common lands

LGI	Dimension description	Score					Score
		A	B	C	D	N	
2.1.1	Forests are clearly identified in law and responsibility for use is clearly assigned.		1				Forest are clearly identified and responsibility for use is clearly identified but implementation is ambiguous
2.1.2	Common lands are clearly identified in law and responsibility for use is clearly assigned.		1				The common lands as agreed by the panel are clearly identified, responsibility for land use is clearly identified but implementation is ambiguous
2.1.3	Rural group rights are formally recognized and can be enforced.	1					The tenure of most groups in rural areas is formally recognized and clear regulations regarding groups' internal organization and legal representation exist and can be enforced
2.1.4	Users' rights to key natural resources on land (incl. fisheries) are legally recognized and protected in practice.		1				Users' rights to key natural resources are legally recognized but only some are effectively protected in practice or enforcement is difficult and takes a long time
2.1.5	Multiple rights over common land and natural resources on these lands can legally coexist.		1				Co-existence is possible by law, and respected in practice but mechanisms to resolve disputes are often inadequate
2.1.6	Multiple rights over the same plot of land and its resources (e.g. trees) can legally coexist.		1				Co-existence is legally possible and respected in practice but mechanisms to resolve disputes are often inadequate
2.1.7	Multiple rights over land and mining/ other sub-soil resources located on the same plot can legally coexist.				1		Co-existence is not possible by law; mining rights override other land rights
2.1.8	Accessible opportunities exist for mapping and recording of group rights.				1		Although there is demand, the law provides no opportunities for those holding group lands under customary, group, or collective tenures to record and map land rights. . Procedures are not affordable
2.1.9	Boundary demarcation of communal land.					1	

### **Forest and Common lands**

In the Zambian context the definition of common lands is restricted to mean grazing lands, grave sites, village woodlands, river frontages or any other classification reserved for communal use by a group of people in a particular settlement.

Zambia's forest land is divided into state land, customary land and privately owned land according to the Forest Act 2015. Forests in the legal context are forests occurring in state reserves, customary land and privately owned land. There is a serious knowledge gap and a lack of formal recognition of rights to such forests by stakeholders due to weak policy and legal framework, inadequate institutional capacity and poor funding on one hand to carry out implementation on the ground and due to lack of information on the other hand. According to Lands Act Cap 184 of 1995, leasehold titles can be issued on customary lands but not without taking into account of the customary laws and approval by the Chief and the relevant council. For example, the management of forests on customary lands have for a long time been left to the local communities pursuant to the Forest Act of 1973 and 2015 which identifies forest produce on customary lands conserved for the use and benefit of the inhabitants. Therefore, there is a distinction between property rights tied to forest produce and those tied to land, implying that a person may acquire land but not the resources or property on it. For example a concession license holder can extract the forest produce but is not allowed to use such land for other purposes such as farming and ecotourism unless land is leased.

The Forest Act of 1973 provided for a centralized management, of common lands and protected forest areas with government having absolute power over all aspects of common land management. This Act has now been replaced by the enactment of Forest Act No. 4 of 2015 which clearly defines responsibilities and roles of various stakeholders and common lands.

### **Rural group rights**

The right to use and benefit from natural resources for groups is enshrined in the national constitution and are bestowed in both statutory and customary laws as well as the Forest Act of 2015, Fisheries Act of 2011 and Wild life Act of 2015. However, the right to commercial exploitation of forest resources by rural groups is subject to permits and licenses issued to an individual or a group by appropriate government institutions identified in section 3.1.2 and as provided in relevant legislations. The group also needs to be registered with the Registrar of societies as a corporate of enterprise.

However, even though the tenure of most groups in rural areas is formally recognized, ways for them to gain legal representation are not regulated and is a big challenge. For example, in 2006 Joint Forest Management (JFM) system under statutory Instrument No. 47 of 2006 was piloted through the Provincial Forestry Action Programme (PFAP) which aimed at testing and generating JFM guidelines. However only a few Forest reserves and only one (1) customary area piloted the JFM and these faced some administrative challenges. The Forests Act No.39 of 1973 proved to be a stumbling block on which the statutory Instrument was developed. This Act did not have provisions on community participation or benefit /cost sharing schemes, and there was no legislation governing benefits sharing arising from the use or sell of resources.

### **Recognition and Protection of Users' rights to key natural resources**

Generally, users' rights to key natural resources are legally recognized in the available legislation but the implementation of such rights sometimes may take a long time. The Forest Act of 2015 recognizes the user rights to key natural resources such as forest products like fruits, mushrooms, medicines, fire woods, grass for thatching roofs, etc., are not protected but may be major resources like animals and

is supported by other related legislations such as the Fisheries Act, Cap 22 of 2011, Mines and Minerals Act No.11 of 2015 but these pieces of legislation may not be harmonious. For example the cross-sectoral nature of water resources management and development, and the need to allocate water among various competing users require a strong integrated approach supported by equitable allocation framework and legislative provisions.

### **Coexistence of Multiple rights over common land and natural resources**

Even though there is a possibility of co-existence of multiple rights over common land and natural resources by law, and respected in practice, mechanisms to resolve disputes are often inadequate or not there. The complexity of co-existence of multiple rights arises due to the fact the management of common lands is based on informal rules regarding resource tenure. For example, the use of common land for subsistence purposes is unregulated with the exception of charcoal production and commercial fish harvesting which require a license. According to the (IDLO/FAO, 2011), the challenges faced by land administrators include illegal settlements (encroachment), illegal charcoal production, illegal fishing and illegal mining. The models such as Joint Forest Management (JFM) and (Community Based Natural Resource Management (CBNRM) have elements of multiple rights which have not worked due to lack of adequate policy and legal framework. Multiple rights include but not limited to collection of herbs, ecotourism, recreation activities, education activities, harvesting of timber and fuel wood as well as any other benefits. All related laws recognize other resources such as rivers for fishing, minerals for mining and wild life but do not include a one stop dispute resolution mechanism. This situation has resulted in conflicts such as granting of a title in a common land without a thorough consultative process and the chief using his discretion to give rights to individuals on common land.

### **Multiple rights over the same plot of land and its resources.**

Co-existence of rights over is legally possible and respected in practice over the same plot of land but mechanisms to resolve disputes are often inadequate because these are often dealt with in other laws. To look at the coexistence of rights there is need to consider three cases:

- a) Customary land: In customary land multiple rights (surface or underground) exists because no one has exclusive rights and there are no problems enforcing such rights. It becomes a problem when you have people from outside (investors) because they want to have exclusively rights to the piece of land.
- b) Public Land: In the case of public land for example the forest reserves, rivers, etc., multiple rights can co-exist and normally conflicts rarely arise if they do mechanisms to resolve are adequate.
- c) Leasehold: In this case the rights (surface or underground) can co-exist on the same plot by law for example if it is the same person with these multiple rights but if these rights are by different persons then the law does not support. Also if the lessee uses the land for a completely different purpose other than what is provided in the agreement this becomes a source of conflict.

In cases where the national benefit outweighs the individual benefit on a piece or pieces of land, the legislation provides for compensation. For example Mines and Mineral Development Act provides for compensation if mining activities are started on a piece or pieces of land belonging to other individuals. Furthermore though legally coexistence of rights is possible one piece of land, permits or licences will be required to enjoy such rights like harvesting of fish or carry out game ranching or hunting.

Another case of interest involves mineral exploration. Under the Mines and Mineral Act of 2015 there a provision for co-existence of surface and underground rights. An holder or the lawful occupier of the land within the area of exploration license can cultivate land for agriculture, fishing and will have access to water and grazing areas as long as such activities do not interfere with exploration work.

The nature of disputes which may arise in this case varies greatly and may be handled under other related laws.

### Multiple rights over land and sub-soil resources on the same plot

Multiple rights over land and mining/other sub-soil resources located on the same plot cannot legally co-exist because mining rights override other land use rights. For example in some forest reserves where there are minerals, those areas have ceased to be managed as such and are deemed as mining areas and occupiers compensated. A permit is required by the holder of mining rights to exercise any other right.

The Mines and Minerals Development Act of 2015 provide over riding rights to forest rights in the protected forest area as well common lands. The Forest Act of 2015 recognizes mining rights in any forest type. In addition the rights to use and benefit from natural resources for the general population is enshrined in the national constitution and bestowed in both statutory and customary laws. However, the right to commercial utilization of forest resources is subject to permits and licenses are issued by respective government departments. According to the Mines and Development Act of 2015, the holder of the mining right cannot exercise any rights under this Act on land occupied as a village or land under customary tenure unless the holder converts from customary tenure to leasehold through the legally established procedures provided for under the Lands and Deeds Registry Act, Cap 185.

### Mapping and recording of group rights

Although there is demand for mapping and recording of group rights, the law does not provide opportunities for those groups holding land under customary, group or collective tenures to record and map land rights. However, the law does not discriminate who should have their rights mapped and registered under the Lands Act, Cap 184 & Lands and Deeds Registry Act, Cap 185 as long as such a group formed and registered a cooperative.

However, the deterring factors are the high costs mapping and registering of such rights, the length process of registration of rights and the statutory obligations (fees) that the group is subjected to after mapping and registration of rights. It should be made clear though that the law does allow for recording of rights as groups for common areas such as grazing land.

### Boundary demarcation of communal land

Going by the definition of the communal lands adopted in this report, there are no boundary demarcations for communal land allowed for by customary law (unwritten) or written law. In the case of degazatation of the forest in customary land, it surveyed and mapped but normally such are not titled and this case the forest falls under public land. The use and control is then governed through the Forest Act.

## 3.2.2 Effectiveness and equity of rural land use regulations

LGI	Dimension description	Score					Score
		A	B	C	D	N	
2.2.1	Restrictions regarding rural land use are justified and enforced.		1				Regulations regarding restrictions on rural land use effectively serve public purpose but enforcement is weak
2.2.2	Restrictions on rural land transferability effectively serve public policy objectives.		1				There are a series of regulations that are for the most part serving public purpose but that are not enforced

LGI	Dimension description	Score					Score
		A	B	C	D	N	
2.2.3	Rural land use plans are elaborated/changed via public process and resulting burdens are shared.			1			Public input is required and sought in preparing and amending land use plans but comments are not reflected in the finalization of land use plans
2.2.4	Rural lands, the use of which is changed, are swiftly transferred to the destined use.				1		Less than 30% of the land that has had a change in land use assignment in the past 3 years has changed to the destined use (e.g. forest, pastures, wetlands, national parks etc.).
2.2.5	Rezoning of rural land use follows a public process that safeguards existing rights.		1				Processes for rezoning are public and clear but mechanisms to safeguard existing rights are not fully effective
2.2.6	For protected rural land use (forest, pastures, wetlands, national parks etc.) plans correspond to actual use.		1				The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is between 10% and 30%.

### Rural Land Use and Transferability Restrictions

Restrictions regarding rural land use are fairly justified and enforced in that the rights to the resources in forests, wetlands, pastures and national parks in that regulation regarding restrictions on rural land use effectively serve public purpose but enforcement is weak. This is mainly due to lack of capacity and financial resources centralized management system. The Forest Act of 2015 clearly stipulates that a person shall not do activities such as fell, cut, take or remove any forest produce without a licence or permit from the Forest Department. It also places restrictions on squatting, camping, building, excavating, setting fire to the forests. According to Fisheries Act of 2011 if a fisheries management area is in a Local Forest, National Forest or National Park, the exercise or enjoyment of any fishing right or interest in the area shall be consistent with sustainable management and conservation. It prescribes the need to have appropriate equipment for fishing and enforcement of fish bans which really serve public purpose when it comes to sustainability. The same is true with regards to wild life hunting which requires a permit but poaching in GMA and national parks is common.

Restrictions on rural land transferability effectively serve public policy objectives however the enforced is fairly poor. While land vests in the hands of the President, Land in Zambia is held under two systems: Customary and Statutory. Restrictions imply that only land that is converted to leasehold can be transferred. The Lands Act, Cap 184, stipulates that leasehold titles can be issued on customary land but not without taking into account of the customary laws (unwritten) and approved<sup>10</sup> by the chief and the relevant local council where such land is situated. Whereas, the Forests Act of 2015 stipulates that the rights to trees including all forest resources are vested in the President.

In addition there are other regulations that are serving a public purpose but are not enforced, for example, most small scale farmers cultivate customary land held in common ownership with the community although the rights of farmers are individualized even when it comes to transferring such land. In addition the land has no formal documentation and the landholders do not pay land tax. The Lands Act, Cap 184 provides the need for transparency in land use and management through the regulations which are achieved by seeking public input regarding land-use regulations and by informing the public of the implementation of land-use plans and changes in these plans. However the President cannot give customary land away to either a Zambian or a Non Zambian unless he/she consults the Local Chief, local authority and if the land is in a Game Management Area (GMA) then he/she should consult those currently occupying or using the land in question.

### Rural land use plans

Rural land use plans are not elaborated or changed via public process and resulting burdens are not shared at least to majority of cases especially at finalisation and implementation stages. Public input is required and sought in preparing and amending land use plans but comments are not reflected in

<sup>10</sup> Approval means consent by the chief to have the piece of land converted to leasehold tenure

the finalization of land use plans. Most of the land in Zambia is held under customary tenure by individuals, families, clans and communities from generation to generation without temporal limitation. All these need to provide inputs during the rural land use planning process. The President may declare any land to be a national or local (common) forest and like manner declare the degazettement of a national or local forest or alteration of the boundaries of the forest by way of reducing or enlarging.

This is done through rural elaborate land use and management plans after going through an elaborate public process. However the gradual change may take place after relevant consultations are done. Similarly, the same procedure is followed if the change is for increasing environmental protection, degazettement, concessions, mineral and petroleum exploration but with restrictions for local resource use to avoid damage to forest resource. In all cases Public input is required and sought in preparing and amending land use plans but comments may or may not be reflected in the finalization of land use plans and this may be attributed to lack of consensus on the interpretation of the comments by those compiling the final report and also due to lack of experts. An integrated approach is required for land use planning because of various interest groups.

### **Rural Land Use Change**

Less than 30% of the land that has had a change in land use assignment in the past 3 years, and has not changed to the destined use (e.g. forest, pastures, wetlands, national parks etc.). In line with the macro-economic achievements in the past decade rural land use has swiftly changed for intended purpose such as mining and agriculture.

There has been a reduction in forest land after conversion to agriculture and mining land from 15% in 1990 to 9% in 2012. Due to high demand for land such conversions changed swiftly to agriculture such as the Mkushi farming block, Nansanga farm block, mwekera forest reserve and Lusaka forest reserve. There has been transfer of land for large scale foreign investment and conversion of forests and common land to crop land ( Jayne, et al., 2014), (Sitko, et al., 2014)). Conversion of forests for other uses is estimated at 27.1 % and conversion of land for large scale operations is estimated between 14-53% of the total arable land. There has been expansion of mines with new ones opened between 1996 and 2011, four large scale mines to include Lumwana, Kansashi, Mulaishi and Munali Hills nickel mines, the effect of which has changed the rural land use and those who were affected by such expansions were compensated and resettled elsewhere.

### **Rural Land Use Rezoning**

For a developing country like Zambia rezoning of rural land use is inevitable due to change in the economic agendas. However, although the processes of rezoning rural land use are public and clear, the mechanisms to safe guard existing rights are not fully effective. The process involves the Commissioner of Lands who administers land on behalf of the President, such as farms and agricultural holdings, as stands for buildings and other uses, all under leasehold. On the other hand chiefs administer land in customary areas but the Commissioner of Lands may allocate land under customary tenure provided that it is vacant and the chief does not object. Also departments falling under a number of ministries such as forestry, fisheries and mining and other statutory institutions also contribute to land management. This unfortunately leads to duplicity of roles (Table 5) leading to corrupt practices with no proper system to effect the efficient and equitable distribution of land.

Under Fisheries there are specific regulations concerning rezoning of aquaculture areas, licensing, environmental protection, control of fish diseases and the movement, importation and exportation of fish. The same is true for wild life. The forest policy 2014 and Forest Act of 2015 are not specific on rezoning of rural land use that safeguards existing rights. Land conversions and the establishment of farming blocks for commercial farming, as discussed above, are also a concern among small scale farmers and have the potential to create conflicts when it comes to rezoning. Even though customary

laws are officially recognized (GRZ, 1995), pressure on customary areas is increasing and conversion to leasehold has become frequent for development purposes.

### Protected Rural Land use Plans

Due to ever increasing demand of land due increased economic activities and investment, most lands protected for rural land use (forest, pastures, wetlands, national parks etc.) plans do not correspond to actual use. The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is between 10% and 30%. The Government set a target of 15% in 1990 to be area for the forest estate, which by 2012 declined to 9.6% of the total land area of Zambia. The reduction is attributed to land de-gazettement for settlements, agriculture, mining and infrastructure developments. In addition, the reduction is also associated with deforestation, illegal settlements and encroachments.

The deforestation rate is estimated at 250,000 ha per annum arising from a combination of above factors. For example the Ichimpe and Mwekera forest reserves were degazetted to pave way for mining activities rather than establishing forest plantations. The forest, Fisheries and Wild life Acts provide for the development of community development plans to guide the sustainable development of these resources. The wetlands cover 13% of the total country's land surface area. The national parks which support a lot of wildlife are located in the wetland areas and these also support different economic activities which include game viewing, game hunting, ecotourism, fishing, irrigation, dams, small and large scale agricultural activities. Two wetland areas namely; the Kafue flats and Bangweulu swamps have been designated as wetlands of international importance or Ramsar sites. The utilization of dambos in Zambia is widespread and the intensity of use is determined by the dambo nature, type and location. Dambos in Zambia are also important for biodiversity. However, no reference to dambos is made in Zambian legislation and there is no local institution controlling the use of dambos, consequently their use is not monitored and document.

### 3.2.3 Recommendations for Rights to Forest and Common Lands and Rural use Regulations

No.	Policy issue	Proposed action
1	Lack of co-existence of multiple rights on the same plot (surface and sub soil)	Harmonise the various legislations.
2	Lack of coordinated plans for land use change	Commercial farming blocks must be well regulated and guidelines formulated
3	Rigid Land tenure system .	Consideration of the issuance of traditional certificates under customary tenure.
4	Unclear communal land boundaries	Develop regulations to restrict boundary demarcation of land in customary land holding
5	Inadequate legal framework	Enhance or raise the rights and benefits of the rural (local) people

### 3.3 Urban Land use planning and development

Planning and development in Zambia has been influenced by the Town and Country Planning Act which was recently replaced by the Urban and Regional Planning Act No. 3 of 2015. In 2014, the urban population was estimated at 6.1 million or 40.5 per cent of total population, which according to the United Nations will rise to 12.0 million or 50.8 percent by 2030, and 26.8 million or 58.3 percent by 2050 implying a fivefold increase (GRZ, 2013).

The Urban and Regional Planning (URP) Act No. 3 of 2015 is now the principal legislation for urban land use planning. It introduces the concept of comprehensive 5 year Integrated Development Plans (IDPs) to be prepared for all municipalities; incorporates “informal unplanned areas” as “special treatment areas” for urban regeneration and introduces the concept of “planning agreements” between Chiefs and Local Authorities to ensure effective and coordinated planning of peri-urban areas and all customary land.

Urban land use (Layout and Master) Plans are available at most Local Authorities as it is a statutory requirements for all Councils to prepare these Plans. The procedures for both the preparation and implementation of urban land use plans are clear and well documented in planning law and regulations, statutory instruments and Government Gazettes. For various reasons, local authorities and other planning agencies do not strictly follow the laid down procedures when implementing the Statutory Plans. Any developer who has acquired land (lease or title) and needs to erect a structure, develop, change the use of or subdivide the land must first obtain Planning Permission from the Local Planning Authority (Refer to URP Act Part VI Sec 49-60). However, only 30 to 50 percent of all new developments, changes to urban land or subdivisions that occur have planning permission. Over 50 percent of developments or land uses are granted retrospective (planning) permission which promotes disorderly and illegal development since planning regulations and standards are often overlooked. Developers who contravene this requirement are supposed to be fined, have their structures demolished without compensation or ordered to restore the land to its original use as designated in the Local Area Plan in cases of changes to land use. However, only in a few cases are sanctions and penalties imposed, even in retrospect. Other Legislation that affect Land use planning and development include the Lands Act of 1995, Land and Deeds Registry and Land Survey Acts which are the main pieces of legislation for land administration and management which also determine urban land ownership. The Local Government Act of 1991, Public Health Act, the Environmental Management Act of 2011, Mines and Minerals Act and National Heritage Conservation Act all have an effect on how urban land is used and developed. The Rating and Rental Act also affect housing development and ownership. Although a sound and adequate legislative corpus for urban land use, planning and development exists, most laws and regulatory frameworks are not harmonised and often contradict leading to significant overlap, disputes and conflicts in the implementation process. For example while the Local Government Act empowers the district councils to provide services for allocated plots, the MLNREP allocates the land often before services are provided and it takes a long time before actual services such as water and roads are actually provided. This would suggest poor urban land use planning despite having a plethora of laws to guide the process.

### 3.3.1 Restrictions on rights

LGI	Dimension description	Score					Score
		A	B	C	D	N	
3.1.1	Restrictions on urban land ownership/transfer effectively serve public policy objectives.		1				There is a series of regulations that are for the most part serve public purpose but enforcement is deficient
3.1.2	Restrictions on urban land use (disaster risk) effectively serve public policy objectives.		1				There are a series of regulations that are for the most part serve public purpose but that are not enforced

#### Restrictions on urban land ownership

There is a series of regulations that for the most part serve public purpose but enforcement is deficient. Urban land ownership and transfer are restricted by some constitutional and legal provisions on property rights, the Urban and Regional Planning Act which stipulate a Development Order and zoning system that should strictly be followed. Mining areas, protected areas, and lands along rail, road and power lines and highways, natural urban water bodies, forests and ecologically sensitive areas are restricted.



The Constitution prescribes a dual land law system of state land and customary land, vests all land in the President and recognizes property rights and protects individuals against the deprivation of property unless authorized by law. In State land private individuals acquire land on 99 year leases while in customary area, land can be held in perpetuity by members of the tribe or can be converted to leasehold for exclusive use of the private individual. The Constitution does not recognise squatter's rights nor does it explicitly recognise the right to adequate housing but it prescribes the equal worth of men and women and under Article 23 prohibits discrimination on basis of sex ( (UN-HABITAT, 2012)). Lands Acquisition Act of 1970 provides for compulsory acquisition privately owned urban land with or without compensation. Compensation may be denied for undeveloped land held by absentee owners (GRZ, 1970).

The Commissioner of Lands has final authority for urban allocation and alienation but has delegated responsibility to Local Authorities who also ensure that land owners comply with appropriate legislation and Urban Development Plans. The state grants four types of leases in urban areas: (1) a 10-year Land Record Card in unplanned informal urban areas which is registered at the local authority; (2) a 14-year lease for unsurveyed land registered at the MLNREP; (3) a 25- to 30-year Land Occupancy License for residential unplanned or upgraded settlements registered at the local authority; and (4) a 99-year leasehold for surveyed land registered at the MLNREP. Due to poor records especially at local authority level it is difficult to ascertain the number of lease. Between January and December of 2015 the MLNREP had transacted 940 lease agreement and 1639 separate certificates of title. This is indicative of the volume of leases handled yearly by the Ministry. Individuals and corporates in urban areas are allowed to hold title to land and to sell, rent, mortgage or transfer land but only with the consent of the Commissioner of Lands. All sales of land, mortgages and transfers are required to be registered in the Deeds Registry in order to take effect. Any transactions outside the registry are thus illegal and may result in loss.

Urban land ownership and transfer are restricted by TCP's Development Order which prescribes a zoning system that identifies Classes of Development and Use Groups and which should be complied with by developers. Mining areas, protected areas, and lands along rail, road and power lines and highways are restricted and cannot be privately owned. Natural urban water bodies, forests and ecologically sensitive areas are also restricted. In Zambia public and private urban land may be illegally settled upon with the landowners subsequently surrendering ownership most often without compensation. Illegal settlers tend to exert political pressure which forces the landowners to surrender the land. A case in point was the allocation of land to squatters by Apollo Company in Lusaka West. The residents of such illegal settlements proceed to apply for recognition following which they are given Land Records or Occupancy Licenses. Illegal occupations and expiry of leaseholds have prompted some urban landowners to subdivide and sell their land to profit oriented real estate developers to the disadvantage of the majority poor. These subdivisions are done to prevent land invasions by illegal settlements which could lead to the loss of the land by the owner without compensation.

#### **Restrictions on urban land use (disaster risk)**

Urban areas are prone to hazards and risks such as fires, techno-industrial accidents (oil and hazardous material spills), droughts, seasonal and flash floods, extreme temperatures and dry spells. Although disaster prone areas are restricted, people are wittingly or unwittingly allowed to settle on or close to these areas and sanctions against breaches of these Regulations are rarely imposed. There have been cases of industry (e.g. cement factories) being set-up near human settlements and cases where human settlement is close to restricted areas such as cemeteries. The risk of urban disasters is increased by non-compliance to Regulations, weak enforcement of the Development Order by Planning Authorities

and non-enforcement of sanctions and penalties. Most residents are not educated on the importance of Development Plans (and zoning regulations) while development control and monitoring mechanisms remain very weak resulting in irregular urban land use and development often in disaster prone areas.

### 3.3.2 Transparency of Land Use Restrictions

LGI	Dimension description	Score					Score
		A	B	C	D	N	
3.2.1	Process of urban expansion/infrastructure development process is transparent and respects existing rights.			1			Information on planned urban expansion and infrastructure development is publicly available with sufficient anticipation but the way in which land rights by those affected are dealt with is largely ad hoc
3.2.2	Changes in urban land use plans are based on a clear public process and input by all stakeholders.		1				Public input is sought in preparing and amending land use plans and the public responses are used by the official body responsible for finalizing the new plans, but the process for doing this is unclear or the report is not publicly accessible.
3.2.3	Approved requests for change in urban land use are swiftly followed by development on these parcels of land					1	

Land use planning should be transparent so as not to exclude the people it is meant to serve, be forward looking and should allow for compliance and enforcement especially taking into consideration existing regulations.

#### Urban expansion/infrastructure development transparency and respect for existing rights

Information on planned urban expansion and infrastructure development is publicly available with sufficient anticipation but the way in which land rights by those affected are dealt with is largely ad hoc. Major challenges are the lack of institutional resources that limits the planning input, confusion in terminologies used for different urban land use plans and out-dated and outmoded land use plans that have not been reviewed and updated for a long time despite the statutory requirement of plan review every five years. Implementation of urban land use plans has been a key challenge due to inadequate human, technical and financial resources and political interference. The weak institutional capacity has contributed to weak public participation in urban development. Local Authorities advertised new Master Plans or changes to Plans but the public rarely goes to review and make comments. The methods used to provide public information are lacking since a number of people would want information to be readily available, for example, in form of posters (visual displays), leaflets and road shows.

#### Involvement of stakeholders in urban land use planning

Are changes in urban land use plans based on a clear public process and input by all stakeholders? Public input is sought in preparing and amending land use plans as reflected in the TCP Act Section 15 (1) which states that “the Minister may by statutory notice order for preparation of a development plans for any area specified in such notice and may stipulate after consultation with the planning authority the time to be granted to the planning authority for the preparation and submission of the development plan to him, and may extend such time; change the area of a development plan by additions or exclusions; change the area of an approved development plan by exclusions: Provided that the order to prepare a development plan or a notice changing the area of a development plan or an approved development plan shall not become operative until forty-five days after the date of publication of the said order or notice, and any interested person may, within twenty-one days after the date of the said publication, object to the Minister to the preparation of such a plan or such change in area and, where any person does so object, the Minister may, prior to the expiry of the said forty-five days, order a public inquiry there into under section forty-nine, in which case the said order or notice shall not become operative until the Minister by statutory notice so declares.” Further TCP Act

Sec 2 states that the Minister shall cause an order made under subsection (1) to be published in three consecutive issues of a newspaper circulating in the area to which the order relates.

The lack of clear communication strategy has resulted in inadequate public participation and community awareness of development plans. Communication methods in form of posters, leaflets in local languages, road shows etc. are inadequate. Public agencies have not fully taken advantage of technologies such as the Internet and Participatory GIS to make information on changes to land use available to the public. Although changes in land use and management are made in a transparent manner they mainly benefit specific groups of residents. Rarely are applications for rezoning refused or modified in anticipation of future developments but if consent to change or modify an approved development plan has been refused the applicant can appeal to the Minister. If the latter refuses consent the applicant can either appeal to the High Court of Zambia or the matter may be referred to the Town Planning Tribunal for adjudication before the Minister makes the final decision. Applications for minor changes are only dealt with by Planning Authorities who have limited powers under the TCP Act to give consent or refuse applicants to carry out specific changes.

### Urban Land use changes and speed of development

Between 30% and 50% of the land that has had a change in land use assignment in the past 3 years has been developed to its destined use. Part IV Sec 56 (1) and (2) of the URP Act provides for variations in planning permission. The TCP Act Section 15 (1) states that “the Minister may by statutory notice order for preparation of a development plans for any area specified in such notice and may stipulate after consultation with the planning authority the time to be granted to the planning authority for the preparation and submission of the development plan to him, and may extend such time; change the area of a development plan by additions or exclusions; change the area of an approved development plan by exclusions. Economic circumstances may partly cause delayed development though weaknesses in development control and monitoring have contributed. In Zambia less than 50% of the land that has had a change in land use assignment in the past 3 years has been developed to its destined use. The legal provision that incomplete developments are deemed legal after four years has been seen as a weakness in land use and management since many people did not feel compelled to develop their land.

### 3.3.3 Efficiency in the Urban Land Use Planning Process

LGI	Dimension description	Score					Score
		A	B	C	D	N	
3.3.1	Policy to ensure delivery of low-cost housing and services exists and is progressively implemented.			1			There is a policy for low cost housing and services but implementation has major gaps so that the number of those with inadequate shelter actually increases
3.3.2	Land use planning effectively guides urban spatial expansion in the largest city.			1			In the largest city, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban spatial expansion occurs in an ad hoc manner with infrastructure provided some time after urbanization
3.3.3	Land use planning effectively guides urban development in the four next largest cities.			1			In the four major cities in the country, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban development occurs in an ad hoc manner with infrastructure provided some time after urbanization
3.3.4	Planning processes are able to cope with urban growth.			1			In the largest city, the urban planning process/authority is struggling to cope with the increasing demand for serviced units/land as evidenced by the fact that most new dwellings are informal .

### Policy on delivery of low-cost housing

There is a policy for low cost housing and services but implementation has major gaps so that the number of those with inadequate shelter actually increases. With independence in 1964 several vacant farms and public lands and former contractors’ compounds were illegally occupied and form

present day informal unplanned urban settlements. A number of unplanned settlements have been upgraded to improve the stock of low cost housing. In 1970 the National Housing Authority (NHA) was established but from the 1990s the NHA tended to focus more on middle and upper income housing. The 1996 National Housing Policy aimed to provide adequate affordable housing for all income groups in Zambia. However implementation has been met with many challenges including inadequate government funding. Government is assisting Local Authorities to build low cost housing. The 1996 NHP is being reviewed with the hope of putting in measures that will increase the low cost housing stock. Most urban local authorities have prepared land use plans which they are implementing to some extent but which cannot cope with rapid urban growth and are so rigid and inflexible that many people are driven into informality.

#### **Land use planning and urban expansion in Lusaka**

In the largest city, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban spatial expansion occurs in an ad hoc manner with infrastructure provided some time after urbanization. Lusaka, which was planned on Garden City principles, was designated the capital city in 1935. While it was easy to guide and manage Lusaka's urban spatial expansion during the colonial times, it became increasingly challenging after independence. This is reflected in the fact that not less than seven Master Plans for Lusaka have been prepared since 1935. The 1975 Doxiadis Master Plan for Lusaka, the 2000 Lusaka Structure Plan and the current Comprehensive Urban Development Plan (CUDP) for Lusaka have been the major Land Use Plans used to guide urban spatial expansion.

While a hierarchy of detailed land use plans exists for Lusaka as specified by law, in practice the City's urban spatial expansion occurs in an ad hoc manner resulting in un-coordinated development, compartmentalised, haphazard, piecemeal uncoordinated and disorderly physical development and the ubiquitous poor quality of living and environmental conditions. The existing land use plans have not been reviewed and updated despite the statutory requirement of plan review every five years. As such the land use plans tend to be out-dated and outmoded due to rapid urbanisation and population growth. Implementation of urban land use plans has been a key challenge due to inadequate human, technical and financial resources and capacity and sometimes political interference.

#### **Land use planning and urban expansion in four major cities**

This dimension seeks to assess whether Land use planning effectively guides urban development in the four next largest cities. In the four major cities in the country, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban development occurs in an ad hoc manner with infrastructure provided some time after urbanization. Land use planning in Kitwe, Ndola, Livingstone and Kabwe - the next four major cities after Lusaka - is guided by a similar hierarchy of regional and detailed land use plans as specified by law.

Kitwe and Kabwe were established as mining towns; Ndola as an industrial centre and administrative capital for the Copperbelt and Livingstone, which once was capital of Zambia as a major tourist centre. Urban growth dynamics and the urbanization challenges of these towns do not vary much from those of Lusaka.

As with Lusaka, urban development in the four towns occurs in an ad hoc manner with infrastructure provided some time after urbanization. The proliferation of informal unplanned settlements is also a major challenge despite the existence of land use plans. Local Authorities have insufficient capacity to anticipate urban growth and absence of national and local policies to guide and coordinate urban development. Settlement planning frameworks are largely driven by a sectoral approach through the 5-year National Development Plans. Government uses a myriad of ordinances, statutes and orders to guide the urban development which has resulted in rapid spontaneous urban growth.

### Planning process and urban growth

In the largest city, the urban planning process/authority is struggling to cope with the increasing demand for serviced units/land as evidenced by the fact that most new dwellings are informal. The URP Act of 2015 puts forwards a new planning process that anticipates both current and future urban growth. Planning processes have been significantly affected by rapid population growth and urbanisation and continued rural to urban migrations in Zambia. Wholesale and rapid changes to Development Plans have potential to affect future urban land use and development though rarely are applications for rezoning of Development Plans refused. The proliferation of informal settlements and the growing expansion of cities lead to serious environmental degradation (including air pollution) and poor traffic management (congestion, weak transportation systems, etc.). Unplanned urbanisation taking place through spontaneous settlement patterns is very costly and difficult to address once it has occurred. The latter problems are exacerbated by inefficient urban planning practices, poor road network, lack of city compactness and density, weak mixed use, and unevenly distributed socio-economic urban functions.

#### 3.3.4 Speedy and Predictability of enforcement of restricted land uses

LGI	Dimension description	Score					Score
		A	B	C	D	N	
3.4.1	Provisions for residential building permits are appropriate, affordable and complied with.			1			Requirements to obtain a building permit are technically justified but not affordable for (and not complied by) the majority of those affected
3.4.2	A building permit for a residential dwelling can be obtained quickly and at a low cost.					1	

#### Appropriateness and affordability of residential building permits provisions

Requirements to obtain a building permit are technically justified but not affordable for (and not complied by) the majority of those affected. No data was available to indicate how many of properties in urban areas actually had building permits. Planning law stipulates that a development (building) permit for a major development or change of land use shall be granted within 90 days of receipt of the application for or within 28 days of receipt of an application for a development permit for any other development. In reality however these periods are often exceeded either because the applicant does not meet the requirements of the law or conditions attached to the grant. In this case the developer is allowed to make minor adjustments or revise the building plans to meet the Regulations. In some cases the application may be out-rightly rejected with reasons given for the rejection. Once approved inspections must be carried out at various stages of construction e.g. foundation, walls, roofs, fittings etc. A gap in the law which allowed illegal developments to be regularised if no enforcement or stop notice was issued within four years was akin to “legalising illegality”. The new URP Act of 2015 has removed this provision and so all illegal developments will remain illegal until fully regularised with authorities.

The major challenges related to building permits comprise a long list of requirements based on planning and building regulations most of which are out-dated and restrictive. Enforcement and Stop Notices are rarely given out for illegal developments or non-compliance which results in proliferation of sub-standard building structures and illegal developments. Despite the existence of the TRP Act and the introduction of the URP Act of 2015 enforcement remains a challenge due to lack of building inspectors at local government level. The enactment of the URP Act of 2015 implies the need for increased planning capacities and skills at all levels. A nationwide capacity and skills building programme is required to meet the increased functions and responsibilities of planning agencies.

#### Speed and cost of obtaining residential building permits

This dimension which sought to assess whether a building permit for a residential dwelling can be obtained quickly and at a low cost, was not scored as it was found that all options for assessing were

starting with “all” having no room for some or most. The provided for scores could not fit what is obtaining in practice.

### 3.3.5 Tenure regularisation schemes in urban areas

LGI	Dimension description	Score					Score
		A	B	C	D	N	
3.5.1	Formalization of urban residential housing is feasible and affordable.		1				The requirements for formalizing housing in urban areas are clear, straight-forward, and affordable but are not implemented consistently in a transparent manner.
3.5.2	In cities with informal tenure, a viable strategy exists for tenure security, infrastructure, and housing.	1					Existing regulations do not provide incentives for new informal occupations and a strategy exists to regularize land rights and provide services to existing informal occupants
3.5.3	A condominium regime allows effective management and recording of urban property.			1			Common property under condominiums is recognized but the law lacks clear (or regulations) for management and publicity of relevant records

#### Feasibility of formalisation of urban residential housing

The requirements for formalizing housing in urban areas are clear, straight-forward, and affordable but are not implemented consistently in a transparent manner. It is estimated that as much as two-thirds of all urban housing is informal and located in unplanned settlements. Lusaka, for example, has more than 45 unplanned settlements of which 37 have been formally recognised as “improvement areas” under the Housing (Statutory and Improvement Areas) (HSIA) Act of 1974. After recognition, housing is formalised by surveying, preparation of a land use map and provision of basic services. The HSIA does not specify minimum standards for the houses to be constructed and hence the need to specify to some detail the minimum expected standard of a house. Permits required under the HSIA are often given late and many extensions occur without authority. The HSIA forbids residents from having more than one structure per plot of land. The declaration as an Improvement Area allows service provision with the full blessing of government or council but it may be many years before the legalised areas are upgraded. In many cases the residents or NGOs may have already provided some services. The HSIA requires Councils to compensate residents when they are moved to pave way for service and infrastructure provision. Financial resources are often not available which slows down the process of service and infrastructure provision in Improvement Areas. Donors and NGOs fill the gap by supporting upgrading, environmental improvements and even provision of credit but the scale of their interventions is limited. Such donor initiatives encourage the residents to build better houses and obtain Occupancy Licenses.

There is no clear policy and strategy to deal with informal unplanned settlements and the existing legislation needs to be reviewed. The process for declaring a settlement as an improvement area is cumbersome and takes too long and conditions would have changed by the time the process is complete. Since the HSIA excludes other laws from applying these areas, it encourages the construction of sub-standard structures and is a source of conflict among agencies on which laws to apply when dealing unplanned settlements. The HSIA does not provide a special building code or set of standards allowable in Statutory or Improvement Areas and the building standards operating in urban areas are too expensive and cumbersome for use by the lower income majority. The HSIA gives Council the authority to resettle residents on compensation but this not done. Regarding land tenure the Improvement Areas Act is not specific on what ‘improvement’ really means’.

#### Strategies for tenure security, infrastructure and housing in cities with informal tenure

Existing regulations do not provide incentives for new informal occupations and a strategy exists to regularize land rights and provide services to existing informal occupants.

The Housing (Statutory and Improvement Areas) (HSIA) Act of 1974 has been the main legal instrument for regularising informal tenure. After an unplanned settlement is declared an

Improvement Area (under the HSIA) the tenants are given Occupancy Licenses. Since the settlements are located within Township Boundaries, the area must be re-zoned under the Town and Country Planning Act, Cap. 283 and a layout prepared and submitted to the Surveyor General for approval. Once approved, the area is declared an “Improvement Area”, the council is granted a head lease or block title for the whole area. Once the declaration is made, residents are issued with 30-year occupancy licences while the area goes through the process of upgrading. The Occupancy Licenses can be later replaced by certificates of title.

The provision and production of affordable housing is failing to meet demand due to high population growth. The inhabitants are hence turning to acquire informal housing resulting in unplanned settlements mushrooming mostly in the peri-urban areas. These units are in most cases unsafe and sub-standard and located in the illegal and worst parts of urban centres, they lack legal status and the provision of basic services such as clean water and sanitation. The existing land delivery system for low cost housing still gives room for growth of shanty compounds because land is not being made available to the poor. Housing is unaffordable for a bigger section of the Zambian community.

**Management and recording of urban property in condominiums**

Common property under condominiums is recognized but the law lacks clear (or regulations) for management and publicity of relevant records. The Common Leasehold Schemes Act Cap 208 Vol. 12 of the Laws of Zambia was enacted to allow for the registration of “horizontal” rights (strata title) for high-rise and semi-detached buildings. The Act thus provides the division of land and buildings into units with separate titles by means of common leasehold schemes (akin to Sectional Titles in some countries like South Africa). Thus this law allows for dividing of units in a condominium with separate titles where Sectional titles do not exist and where previously a head lease was held by a Local Authority or the National Housing Authority (NHA). Upon registration of the scheme, the unit holders become a corporate body with perpetual succession and a common seal. Incorporation of the scheme members has the same effect as a contract under seal. Amongst other things, the body corporate can make by-laws, enforce by laws and control and manage common property (that is not part of any one unit). Although common property under condominiums is recognised by the Act, arrangements that allow for effective management and recording of urban property and chattels are not common.

Common property under condominiums is recognised by the Common Leasehold Schemes Act but the law lacks clear regulations for the deposition, management and publicity of relevant records. As such the allocation of sectional titles to sitting tenants and the management and publicity of records has always challenging. Soon after handing over residential units to sitting tenants most condominiums degenerated and were blighted as most residents did not want to take responsibility for the operation and maintenance of these facilities. The law has not been clear on the maintenance of such properties while Local Authorities have not reacted quickly to come up with bye laws to ensure good upkeep of the surrounding areas of condominiums.

**3.3.6 Recommendations for Urban Land Use Planning and Development**

The above discussion has highlighted a number of deficiencies in Urban Land Use Planning in the country which will need interventions in the short and long term periods. **Error! Reference source not found.** tabulates the recommendations in this section of the report related to land use planning and development

Issue	Short term Policy to Long Term Policy
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<p>A regulatory framework that is restrictive to land owners/users and that does not promote development</p>	<p>Review Constitution and existing Regulations and Strengthen the Legal Framework for Urban Land to make them more responsive to contemporary population needs</p> <p>Develop urban and peri-urban land allocation programs that provide access to land for marginalized migrants to urban areas</p> <p>Build capacity at all levels for implementation of new Regulations, mobilise resources for implementation and Sensitise and educate people on Regulations</p> <p>Support land tenure assessment for urban areas and provide assistance with the development of a legal framework for formalization of urban and peri-urban rights.</p> <p>Support the streamlining and simplification of Zambia's land administration system, including effective decentralization of land administration and Strengthen urban Land Dispute Resolution</p>
<p>Inadequate disaster preparedness and absence of early warning systems and information supported with maps for disaster risk reduction; Regulations do not adequately address urban disaster risks</p>	<p>Develop national level disaster prevention and reduction programmes; Prepare disaster risk maps and information systems and early warning mechanisms review Town Planning Regulations to include disaster preparedness</p>
<p>Inadequate information on urban expansion and infrastructure development</p>	<p>Improve the capacity of institutions to generate information on urban expansion and infrastructure; Implement public awareness and sensitisation programmes on urban land use and infrastructure master plans;</p> <p>Provide information on urban expansion plans and infrastructure through in form of leaflets in various local languages and road shows which tend to be close to the people</p> <p>Review all the existing urban land use plan to indicate Local Authority and other Stakeholder e.g. ZESCO, LWSC, NWSC expansion plans and disseminate the new plans for public comments</p>
<p>Public comments are not often incorporated in Land Use Plans as required by law and absence of a mechanism for the public to follow up or validate their inputs/comments in urban land use plans</p>	<p>Ensure full public engagement in Land Use Planning and comments are included and validated by the public</p> <p>Build capacity at Local Authority level for increased Public engagement and Participation e.g. the use of e-Governance and e-Planning</p> <p>Review the Laws and Regulations to ensure that public participation becomes a key component of the Land Use Planning process</p>
<p>Developers that apply for change of use, modification of urban land use plans which entail revocation of statutory Development Plans do not swiftly develop their land</p>	<p>Review the conditions for granting of permission for variation, change of use of land use plans; review penalties and sanctions and make them stringent</p> <p>Build capacity at local authority level for effective and efficient development monitoring</p> <p>Revise the provisions of the URP law relating to requirements or period in which developers are compelled to develop their land after approval or grant of permission to develop</p>
<p>Although a policy for low cost housing and services exists implementation has not always effective with the result that the number of those with inadequate shelter declines but still remains high.</p>	<p>Strengthen the capacity of Local Authorities and relevant Central Government Institutions e.g. Department of Housing and Infrastructure Services in the MLGH to deliver low cost housing</p> <p>Build capacity for low cost housing development at Local Authority level</p> <p>Develop a National Housing Policy that focuses on low cost housing development and that devolves responsibility for delivery of such housing to right level</p>
<p>The urban planning process/authority cannot cope with the increasing demand for serviced units/land as evidenced by the fact that almost all new dwellings are informal.</p>	<p>Strengthen the capacity of local planning authorities for preparation, implementation and review of the planning programme to respond to growing urban development needs</p> <p>Build human, and technical capacity and mobilise adequate resources for planners to respond to demands of rapid urbanisation, population growth and rural to urban migration at right level</p> <p>Review the entire planning process and develop effective instruments and capacity to make it relevant to changing societal needs</p>



The length of time it takes to obtain a building permit for residential dwelling has often exceeded the maximum permissible by law	<p>Train the building inspectors to ensure that new structures are built within the stipulated time of the law</p> <p>Build capacity of Local Authority building inspectorates to regularly inspect and ensure that structures that are coming up are within the stipulated time</p> <p>Review the Building Regulations to ensure that the time it takes to obtain a building permit is reduced and does not promote non compliance</p>
Common property under condominiums is not common in Zambia although the law recognizes condominiums. There are however no clear provisions for management and publicity of relevant records that are followed in practice	<p>Amend the Common Leasehold Schemes Act to streamline procedures for preparation of titles for registration purposes</p> <p>Amend the Act to assign responsibility for qualification of diagrams for registration purposes in the Land Surveyor</p> <p>Revise the Act to fully articulate the provisions for the management and publicity of relevant records pertaining to condominiums</p> <p>Revise the Deeds and Registry Act at the Ministry of Lands to fully articulate the provisions for the management and publicity of relevant records pertaining to condominiums</p> <p>Promote condominiums especially in in new social housing projects</p>

### 3.4 Management of Public Land

The definition of “public” land can be deduced from the definition of “public purpose” under the Lands Act, Cap 184. Public purpose includes exclusive use of Government or for the general benefit of the people of Zambia; for public infrastructure; and for preservation or control of natural resources e.g. forest, fauna and flora.

Given the above definition, it can be seen that there are several institutions that are involved in the management of public land. These include

- (a) Ministry of Lands, Natural Resources and Environmental Protections (Surveys; Lands; Lands and Deeds Registry; Forestry; and Environment and Natural Resources)
- (b) Ministry of Mines (Department of Mines)
- (c) Ministry of Energy and Water Development (Water and sewerage companies) Zambia Electricity Supply Corporation; Water Management Authority)
- (d) Ministry of Local Government and Housing (District councils)
- (e) Ministry of Transport, Works, Supply and Communications (Aviation; Road Development Agency; Zambia Railways)
- (f) Ministry Tourism and Arts (Wildlife and National Parks)

#### 3.4.1 Identification, management responsibilities, recording and information access

LGI	Dimension description	Score					Score
		A	B	C	D	N	
4.1.1	Criteria for public land ownership are clearly defined and assigned to the right level of government.			1			Public land ownership is justified by provision of public goods but management responsibility is often at the wrong level of government
4.1.2	There is a complete recording of public land.		1				Between 60% and 90% of public land is clearly identified on the ground and on maps
4.1.3	Information on public land is publicly accessible.		1				All the information in the public land inventory is accessible to the public, but information for some types of public land (land used by the military, security services, etc.) is not available for justifiable reasons
4.1.4	The management responsibility for different types of public land is unambiguously assigned.		1				The management responsibility for different types of public land is unambiguously assigned but this is not

LGI	Dimension description	Score					Score
		A	B	C	D	N	
							always consistent with objectives of equity and efficiency or institutions are not always properly equipped so that sometimes these are not achieved
4.1.5	Responsible public institutions have sufficient resources for their land management responsibilities.			1			There are significant constraints in the financial and/or human resource capacity but the system makes effective use of limited available resources, with limited impact on managing public lands.
4.1.6	All essential information on public land allocations to private interests is publicly accessible.			1			Key information for public land allocations (the locality and area of the land allocations, the parties involved and the financial terms of the allocation) is recorded or partially recorded but is not publicly accessible

Acquisition here on the part of government includes de-gazetting public land (*according to panel discussion*) or direct acquisition of customary land by investor with government facilitation. Public land ownership is justified by provision of public goods and the assignment of management responsibility for different types of public land is clear as given in the various related statutes. Nonetheless, public institutions do not have adequate capacity (equipment, finances and human resources) to carry out their mandates and management responsibility is often at the wrong level of government. Inadequate capacity was consistently reported in the annual reports (MLNREP, 2013); (MLNREP, 2014); (MLNREP, 2015). Most public institutions are not represented at district level. Further, the alarming rate of deforestation in the country is a testimony to the inadequate capacity to enforce existing laws.

Most public land (60 - 90%) is clearly identified on the ground and on maps. These include national parks and game management areas, forest reserves, wetlands and national monuments which were declared through government gazettes. During the colonial time, all the protected reserves were gazetted, marked and mapped. After the attainment of independence in 1964, there has been an increasing systematic invasion of public land for agriculture, human settlements, mining and other economic activities. Certain areas have since been completely or partially degazetted. While some areas still show as being protected areas on the ground they are completely fully developed into human settlements or other developments. Further, the newly created townships are not mapped, RAMSAR sites, wayleaves and other public utilities have not been clearly identified on the ground and on maps.

Although public access to land records is limited due to the centralized cadastre/land register (in Lusaka and Ndola) and lack of updating, in essence after payment of some fees, the public can access all the public land information. The fees are contained in the Service Charter which is available on the MLNREP web site (<http://www.ministryoflands.gov.zm/>). Most key information such as the locality, area of the land allocations and parties involved are recorded and publicly available. However, information for restricted areas such as military land and the financial terms of the allocation of public land to private interests especially corporates is not publicly accessible.

### 3.4.2 Justification and time-efficiency of acquisition processes

LGI	Dimension description	Score					Score
		A	B	C	D	N	
4.2.1	There is minimal transfer of acquired land to private interests.				1		More than 50% of land acquired in the past 3 years is used for private purposes
4.2.2	Acquired land is transferred to destined use in a timely manner.	1					More than 70% of the land that has been acquired in the past 3 years has been transferred to its destined use
4.2.3	The threat of land acquisition does not lead to pre-emptive action by private parties.		1				Some

More than 50% of land acquired in the past 3 years is used for private purposes. Most developmental projects usually are undertaken on public land and customary land. A number of forest reserves and

national parks have been degazetted and given to private companies to run mines in North-western, Copperbelt, Lusaka and Eastern Provinces. Besides it is easier and more and convenient for government to use public land than private land where they will be required to make large monetary compensation. Public land is taken for free.

When land is acquired, it is transferred to the destined use in a timely manner. Sometimes investors will start to use public land for commercial purposes before formal approvals are given, then they will formalize the change in land use later-on. This means that there is no delay in the use of land for private business when formal transfers are done. E.g. Lumwana, Kalumbila and gem stone mines where mineral exploration rights were given in protected areas. After mineral deposits were confirmed, there was little objection to the actual mineral extraction and issuance of surface rights. However, the threat of land acquisition does lead to some pre-emptive action by private parties especially by civil society organisations. Public opposition to the establishment of Kangaluwi Copper mine made government shelve plans to open a copper mine in a game park area in the lower Zambezi.

### 3.4.3 Transparency and fairness of acquisition procedures

LGI	Dimension description	Score					Score
		A	B	C	D	N	
4.3.1	Compensation is provided for the acquisition of all rights regardless of their recording status.			1			Compensation, in kind or in cash, is paid for some unrecorded rights (such as possession, occupation etc.), however those with other unrecorded rights (which may include grazing, access, gathering forest products etc.) are usually not paid.
4.3.2	Selective loss of rights arising from land use change is compensated for.		1				Where people lose rights as a result of land use change outside the acquisition process, compensation in cash or in kind is paid so that these people have comparable assets but cannot continue to maintain prior social and economic status
4.3.3	Acquired owners are compensated promptly.	1					More than 90% of acquired land owners receive compensation within one year
4.3.4	There are independent and accessible avenues for appeal against acquisition.		1				Independent avenues to lodge a complaint against acquisition exist but there are access restrictions (i.e. only accessible by mid-income and wealthy)
4.3.5	Timely decisions are made regarding complaints about acquisition.	1					A first instance decision has been reached for more than 80% of the complaints about acquisition lodged during the last 3 years

Compensation, in kind or in cash, is paid for some unrecorded rights (such as possession, occupation, etc.) even where people have lost rights as a result of land use change outside the acquisition process. However, not every right is compensated for so that people may not sustain their prior social and economic status. Those with other unrecorded rights such as grazing, social networks, access, and gathering forest products are usually not paid. Examples include the loss of grazing rights along the lower Zambezi River due to establishment of lodges. In Kalumbila, village settlements that were moved had their houses rebuilt by the mine company but communal grazing lands were not compensated for. The Company has since fenced off the mine areas and they are no longer accessible to the local people.

When land is acquired, affected owners are compensated promptly (within a year) by respective developers and where there are complaints, decisions are reached within a short time. Compensations are usually carried out swiftly once consensus is reached to avoid changes of political and local opinions with time. Compensation payments are therefore expeditiously done by respective developers in order to get this sensitive problem quickly out of the way. Very few cases may be taken to the Courts of Law; otherwise, many cases are usually approved or not approved by the authorities within three years. The bulk of the land disputes for the poor are usually arbitrated upon by politicians or civil servants and respective decisions have usually been given in less than three years.

Independent avenues to lodge a complaint against acquisition exist via courts of law. The challenge lies in accessing the formal avenues due to legal costs and distance. Local courts, for instance, are not present in every district. The process for selecting investments based mainly on national benefits is in place and is adhered to. Environment Impact Assessments (EIAs) are compulsory, but they are sometimes overlooked as the minister responsible has discretionary powers to overturn recommendations from the environmental regulatory agency as happened in the cases of the Lusaka Multi Facility Zone, Kafue Steel, Kalumbila Dam, Kangaluwi Copper Project based in Lower Zambezi National Park, among others.

### 3.5 Transparent process and economic benefit of transfer of public land to private use

#### 3.5.1 Clarity, transparency, competitiveness, and collection and auditing of payments

LGI	Dimension description	Score					Score
		A	B	C	D	N	
5.1.1	Public land transactions are conducted in an open transparent manner.				1		The share of public land disposed of in the past 3 years through sale or lease through public auction or open tender process is less than 50%. (Except for equity transfers).
5.1.2	Payments for public leases are collected.	1					More than 90% of the total agreed payments are collected from private parties on the lease of public lands
5.1.3	Public land is transacted at market prices unless guided by equity objectives.			1			Only some types of public land are generally divested at market prices in a transparent process irrespective of the investor's status (e.g. domestic or foreign) or the purpose for which the land is assigned
5.1.4	The public captures benefits arising from changes in permitted land use.			1			Mechanisms to allow the public to capture significant share of the gains from changing land use are rarely used and applied in a discretionary manner
5.1.5	Policy to improve equity in asset access and use by the poor exists, is implemented effectively and monitored.			1			Policy is in place to improve access to and productive use of assets by poor and marginalized groups but is not enforced

The share of public land disposed of in the past 3 years through sale or lease through public auction or open tender process is less than 50% (Except for equity transfers). Transfers of public lands to private use are not always transparent as indicated by several incidences of hitherto gazetted forests being allocated for private use without any information provided to the general public beforehand. Incidences of corruption involving public officials are routinely reported in land administration at lower levels. For example, the Livingstone, Kitwe and Ndola City Councils were in January 2016 suspended for illegal land allocations allegedly perpetuated by some of the elected councillors and officers from the councils (GRZ, 2016). There has not been any national assessment of the total public land transferred for private use. There is a distinct lack of information on the scale of land investments involving transfer of public land to private use in Zambia. (Chu, et al., 2015) have shown some of the large scale acquisitions in Zambia in the mining, agriculture and industrial areas which have displaced a large number of families (see Table 6). The displacement of families speaks to the issues of how these families are to be compensated and to the lack of transparency in the whole process. Not all cases of land transfers go through the Zambia Development Agency.

Table 6: Summary land acquisition and displacements

Case Name	Location	Sector	Approx. number of affected people	Amount of land acquired
AmatheonAgri	Mumbwa District	Agriculture	43 households (182 people)	14 237ha
Kalumbila Minerals Ltd	Solwezi District	Mining	570 households	50 000ha

Chiansi Irrigation Project	Kafue District	Agriculture	120 households	1 575ha
Lusaka South Multi-Facility Economic Zone	Lusaka/Kafue District	Urban/industrial development	247 households (1 221 people)	2 100ha

Source: Large-scale land acquisitions, displacement and resettlement in Zambia (Chu, Young and Phiri, 2015)

More than 90% of the total agreed payments are collected from private parties on the lease of public lands. The Lands Act (1996) states that the President shall not alienate any land without receiving any consideration, in money for such an alienation and ground rent for such land except where the alienation is for a public purpose. Exemptions are granted for land meant for government institutions and public purposes such as clinics, schools, police stations. Payments are demanded upon the lease of public lands for private use.

The Ministry of Lands, Natural Resources and Environmental Protection has revised the process of title deed acquisitions for leased land. Hitherto, a 'Letter of Offer' was availed to the applicant before payment of statutory fees related to leasing of public land for private use. Currently, an 'Invitation to Treat' is first issued, and the applicant is given 90 days in which to pay all the statutory fees failure to which the land parcel can be made available to another user. The Letter of Offer is only made available upon payment of all statutory fees. This revision has increased the rates of payment for title deeds (Ministry of Lands Official, personal communication). Table 8 presents a summary of title deeds paid for and issued for direct leases.

Only some types of public land are generally divested at market prices in a transparent process irrespective of the investor's status (e.g. domestic or foreign) or the purpose for which the land is assigned. There are differences in the charges payable by Zambian and Non-Zambian investors for the transfer of public land to private use. For example, when applying for consent from the state to transfer land to Zambians, the statutory fee is 1112 fee units while the requirement for a Non Zambia is 2224 fee units or 0.5 per cent of market value (whichever may be greater). For the renewal of leases for private use of land in the four cities (Lusaka, Livingstone, Kitwe and Livingstone), statutory fees payable are the same for both Zambians and Non Zambians (Table 7).

Table 7: Consideration fees for renewal of leases (source: GRZ, 2015:245)

Category A Cities : Lusaka, Kitwe, Ndola, Livingstone		
Zoning	Category	Charge per land parcel (fee units)
Residential	High cost	19166
	Medium cost	12778
	Low cost	9583
Commercial	Commercial	19166
Recreational	Recreational	19166
Religious	Religious	6388

N.B. 1 fee unit = ZMW 0.3

Table 8: Title deeds paid for and issued (source: Ministry of Lands, 2015)

Year	Number of Title Deeds paid for and issued
2007	13 016
2008	9 184
2009	8 063
2010	10 788
2011	8 777
2012	14 938
2013	14 700

(Source: Ministry of Lands, 2015).

Mechanisms to allow the public to capture a significant share of the gains from changing land use are rarely used and applied in a discretionary manner. It is difficult to state what mechanisms are in place to allow the public to capture a significant share of the gains from a very wide array of land use changes. The public benefits from some changes in land use but not from others.

Policy is in place to improve access to and productive use of assets by poor and marginalized groups but is not enforced. Patriarchal tendencies continue to exist in the land acquisition process, especially with regards to customary land. These tendencies end up favouring the rich, leaving mostly women and youths disadvantaged with regards to access and ownership of land (Zambia Land Alliance, 2015). The gender policy provisions are not followed in the transfer of public land for private use. Youths, by virtue of their limited economic opportunities are mostly unable to secure land through markets. Access to land through transfer by local government authorities requires ability to pay the statutory fees which are beyond the reach of the poor, most of whom are women and unemployed youths.

### 3.5.2 Private investment strategy

LGI	Dimension description	Score					Score
		A	B	C	D	N	
5.2.1	Land to be made available to investors is identified transparently and publicly, in agreement with right holders.				1		There is no policy in place to identify land to be made available to investors so that any transfers are based on ad-hoc investor demands
5.2.2	Investments are selected based on economic, socio-cultural and environmental impacts in an open process			1			Process is in place but many investments go ahead that are either not according to the policy or despite unfavourable outcomes
5.2.3	Public institutions transferring land to investors are clearly identified and regularly audited			1			Institutions to make decisions are clearly identified but lack either capacity or incentives in ensuring socially beneficial outcomes or their decisions are not always implemented
5.2.4	Public bodies transferring land to investors share information and coordinate to minimize and resolve overlaps (including sub-soil).				1		No policy is in place and decisions on land use and land rights are not coordinated across sectors

LGI	Dimension description	Score					Score
		A	B	C	D	N	
5.2.5	Compliance with contractual obligations is regularly monitored and remedial action taken if needed.			1			Monitoring of compliance is limited or only part of the results accessible to the public
5.2.6	Safeguards effectively reduce the risk of negative effects from large scale land-related investments.			1			Safeguards (EIA, SEA, etc) are partly in line with global practice
5.2.7	The scope for resettlement is clearly circumscribed and procedures exist to deal with it in line with best practice.			1			Resettlement policy exists, but is only in part of the cases applied

There is no policy in place to identify land to be made available to investors so that any transfers are based on ad-hoc investor demands. For instance, the Zambia Development Agency (ZDA) acquires land on behalf of prospective investors or allocates them from its land bank but there is no a priori assessment of the land potential for different uses. Additionally, not all investors access land from the ZDA's land bank. Some directly approach traditional leaders and commence land developments without any detailed suitability assessments. Some of the land parcels in the ZDA Bank were transformed from customary to state land by a team led by the Ministry of Agriculture and Livestock that included representatives from local authorities the Ministries of Lands and Energy (Nolte, 2013) without community consultations. Overall, the Ministry of Lands has limited human capacity to perform all its land administrative and land management functions such as surveying in a timely manner. The Ministry of Agriculture and Livestock, responsible for conducting suitability assessments for agriculture does not routinely perform this function.

As part of their investment plans, investors are mandated to describe the employment opportunities to be created by their investments in the locality. Focus is on developments that benefit the wider economy and local benefits are marginalized. Although Environment Impact Assessments (EIAs) are compulsory, they are sometimes overlooked as the minister responsible for the environment has discretionary powers to overturn recommendations from the environmental regulatory agency as happened in the cases of the Lusaka Multi Facility Zone, Kafue Steel, Kalumbila Dam, Kangaluwi Copper Project based in Lower Zambezi National Park, among others. Some projects provide for the sharing of benefits while others do not. Policy to ensure that investments are selected on economic, socio-cultural and environmental impacts in an open process is in place but is not always adhered to. Socio-cultural aspects are not adequately addressed as focus is on economic benefits.

Institutions to make decisions are clearly identified but lack either capacity or incentives in ensuring socially beneficial outcomes or their decisions are not always implemented. Most public institutions do not have sufficient resources to carry out their mandates. For instance, by 2013, the Survey Department only had 29 licensed private land surveyors and 7 licensed surveyors working under the Surveyor General's Office (Chileshe & Shamaoma, 2014). Inadequate capacity also hinders monitoring of compliance.

No policy is in place and decisions on land use and land rights are not coordinated across sectors. Depending on the nature of the proposed development, inter-ministerial committees are set up encompassing the relevant ministries and agencies on an ad-hoc basis albeit very rarely. At district level, inter-departmental committees draw membership from the district offices of the ministries represented locally but they are poorly coordinated and each department follows its own land use plans and in-house policies. There seems to be a distinct lack of appreciation of the diversity of land, and the need for inter-sectoral and inter-disciplinary management.

It was not possible to obtain publicly available information on some projects involving long term leases of public land by private entities e.g. concessions for management of national park by a private entities are not easily available to the public. ZEMA is mandated by law to make EIA reports available to the public and occasionally publicizes lack of compliance involving large scale investors and remedial actions recommended. ZDA's functions include monitoring and evaluating the activities, performance



and development of enterprises operating in multi-facility economic zones and prescribing and enforcing measures, for the business or activity carried out within a multi-facility economic zone so as to promote the safety and efficiency of its operations. Compliance reports are not publicly available, unlike the EIA reports on the ZEMA website. Compliance reports are mostly kept confidential by the monitoring agencies.

Safeguards (EIA, SIA, etc.) are partly in line with global best practice. The Zambia Environmental Management Agency is mandated to ensure that EIAs are conducted for all large scale land-related projects. ZDA utilizes a system of provisional leasehold titles in which it holds the land in trust for the first 2 to 5 years, giving it oversight over investor performance in a bid to monitor commitments and minimize land speculation (Simwanda, 2011) cited in (German, et al., 2013)). However, the EIA process is not always followed nor Strategic Environmental Assessments (SEA) frequently conducted. Mechanisms for ensuring safeguards are implemented are not effective. In addition, ZEMA is only managed from a few regional offices with limited capacity to monitor development projects for their environmental effects and compliance to environmental regulations.

Resettlement policy exists (Zambia Daily Mail, 2016), but is only in part of the cases applied. The Department of Resettlements under the Vice President’s Office is mandated to carry out resettlement activities. However, inadequate capacity in public institutions, functional centralisation and inadequate coordination makes the land transfer processes slow and costly. No mechanisms for comprehensive assessment of land potential exist and it is unclear how much land is still available for potential investment.

### 3.5.3 Effective, consistent, transparent and participatory policy implementation

LGI	Dimension description	Score					Score
		A	B	C	D	N	
5.3.1	Investors provide sufficient information to allow rigorous evaluation of proposed investments.						1
5.3.2	Approval of investment plans follows a clear process with reasonable timelines.	1					All investment application related documents are reviewed according to a uniform process and receive a response within 3 months of date of submission
5.3.3	Right holders and investors negotiate freely and directly with full access to relevant information.			1			Those holding rights to land with potential for investment have incentives to properly negotiate but their rights are unclear or opportunities to obtain relevant information or assistance do not exist
5.3.4	Contractual provisions regarding benefit sharing are publicly disclosed.				1		The majority of contractual arrangements do not include information on benefit sharing

All investment application related documents are reviewed according to a uniform process and receive a response within 3 months of date of submission. The Zambia Development Agency is mandated to aid investors in setting up their investments, including the acquisition of land. It follows clear and uniform processes for the various services it provides to investors. The time taken from receipt to processing of duly completed application forms for investment licences and permits is two weeks.

Those holding rights to land with potential for investment have incentives to properly negotiate but their rights are unclear or opportunities to obtain relevant information or assistance do not exist. There is an information asymmetry between rights holders and investors as investors have access to relevant and updated information, while local communities do not. Investors can utilize their financial resources and social capital to obtain information, while right holders, such as rural residents do not have such an opportunity. Rights to land are not always clearly defined for land held under customary tenure, as the rights are multiple and may even be conflicting. Opportunities for obtaining relevant information do not always exist.



There are no requirements for information on benefit sharing in the preparation of land investment plans. The majority of contractual arrangements do not include information on benefit sharing. Investors have two ways of obtaining land. They can acquire land directly from the state, for instance via the Zambia Development Agency or negotiate with local chiefs for customary land, which is converted to leasehold before a lease can be obtained (Lands Act, 1995). Ideally, local communities who are the rights holders of customary land are supposed to be represented or consulted but increasing reports give evidence of chiefs not consulting their communities (Nolte, 2014; (Oakland Institute, 2011)).

### 3.5.4 Public, easily accessible, monitored and enforced contracts

LGI	Dimension description	Score					Score
		A	B	C	D	N	
5.4.1	Information on spatial extent and duration of approved concessions is publicly available.			1			Spatial information and temporal information is available to relevant government institutions but not accessible on a routine basis by private parties
5.4.2	Compliance with safeguards on concessions is monitored and enforced effectively and consistently.			1			There is little third-party monitoring of investors' compliance with safeguards and mechanisms to quickly and effectively ensure adherence are difficult to access for affected communities
5.4.3	Avenues to deal with non-compliance exist and obtain timely and fair decisions.			1			There is little third-party monitoring of investors' compliance with contractual provisions and mechanisms to quickly and effectively reach arbitration are difficult to access for affected communities but work for investors

Spatial information and temporal information is available to relevant government institutions but not accessible on a routine basis by private parties. The Environmental Management Act provides for public review of EIA documents, and for collection of public comments and concerns relating to the environment. Project developers are also obliged to seek the views of those to be affected by the project and describe the socio-economic impacts such as resettlement when preparing an EIA. Reports however suggest that despite this legislative and institutional framework, the system on the ground is quite different and marked by a lack of meaningful consultation, no transparency around EIA processes, and little in the way of protection for small-scale farmers and traditional land users (Oakland Institute, 2011). There is no provision for post project implementation involvement of private parties, including the affected communities. Results of environmental audits are only provided to ZEMA and not to the public. Consultations with affected communities are provided for under the EIA regulations and happens prior to implementation of proposed projects. There are no mechanisms for affected communities for formally accessing projects after project implementation.

There is little third-party monitoring of investors' compliance with safeguards and mechanisms to quickly and effectively ensure adherence are difficult to access for affected communities. There is very little third-party monitoring of compliance with safeguards by both investors and the state. ZEMA has limited capacity to effectively monitor all large scale land investments regularly.

There is little third-party monitoring of investors' compliance with contractual provisions and mechanisms to quickly and effectively reach arbitration are difficult to access for affected communities but work for investors. Third party monitoring is weak and infrequent. A few non-government organizations such as The Zambia Land Alliance have been consistent in lobbying and advocacy and dissemination on information on all land matters in Zambia. Spatial and temporal information may be available to relevant government institutions but is not made available routinely to interested third parties upon request. It is difficult to access information on concessions/leased land in protected areas, even though these are on public lands. Most public institutions demand introductory letters from renowned institutions and its intended use before they can release information to a member of the public.

### 3.5.5 Recommendations for Transparent process and Economic Benefit of Transfer of Public Land to Private Use

Deficiencies in the transparency involving acquisition of public land for private purposes and the lack of beneficiation when land is acquired led to the following recommendations

No.	Policy issue	Proposed action
1	Lack of information on the scale of land investments involving transfer of public land to private use in Zambia	<ul style="list-style-type: none"> <li>• Synchronization of the local authorities with the Ministry of Lands, Natural Resources and Environmental Protection (MLNREP) in the publication of dealings on public land.</li> <li>• Have a system audit to identify illegal dealings so that land dealings can become transparent</li> </ul>
2	Lack of access to land by women and youths	<ul style="list-style-type: none"> <li>• Enforce the gender policy in terms of allocating 30% of all public land leased for private use to women .</li> </ul>
3	Investors negotiating with traditional leaders for large tracts of land with little community involvement and no involvement of ZDA	<ul style="list-style-type: none"> <li>• have a policy on identification, assessment of land for investment in different sectors of development</li> <li>• have Policy on implementation and monitoring</li> <li>• have a comprehensive Integrated Land Use plan for the whole country, probably</li> <li>• harmonize policies (ad-hoc) that deal with investment (land identification, assessment, monitoring)</li> </ul>
4	The majority of contractual arrangements do not include benefit sharing	Conversions of customary to leasehold tenure must make explicit provisions for community consultations and consent, not just the chiefs' consent.
5	Lack of access to spatial and temporal information on concessions/leases involving public lands by private parties.	<ul style="list-style-type: none"> <li>• Adoption of the access to information bill (Act) to formalize access to public information by the public</li> <li>• Develop mechanisms for post project implementation provision of information to affected communities and the public in general</li> </ul>

## 3.6 Public Provision of Land Information: registry and cadastre

### 3.6.1 Mechanisms for recognition of rights

LGI	Dimension description	Score					Score
		A	B	C	D	N	
6.1.1	Land possession by the poor can be formalized in line with local norms in an efficient and transparent process.		1				There is a clear, practical process for the formal recognition of possession but this process is not implemented effectively, consistently or transparently
6.1.2 a	Non-documentary evidence is effectively used to help establish rights (Customary).	1					Non-documentary forms of evidence allow full recognition of claims to property when other forms of evidence are not available
6.1.2 b	Non-documentary evidence is effectively used to help establish rights (statutory)				1		Non-documentary forms of evidence are almost never used to obtain recognition of claims to property
6.1.3	Long-term unchallenged possession is formally recognized.				1		Legislation to formally recognize long-term, unchallenged possession does not exist
6.1.4	First-time recording of rights on demand includes proper safeguards and access is not restricted by high fees.				1		On-demand recording of rights does not include proper safeguards to prevent abuse or costs exceed 5% of the property value

The use of non-documentary evidence<sup>11</sup> is effectively used to help establish rights only in case of customary land which is not already recorded. The rights are recognized by use or land improvement such as growing of trees and construction of dwelling structures and are accepted in local courts. For already registered land on either customary or state land, the evidence is ignored. Recorded rights take precedence over un-recorded rights (Lands and Deeds Registry Act, Cap 185).

If the poor possess land legally in either customary land or state land, the law (Lands Act Cap 184) does not discriminate between rich or poor. The problem for the poor in customary areas may arise when it comes to fees (survey fees, registration fees, rates and ground rent) connected to conversion of tenure to leasehold and its maintenance. If land possession by the poor is illegal (squatting), it is not recognised by any law. However, long term illegal possession is sometimes politically recognized and formalized. One would find local Members of Parliament being petitioned by illegal settlers or squatters so that they help them formalise or maintain their status. The end result would be to compel by force or request the legal owner to sub-divide and surrender the occupied land or seek alternative land. The formalization in line with local norms can be said to fall short of being effective, consistent or transparent.

Adverse possession is never recognized and there is no legislation to formalize long-term unchallenged possession. The Lands Act outlaws illegal possession (squatting) whether unchallenged or not. However, under the Housing (Statutory and Improvement Areas) Act, there is a provision to formalize illegal settlements, which (UN-HABITAT, 2012) has described as one of the most innovative laws on formalizing tenure in informal settlements. In addition, public land that has been encroached may be degazetted due to public pressure, then planned and allocated to settlers. For instance, between 2004 and 2015 a total of 210,061 hectares of the forest estate was planned to be given out against the gazettion proposal of only 8,484 hectares (Forestry Department, 2015).

On-demand recording of rights does include proper safeguards to prevent abuse but costs exceed 5% of the property value. If we take a 30m x 40m plot translating to 1,200 sq. m. and costing K60,000 in Lusaka’s Chalala area, the cost for cadastral surveying would be about K3,500 and land administration fees (acceptance, consideration fees, ground rent, etc) would be about K2,500 (Oct. 2015). If this is a direct offer by the MLNREP, the total fees would be somewhere around K6,000 representing a 10% cost. If on the other hand it’s a sub-division, one has to add legal fees for assignment and property tax now at 5%. This would certainly bring the total cost to over 15%. If in Kabwe, the same piece of land would cost about half, i.e. K30,000 and cadastral fees would be about half as well giving the same percentage cost, thus confirming that costs are a lot higher than 5%. For a transfer, the fees will include consent, legal, and administration fees and property tax.

### 3.6.2 Completeness of the land registry

LGI	Dimension description	Score					Score
		A	B	C	D	N	
6.2.1	Total cost of recording a property transfer is low.				1		The total cost for recording a property transfer is equal to or greater than 5% of the property value
6.2.2	Information held in records is linked to maps that reflect current reality.	1					More than 90% of records for privately held land recorded in the registry are readily identifiable in maps (spatial records)
6.2.3	All relevant private encumbrances are recorded.	1					Relevant private encumbrances are recorded consistently and in a reliable fashion and can be verified at low cost by any interested party

<sup>11</sup> Subsection 1 of Section 9 of the Lands Act (1995) states that a person shall not without lawful authority occupy or continue to occupy vacant land.

LGI	Dimension description	Score					Score
		A	B	C	D	N	
6.2.4	All relevant public restrictions or charges are recorded.	1					Relevant public restrictions or charges are recorded consistently and in a reliable fashion and can be verified at a low cost by any interested party
6.2.5	There is a timely response to requests for accessing registry records.	1					Copies or extracts of documents recording rights in property can generally be obtained within 1 day of request
6.2.6	The registry is searchable.	1					The records in the registry can be searched by both right holder name and parcel
6.2.7	Land information records are easily accessed.	1					Copies or extracts of documents recording rights in property can be obtained by anyone who pays the necessary formal fee, if any

The same computation as above can be advanced here and the property transfer would be greater than 5% as the Zambia Revenue Authority will already get 5% (October 2015) of property value before we even consider administrative and legal fees.

More than 90% of records for privately held land recorded in the registry are readily identifiable in maps (spatial records). All registration of land requires a survey diagram or sketch plan. Through the new information system (ZILMIS), the records are linked to corresponding survey diagrams or sketch plans for 99 or 14 year leases respectively. The recording of land on the basis of a sketch has been discontinued. ZILMIS system (launched January 2013) has the following features among others: (<http://www.ministryoflands.gov.zm/>):

- A GIS (Geographic Information System) integrated module which enables linkage between the Geographical (Cadastral) land boundaries and its ownership information;
- Supports the processing and issuance of new leases and title deeds including subsequent transactions such as assignments and mortgages;
- Enables easy storage and retrieval of land ownership data in a secure manner;
- Through the Electronic Document Management (EDM) component can to store the archived physical documents.

Relevant private encumbrances are recorded consistently and in a reliable fashion and can be verified at low cost by any interested party. Caveats, mortgages, sub leases, trusts, restrictive covenants, are all registered in the cadastre/register. The Service Charter<sup>12</sup> provides a sample of documents needed for recording rights in property, types of transactions and fees and time frames to services provided.

Relevant public restrictions or charges are recorded consistently and in a reliable fashion and can be verified at a low cost by any interested party. The main public restrictions include land use zone, mineral rights, building permits, and public health restrictions.

The cadastre/register at MLNREP is searchable by both right holder name and parcel and this is made easier by installation of ZILMIS. Even in the old system, one could still search by parcel or name. Registers at local authorities are hardly searchable as most of them are manual and therefore difficult to conduct meaningful searches. On payment of search fees, anyone can get a printout, softcopy, or view search results from a computer screen. The fees are stipulated in the Service Charter.

<sup>12</sup> The Service Charter can be accessed from <http://www.ministryoflands.gov.zm/index.php/services-and-fees>

### 3.6.3 Reliability of registry information

LGI	Dimension description	Score					Score
		A	B	C	D	N	
6.3.1	Information in public registries is synchronized to ensure integrity of rights and reduce transaction cost.				1		Few or none of the relevant links exist
6.3.2a	Registry information is up-to-date and reflects ground reality (Agricultural).				1		Less than 50% of the ownership information in the registry/cadaster is up-to-date and reflects ground reality
6.3.2b	Registry information is up-to-date and reflects ground reality (Non-Agricultural).				1		Less than 50% of the ownership information in the registry/cadaster is up-to-date and reflects ground reality

Registries at the local governments are not linked or synchronized with those at the MLNREP, although they maybe over the same property. Local authority registries are in analogue form and data storage is a big problem. For both agricultural and non-agricultural land, less than 50% of the ownership information in the register/cadastre is up-to-date and reflects ground reality. According to official records, there are only about 142,000 registered titles, but surveyed land is well over this number probably 10 times more. Thus the Lands Registry is so to speak incomplete.

### 3.6.4 Cost-effectiveness and sustainability

LGI	Dimension description	Score					Score
		A	B	C	D	N	
6.4.1	The registry is financially sustainable through fee collection to finance its operations.			1			The total fees collected by the registry are between 50% and 90% of the total registry operating costs
6.4.2	Investment in land administration is sufficient to cope with demand for high quality services.			1			Human resources and physical capital investment are sufficient to maintain medium service standards but does not allow to proactively adapt to new developments

The registry charges almost cost reflective fees in form of consideration and registration fees and ground rent. However, this money is not retained by the registry as it is channelled to the National Treasury's Control 99. A lot of fees have been adjusted to be cost-reflective. Earnings by the registry are enough to pay for operational costs. However, non-retention of the fees collected makes the registry non-sustainable. This can be seen in the Annual Report of 2013, 2014 and 2015.

There is a general out cry of inadequate and untimely funding by all the Departments in the Ministry (MLNREP, 2014). However, this is not to say that "There is little or no investment in capital in the system to record rights in land". ZILMIS and the land audit programmes provide examples of significant investment in the land sector.

### 3.6.5 Transparency of determination of fees for service provision

LGI	Dimension description	Score					Score
		A	B	C	D	N	
6.5.1	Fees have a clear rationale, their schedule is public, and all payments are accounted for.	1					A clear rationale and schedule of fees for different services is publicly accessible and receipts are issued for all transactions
6.5.2	Informal payments are discouraged.		1				Mechanisms to detect and deal with illegal staff behavior exist in all registry offices but cases are not systematically or promptly dealt with
6.5.3	Service standards are published and regularly monitored.		1				There are published service standards, but the registry does not actively monitor its performance against these standards.

The schedule of fees is there and it can easily be seen in the Customer Service Centre and on the Ministry’s web site (<http://www.ministryoflands.gov.zm/index.php/services-and-fees>). Fees are worked out based on fee units which are determined and published by the Central Statistical Office. This is the general approach for public related fees (The Fees and Fines Act, Cap 45). Revised fee schedules are published in a Statutory Instrument e.g. SI No.41 of July 2015 which raised the fee unit from K0.20 to K0.30.

Informal payments are discouraged though from time to time some unsuspecting customers are exposed to manipulation. However, in terms of large layout plans for plot offers, an Integrity Committee comprising of various stakeholders is constituted to monitor offers when interviews are conducted. It is difficult to systematically deal with informal payments as most of these happen in some “dark” corners.

There is a Service Charter on the Ministry’s Web-site and service standards are set out although they are not fully adhered to or implemented. The Service Charter is quite clear but the actual delivery of services does not conform to reality. An example would be the lodgement and approval of survey records which is within 5 -21 days. This rarely is the case. Some jobs take longer owing to the absence of a first-in, first out protocol. In Annual reports nothing is ever mentioned on the set standards.

### 3.6.6 Recommendation for public provision of land information

The general reliability of registry data is one that has been cited as problematic in ensuring that information is provided to the general public. The following recommendations address some of the challenges in this section.

Issue	Policy Recommendation
1. Non-documentary forms of evidence are almost never used to obtain recognition of claims to property in statutory areas.	Introduce prescription law
2. Costs of recording and transferring rights exceed 5% of total property value	Review costs to make them pro-poor and introduce mechanisms to limit the number of properties one can have per land use (residential, commercial and farmland) to ensure equity e.g. high taxation for more land properties, giving preference to people who do not have
3. Less than 50% of the ownership information in the registry/cadaster is up-to-date and reflects ground reality	Improve capacity to collect information and link different land registries
4. There are published service standards, but the registry does not actively monitor its performance against these standards.	Improve self-reporting mechanisms and standardize reports to include monitoring and evaluation

### 3.7 Transparency in Land Valuation and Tax Collection Efficiency

The rating system in Zambia is a municipal tax on property owners and is sometimes referred to as ‘owners’ rates’. The current form of land valuation and taxation was first introduced by the Rating Act Cap 192 (No. 33 of 1976) which removed the valuation of land following the land reforms of 1977 and established the Rating Valuation Tribunal. This was repealed in 1997 by the Rating Act No. 12 which brought back assessment of land in line with the Land Act of 1995; and made the Valuation Rolls more

accessible to public scrutiny and objection. This was subsequently amended by the Rating (Amendment) Act No. 9 of 1999 to give the Government Valuation Department (GVD) the overall responsibility of preparing valuation Rolls; broaden the tax base by bringing in common leasehold units; and plant and machinery; restricting exemptions to public use and agriculture; and removing commercial/business properties located in customary areas from the customary land exemption; and extending jurisdiction of the tribunal to approving the proposed rate levy.

The rating law is administered by the Ministry of Local Government and Housing; advised by the Government Valuation Department (GVD). GVD is responsible for preparing the National Rating Programme (NRP) including undertaking valuations for all rating authorities in the country. Assessment of properties for rates is restricted to valuation surveyors certified or registered by the Valuation Surveyors Registration Board (VSRB). According to the 2014 VSRB register there are 61 registered valuation surveyors 50 of whom are in the private sector while 11 are in public service. Where valuation work is to be outsourced to a surveyor in private sector, because GVD is unable to undertake the work, public procurement procedures by the Zambia Public Procurement Authority (ZPPA) should be followed. The valuation roll once completed is submitted to the Rating Valuation Tribunal (RVT) for scrutiny, hearing of objections and approval at a public hearing.

### 3.7.1 Transparency in the Valuation process

LGI	Dimension description	Score					Score
		A	B	C	D	N	
7.1.1	There is a clear process of property valuation.			1			The assessment of land/property for tax or compensation purposes has some relationship to market prices, but there are 50-75% differences between recorded values and market prices across different uses or types of users and valuation rolls are not updated
7.1.2	Valuation rolls are publicly accessible.	1					There is a policy that valuation rolls be publicly accessible and this policy is effective for all properties that are considered for taxation

Revenue raising through transparent and clear processes can be key to unlocking the funds required for development-taxes on land can provide that source if funds at the local level. This requires that valuation rolls are publicly accessible so that property owners do not feel that the tax being paid is arbitrary.

#### Process of property valuation

The assessment of land/property for tax or compensation purposes has some relationship to market prices, but there are 50-75% differences between recorded values and market prices across different uses or types of users and valuation rolls are not updated.

All updates are recorded as at the date of the main roll. There is a time lag between the date of appointment of the Valuation Surveyor and the time the roll is inspected, assessed and delivered. This is anything between six (6) months and two (2) years depending on the size of the roll or Council. On average, property prices/values rise at about 15 -20% per annum. This would give a differential in recorded and market values of over 50% for large Councils.

#### Public access to Valuation rolls

There is a policy that valuation rolls be publicly accessible and this policy is effective for all properties that are considered for taxation.

Valuation rolls are publicly accessible and their availability is widely publicised by site notices, bill boards, gazette notices and newspaper advertisement. Council offices make the Rolls open for inspection for at least four (4) weeks prior to submission to a public hearing of the Rating Valuation



Tribunal (RVT). The Tribunal strictly ensures that all publication procedures have been complied with before even considering hearing objections.

### 3.7.2 Land and property tax collection efficiency

LGI	Dimension description	Score					Score
		A	B	C	D	N	
7.2.1	Exemptions from property taxes payment are justified and transparent.		1				There are limited exemptions to the payment of land/property taxes, and the exemptions that exist are clearly based on equity or efficiency grounds but are not applied in a transparent and consistent manner
7.2.2	All property holders liable to pay property tax are listed on the tax roll.		1				Between 70% and 80% of property holders liable for land/property tax are listed on the tax roll
7.2.3	Assessed property taxes are collected.		1				Between 70% and 80% of assessed land/ property taxes are collected
7.2.4	Receipts from property tax exceed the cost of collection.		1				The amount of property taxes collected is between 3 and 5 times the cost of staff in charge of collection

#### Justification and transparency of exemptions from property taxes

There are limited exemptions to the payment of land/property taxes, and the exemptions that exist are clearly based on equity or efficiency grounds but are not applied in a transparent and consistent manner.

Exemptions from rating are justified based on the public good and are publicised in the exempting statutes and statutory regulation. Statutory Instrument No. 37 of 2005 as amended by SI 112 of 2009 gives particular exemption to named properties mainly schools run by churches, NGOs and other charities. Over 100 properties have been exempted throughout the country under the following categories: colleges, schools, hospitals, orphanages, skills training centres and homes for the aged. Rating Valuation Tribunal (RVT) response to objections based on rate relief is often directed to applying to Councils. Application for relief must be disposed of within sixty days or it is deemed to have been granted. Reliefs made by rating authorities are not made under any guidance and are not publicized.

Most objectors at RVT sittings are retirees and the Tribunal has no jurisdiction to grant or order reliefs to the aged. Reliefs granted by rating authorities may not be referred to full council because of time constraint; and replies to applications for relief are not made public, therefore, the process is not transparent.

#### Listing of property holders on the tax roll

Between 70% and 80% of property holders liable for land/property tax are listed on the tax roll.

Over eighty percent (80%) of property holders liable to pay owners rates are listed on the Valuation roll because the process of preparation of a Roll starts with a Lands & Deeds registry Land Roll; and all properties on the land Roll, whether exempt or not, are listed in the valuation roll. At the time of compilation the valuation roll may be over 90% complete but this reduces over the time of the valuation exercise and over the life span of the roll as new properties are surveyed and titled. Other land taxes do not have this presumption of listing all properties and the circumstances for listing, i.e. leasing or sale, are not permanent.

#### Collection of assessed property taxes

Between 70% and 80% of assessed land/ property taxes are collected. For instance in one of the major cities of Zambia the valuation roll revealed the following total rateable values of different properties as shown in Table 9. The values are in ZMW as of the time of valuation.



Table 9: Summary Valuation roll-Kitwe 2008

Category	Number of entries	Land values	Improvements	Total rateable values
Residential	41,302	138,155,431.00	2,763,962,547.40	2,902,117,978.40
Commercial	1,548	119,291,517.00	1,286,235,107.12	1,405,526,625.12
Industrial	119	8,398,150.00	36,277,715.00	44,675,865.00
GRZ	92	19,992,924.00	255,363,197.00	275,356,121.00
Mining	02	13,000,000.00	393,000,000.00	406,000,000
Others	395	4,173,069.00	7,322,958.00	11,496,027.00

Source: Government Valuation Department

(GTZ, 2006) (Table 5.3 p10) found that amount of assessed land/property taxes collected vary widely between councils with default rate being higher in larger councils. For instance, in 2005 collection efficiency was 39% for Lusaka City Council compared with 90% for Petauke District Council and 79% national (survey sample) average. There is sufficient legal provision for rating authorities to collect 100% rates, however institutional capacity in larger councils, including manning levels, staff training and logistical support, is not matched with task of dealing with large tax roll.

#### Receipts and costs of property tax

The amount of property taxes collected is between 3 and 5 times the cost of staff in charge of collection. Institutional capacity in smaller councils, including manning levels, staff training and logistical support, is still a challenge in order to improve revenue collection.

No.	Issue	Policy Recommendation
1	One weakness noted is that the process of valuation takes long resulting a differential between the market value and the recorded value	There is need therefore to update valuation rolls on an annual basis.
2	A major complaint at the RVT is often from retirees and the aged regarding exemptions from paying rates.	It is proposed that a Statutory Instruments be issued to extend relief to dwellings owned and occupied by persons over the age of 65
3	Access to data from Land and deeds registry is limited and limits the number of properties that ought to be on the valuation roll	To improve the capture and valuation of property it is recommended that a link be created between the physical data (cadastral survey) and the legal data(Ownership Registry)

## 3.8 Dispute Resolution

### 3.8.1 Dispute resolution and conflict management

LGI	Dimension description	Score					Score
		A	B	C	D	N	
8.1.1	There is clear assignment of responsibility for conflict resolution.		1				There are parallel avenues for dispute resolution but cases cannot be pursued in parallel through different channels and evidence and rulings may be shared between institutions so as to minimize the scope for forum shopping
8.1.2	Conflict resolution mechanisms are accessible to the public.		1				Institutions for providing a first instance of conflict resolution are accessible at the local level in less than half of communities but where these are not available informal institutions perform this function in a way that is locally recognized
8.1.3	Mutually accepted agreements reached through informal dispute resolution systems are encouraged.		1				There is a local, informal dispute resolution system that resolves a significant number of conflicts in an effective and equitable manner but which is not recognized in the formal judicial or administrative dispute resolution system
8.1.4	There is an accessible, affordable and timely process for appealing disputed rulings.			1			A process exists to appeal rulings on land cases at high cost and the process takes a long time/ the costs are low but the process takes a long time

This panel focused on one of the main themes in the LGAF process; i.e. Dispute resolution and conflict management. The objective was to assess whether the land governance structures have proper dispute resolution. From governance point of view it is important there exists institutions for dispute resolution and that these are handled in a timely and transparent manner.

In Zambia, land dispute resolution is commonly reached through the judicial system via litigation, which is initiated through a lawsuit against another. The Constitution poses an obligation to promote values enshrined in it when resolving disputes at all levels. The performance of the land dispute resolution bodies and structures require constant assessment to capture and analyse the challenges, gaps and shortcomings of the system and the barriers that individuals face in accessing justice.

#### Assignment of responsibility for conflict resolution

There are parallel avenues for dispute resolution but cases cannot be pursued in parallel through different channels and evidence and rulings may be shared between institutions to minimize the scope for forum shopping.

Legislation existed which recognized the judicial court system as a platform for conflict resolution as well as the Chiefs Act as one which enables Traditional leaders to resolve conflicts in traditional areas. While the Law recognizes these parallel systems the Expert felt that the public was not able to easily access these institutions due to cost and lack of information.

There are parallel avenues that exist alongside the judicial resolution channel through the courts of law, i.e. the Lands Tribunal, Traditional Courts and Alternative Dispute Resolution were disputes are settled outside court. These forums aside from the traditional courts are regulated by pieces of legislation under which they are established and they provide rules that bind them. These rules further bring to light the processes and procedures of appeals from one Court to another as such Courts of law are bound to share rulings and other court documents during appeals and create responsibilities for both channels that are clear in resolving disputes. The Ministry of Lands, Natural Resources and Environmental Protection also provide spaces to resolve land related disputes. Responsibilities of the mentioned channels of dispute resolution are not widely known by members of the public. Neither, are they acquainted with the processes and procedures on how to bring their disputes before any of the forums.

### **Public accessibility of conflict resolution mechanisms**

Institutions for providing a first instance of conflict resolution are accessible at the local level in less than half of communities but where these are not available informal institutions perform this function in a way that is locally recognized.

There are 505 Local Courts situated in all the 10 provinces of Zambia. Under the Zambian Justice system, Local Courts are at the lowest in recognition. However, they remain unlimited to reach the rural communities that live in far off areas from where they are situated. One of the challenges rural communities face hinges on transportation to and from the Local Courts plus legal costs that may be required. In turn, they resort to accessing traditional courts or other alternative ways of resolving disputes that are very affordable and convenient. Civil Society Organizations such as Zambia Land Alliance, National Legal Aid Clinic for Women and the Legal Resources Foundation, have established paralegal desks /centres in urban/peri urban and rural communities to help promote access to justice for the poor. These institutions provide legal and paralegal services on land disputes. However, their ability to provide legal and paralegal services to all the communities in Zambia is limited due to various barriers such as human resource and financial support. Community members also lack information on their ability to fight for property and land rights; this is evidenced in many cases that have been taken up by the above-mentioned civil society institutions.

### **Encouragement of mutually accepted agreements through informal dispute resolution systems**

There is a local, informal dispute resolution system that resolves a significant number of conflicts in an effective and equitable manner but which is not recognized in the formal judicial or administrative dispute resolution system. There are informal dispute resolution systems that resolve conflicts at local level throughout the country which are culturally acceptable, effective, as well as financially and geographically accessible by the rural poor. These are referred to as traditional courts or Chiefs councils in certain localities. Traditional courts are interpreted to be recognized by the Local Courts Act; however, they are not considered as part of the formal/ official judicial dispute resolution system, although formal dispute forums have in practice accepted rulings of the informal forums as evidence when brought before the courts. The work of paralegals is also informal; however, they play a key role in ensuring that local community members access justice. They provide paralegal advice and resolve disputes in communities by bringing community members together through negotiating interests of both parties in the dispute with an aim of reaching a resolution. They are also mediators in the various communities they work in and significant numbers of disputes are resolved at these levels. Some of these disputes are related to land and property.

### **Process for appealing disputed rulings**

A process exists to appeal rulings on land cases at high cost and the process takes a long time/ the costs are low but the process takes a long time. A system is in place to appeal rulings on land cases in the judicial system. For example, if one is unhappy with the decision of the local courts, he/she can appeal to the Magistrates court, the High Court and finally the Supreme Court. An individual or groups of individuals can also bring cases before the Lands Tribunal which is equated to the High Court. If one wishes to appeal a judgment delivered by the Lands Tribunal he/ she can appeal to the Supreme Court.

The process of land disputes being resolved by the Judicial Courts take long at all levels and end up frustrating parties who bring their disputes before them. The costs that need to be met are equally high and as such, most people cannot afford the fees of engaging a lawyer or the administrative costs attached to filing court documents for appeal. The process of appeal is also not friendly to members of the public who have little/no-legal knowledge. However, Alternative Dispute Resolution exists alongside the judicial system. Its aim is to ensure that disputes are resolved in a timely, informal and cost effective manner through arbitration, mediation and negotiation.

## **3.8.2 The share of land affected by pending conflicts**

LGI	Dimension description	Score					Score
		A	B	C	D	N	
8.2.1	Land disputes constitute a small proportion of cases in the formal legal system.				1		Land disputes in the formal court system are more than 50% of the total court cases
8.2.2	Conflicts in the formal system are resolved in a timely manner.				1		A decision in a land-related conflict is reached in the first instance court within 2 year or more for 90% of cases
8.2.3	There are few long-standing (> 5 years) land conflicts.					1	

### Proportion of Land disputes cases in the formal legal system

Land disputes in the formal court system are more than 50% of the total court cases. Zambia has experienced a wave of illegal land allocations to both foreigners and locals either for investment in agriculture, mining, urban development or other private use reasons countrywide. Thereby giving rise to a number of land disputes especially in rural and peri –urban communities. This is evidenced by the work of Zambia Land Alliance on its project titled Evidence Based Advocacy Around Large Scale Land Acquisitions.

### Timeliness of resolving conflicts in the formal system

It is to be noted that there is insufficient data to conclusively assess the time it takes in resolving land conflicts. This requires further study but generally it was felt that given the court processes it would be closer to the truth to indicate that a decision in a land-related conflict is reached in the first instance court within 2 year or more for 90% of cases. Conflicts in the formal system are usually not resolved in a timely manner as courts are overburdened with high numbers of cases and ineffective and unfriendly processes and procedures of bringing about disputes before the courts, of which most cases take long to finally reach a ruling.

### Number of long-standing (> 5 years) land conflicts

It is difficult to assess the number of long-standing land conflicts. It has to be acknowledged, however, that such cases do exist but what is required is to carry out baseline studies to ascertain the level of such cases. For this reason it was felt that the share of long-standing land conflicts is greater than 20% of the total pending land dispute court cases.

## 3.8.3 Recommendations for dispute resolution mechanisms

The recommendations regarding dispute resolutions are summarised below

Issue	Short term Policy	Medium Term Policy	Long Term Policy
Insufficient Local Courts across the country	Commence the process of looking into access to justice by local communities.	Provide Mobile Local Court services to communities that cannot access the current structures.	Build Local Court structures situated in accessible areas
Local Court Justices Require frequent trainings	Identify needs of local courts justices	Build Capacity of local court justices through trainings and develop frequent training manuals on different themes.	
To ensure quality in dispute resolution by Local Court Justices there is need to provide	Identify the challenges local courts face in dispute resolution	Develop guidelines on the importance of quality dispute	

guidelines on how many cases a Local Court can handle at a time.		resolution by local courts	
High Costs Promote the use of non-advocates but trained lawyers	Encourage lawyers to take up land related cases on <i>pro bono</i>	Assign lawyers <i>pro bono</i> cases	Monitor the resolution of these cases.
Case overloads	Employ more personnel to handle case work  Enhance documentation of court records		Regulate number of cases a particular court can handle and find other alternatives of ensuring the demand of dispute resolution is met.
Dispute resolution system is too formal  Decentralization of judicial system	Develop friendly materials that are easy to understand by the people accessing the courts	Create awareness on the court system and how to initiate proceedings.	
Unfriendly Procedures	Conduct a baseline study	Develop Court friendly materials and sensitize the public	Monitor the use of the materials and information

## 3.9 Review of Institutional Arrangements and Policies

### 3.9.1 Clarity of mandates and practices

LGI	Dimension description	Score					Score
		A	B	C	D	N	
9.1.1	Land policy formulation, implementation and arbitration are separated to avoid conflict of interest.			1			In situations that can entail conflicts of interest or are sensitive to abuse (e.g. transfers of land rights) there is some separation in the roles of policy formulation, but not between implementation and arbitration
9.1.2	Responsibilities of the ministries and agencies dealing with land do not overlap (horizontal overlap).			1			The mandated responsibilities of the various authorities dealing with land administration issues are defined but institutional overlap with those of other land sector agencies and inconsistency is a problem
9.1.3	Administrative (vertical) overlap is avoided.			1			Division of land-related responsibilities between the different levels of administration and government is characterized by large overlaps
9.1.4	Land right and use information is shared by public bodies; key parts are regularly reported on and publicly accessible.		1				Information related to rights in land is available to interested institutions and although this information is available at reasonable cost, it is not readily accessible as the information is not maintained in a uniform way
9.1.5	Overlaps of rights (based on tenure typology) are minimal and do not cause friction or dispute.				1		The Legal framework and procedures for land-related matters (including renewable and subsoil resources) deal with land-related matters very differently and effective mechanisms for addressing overlap are not in place
9.1.6	Ambiguity in institutional mandates (based on institutional map) does not cause problems.				1		Different public institutions deal with land-related matters very differently and effective mechanisms for coordination are not in place

#### Conflicts of interest among public institutions

There is some separation in the roles of Land policy (implied from statutes) formulation, but not between implementation and arbitration.

The role of the Ministry of Lands Natural Resources and Environment Protection (MLNREP) should mainly be in the area of policy guidance, but is involved in land surveying and hence competing with private surveyors. Similarly, the MLNREP is also involved with the Lands Tribunal in dispute resolution through its mandate to appoint the Registrar. This clearly presents a potential and/or real conflict of interest in cases where the Ministry is involved as a litigant in land disputes.

Another example of potential conflict of interest arises from how the Land Act is framed. The Lands Act, Cap 184 vests all land in Zambia absolutely in the President who holds it in perpetuity for and on behalf of the people of Zambia. The President is empowered to grant or alienate land vested in him in State land to any Zambian and non- Zambians of certain categories subject to the conditions outlined under the Lands Act. All land in Zambia is required to be administered and controlled by the President for the use or common benefit, directly or indirectly of the people of Zambia (GRZ, 1995a). Some of the stakeholders feel that placing all land including customary land, in the care of the Republican President gives too much power to one office and makes it difficult to distribute land equally (ZLA, 2005). The great powers vested in the President in matters of land alienation have the potential to lead to conflicts of interest or are sensitive to abuse in cases of implementation and arbitration. For instance, in a land dispute between rural communities and leaseholders or investors, the President can rule in favour of investors at the expense of the local people who may end up being evicted from their customary land.

When you deal again with customary land, the Chief<sup>13</sup> is the administrator and when it comes to land conflict arbitration, he is also the arbitrator, which encourages biasness or lacks independence of judgement.

### **Co-ordination and co-operation among public institutions**

The mandated responsibilities of the various authorities dealing with land administration issues are defined but the institutions responsible for implementing these various functions of land administration are many and there is inadequate co-ordination among them. Institutions operate within their statutory framework, and often without much co-ordination and co-operation and often with overlapping powers, functions, and jurisdiction.

For example, the Commissioner of Lands relies on surveys by Department for surveying and mapping. Some decisions on subdivisions come from the Ministry of Local Government and Housing (through local authorities). Land use planning appraisals are made by the land use planning section of the Ministry of Agriculture. It is therefore asking too much to expect the various ministries to make expeditious decisions in a seamless fashion (Mulolwa, 2002); (Sichone, 2011).

Another example which relates to the function of physical planning is that the Department of Physical Planning, Provincial Planning Authorities, the Agricultural Land Use and Technical Services Unit in the Ministry of Agriculture and the Planning section in the Department of Resettlement in the Office of the Vice-President are all engaged in planning. This multiplicity of institutions involved in planning leads to overlaps and duplication of efforts.

### **Overlaps between different levels of government in land administration**

There is a clear division of land-related responsibilities between the different levels of administration and government but there are major overlaps which are experienced.

The overlaps involve interference by higher levels of government into the roles of the lower level institutions. The responsibility is actually with the local level institutions but the higher authorities may overrule the decisions of the former. For example, in addition to the Ministry of Lands, Natural Resources and Environmental Protection (MLNREP), other institutions that play a role in the process of land administration are local authorities. These institutions which include District, Municipal and City Councils have been given delegated authority to discharge land administration functions on behalf of the Commissioner of Lands. Local authorities fall under the Ministry of Local Government and Housing and not the MLNREP. This therefore makes it difficult for the MLNREP to supervise local authorities. Thus, in the event that local authorities commit a breach, there are no direct sanctions from the MLNREP. The sanctions can only be taken by the Minister for Local Government on behalf of the MLNREP under the circumstances. In practice, the MLNREP has been taking sanctions against local authorities when found at fault by suspending them from administering land or making recommendations to the Commissioner of Lands in their respective localities. This measure by the Minister of the MLNREP is however, not legally provided for under any statute, statutory instrument or regulation (Sichone, 2011); (Mwiche, 2013).

The other practical examples to show the vertical overlap in the execution of duties are:

- Survey Department - Head Quarters (HQ) under MLNREP carries out cadastral survey works and the same is done by Regional Survey office under MLNREP.
- Department of Forestry (HQ) under MLNREP executes the same roles or responsibilities as the Department of Forestry at District level.

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<sup>13</sup> There are 240 chiefs, 8 senior chiefs and 4 paramount chiefs countrywide.

Source:<http://www.focusonland.com/countries/protection-for-womens-rights-in-zambia/>

### **Land Information Management System**

The maintenance and accessibility of land rights information in Zambia faces serious financial and technical challenges. This has led to a poor or inadequate land information management system which fails to fully meet the needs of various users.

Even though the Ministry of Lands, Natural Resources and Environmental Protection (MLNREP) recently implemented a computerized land based information system called (Zambia Integrated Land Management and Information System (ZILMIS), the Ministry still remains dominantly centralized in Lusaka and still faces problems of poor record keeping and slow processing of title deeds (GRZ, 2014). The poor record keeping on land has made the information not to be maintained in a uniform way. It is fragmented, and do not seem to aid decision-making on land based issues. This information is available to interested institutions at reasonable cost but is likely to be incomplete and data is maintained in different formats, scales, accuracies, extents, is often damaged or missing (Sichone, 2011). It has been observed that limited and inadequate flow of information and the structural deficiencies has led to lack of transparency and accountability in the process of land administration.

### **Overlaps of Rights (based on tenure typology)**

There are some overlaps of rights (based on tenure typology) which occur mainly because the Legal framework and procedures for land-related matters deal with land-related matters very differently and effective mechanisms for addressing overlap are not in place.

There is no problem with overlapping rights on land because it is normal to have overlapping rights but the problem may be with the conflicting rights or when overlapping rights cause conflicts. For example rights on the forests and wildlife, there is a conflict because chiefs or traditional rulers are administering land (user) rights in the forests but not on the resources (trees and minerals), this is done by other government departments.

The other good example of such overlaps is the issue of resettlement schemes. Since most resettlement schemes are established in customary areas, the question of determining whether land under Resettlement schemes becomes State land, or remains customary land or becomes a hybrid category has been raised by some chiefs. Some chiefs strongly feel that the land under the resettlement schemes should remain under their jurisdiction as customary land. In practice, institutions such as Provincial Planning Authorities, and the Department of Resettlement in the Office of the Vice President believe that land under Resettlements is State land, while most chiefs contend that it is customary land. There are no effective mechanisms for addressing this overlap or conflict. The law is silent on how to resolve problems of land alienation where the interests of the chiefs and the Department of Resettlement are at variance (Sichone, 2011); (Mwiche, 2013).

Under the Lands Act Cap 188, Land does not convert from customary to State by virtue of having title to land but simply converts from customary tenure to leasehold tenure (public or private). The same is true for forests that are gazetted under Customary land holding, the land still remain customary except probably that the state has control over the resource (trees).

### **Ambiguities in the mandates of Public Institutions**

There are some ambiguities in the institutional mandates of institutions which deal with land-related matters very differently and effective mechanisms for coordination are not in place.

The administration of land in National Parks and Game Management Areas is regulated by the Zambia Wildlife Act. However, there is a problem of institutional coordination in the administration of land in Game Management Areas. This is largely caused by the fact that Game Management Areas are situated in customary areas and therefore, conflicts between local people, Chiefs and the Zambia Wildlife Authority often arise. Local authorities also face difficulties in the course of performing land



alienation functions in Game Management Areas, because the governing statutes clearly state that the management of Game Management Areas is a preserve of the Zambia Wildlife Authority.

The law is silent on how to resolve problems of land administration where the interests of the local people, the District Council, the chiefs and the Zambia Wildlife Authority are at variance. Very little progress is usually made in land alienation in some rural districts bordering Game Management Areas because of lack of clarity as to the jurisdiction and powers of chiefs, the local authority, and the Zambia Wildlife Authority. There are also uncertainties regarding the boundaries of State land, customary land and Game Management Areas in some districts.

Nevertheless, the Lands Act, and the Zambia Wildlife Act, requires that whenever land is being alienated and converted to leasehold tenure in Game Management Areas, the Director General of the Department of National Parks, Chiefs, and the local authorities concerned or the people who have occupied land in these areas should be consulted. This approach is legally sound but it has not addressed the problem where these various interests are in conflict, and which interest should prevail (Sichone, 2011).

### 3.9.2 Equity and non-discrimination in the decision-making process

LGI	Dimension description	Score					Score
		A	B	C	D	N	
9.2.1	Land policies and regulations are developed in a participatory manner involving all relevant stakeholders.			1			Policy exists or can be inferred by the existing legislation but it is incomplete (some key aspects are missing or only covers part of the country such as only urban or only rural areas) and decisions that affect some sections of the community are made without prior consultation
9.2.2	Land policies address equity and poverty reduction goals; progress towards these is publicly monitored.			1			Land policies incorporate some equity and poverty objectives but these are not regularly and meaningfully monitored
9.2.3	Land policies address ecological and environmental goals; progress towards these is publicly monitored.			1			Land policies incorporate some ecology and environmental sustainability objectives but these are not regularly and meaningfully monitored
9.2.4	The implementation of land policy is costed, matched with benefits and adequately resourced.			1			The implementation of land policy is not fully costed and/or to implement the policy there are serious inadequacies in at least one area of budget, resources or institutional capacity
9.2.5	There is regular and public reporting indicating progress in policy implementation.			1			Formal land institutions report on land policy implementation but in a way that does not allow meaningful tracking of progress across different areas or in a sporadic way
9.2.6	Land policies help to improve land use by low-income groups and those who experienced injustice.	1					Policy is in place to improve access to and productive use of assets by poor and marginalized groups, is applied in practice, but is not effective
9.2.7	Land policies proactively and effectively reduce future disaster risk.			1			Policy is in place to prevent settlement in high risks areas but which is not enforced

#### Development of Land Policies and Regulations

Efforts in the recent past have been made to develop land policies and regulations in a participatory manner involving stakeholders but the process has not been fully consultative because some of the relevant stakeholders like the poor and women have felt sidelined. Currently, there is no clear land policy other than a draft which has remained a draft for almost a decade without being sanctioned. Policy decisions are inferred from existing legislation.

The current land law (Lands Act of 1995) was enacted hurriedly under controversial circumstances without adequate consultations of stakeholders, particularly chiefs, smallholder farmers, civil society and ordinary citizens. The Lands Act of 1995 is based on liberalized market principles, which have led to stiff competition in accessing land. This Land Law offers very little to poor families, and benefits mainly rich and foreign entities. The law is weak in many respects including its lack of provision for

sufficient minimum guidelines on the administration of customary land. This, in addition to the unwritten nature of customary law or practices used to administer customary tenure, leaves room for manipulation and corruption (ZLA, 2005); (ZLA, 2008).

At the moment, Zambia has no clear land policy. The last draft policy was made available 2006. However, it still remains in draft and nothing has been agreed upon. Policy decisions are executed through the existing Lands Act of 1995, Statutory Instruments by the Minister of Lands and ad hoc pronouncements by the President. Efforts to have a national land policy since the 1990s have not been successful due to many contentious issues associated with liberalized market policies, which is the main thrust of the reforms. The process of formulating the land policy has also been taken over by events such as the National Constitutional reforms that have taken long to complete. The lack of a clear land policy makes land administration chaotic. The current land administration is characterized by lengthy procedures of land acquisition, bureaucracy and corruption in land allocation, political interference, and poor coordination of institutions responsible for various functions in land administration. This confusion makes it very difficult for poor families to access land, later on to seek legal justice in cases of land rights violations.

The law that governs the aspect of land administration in State land is contained in several statutes. Currently, there are not less than ten statutes that have a bearing, directly or indirectly, on the system of land administration in Zambia. This state of affairs in which there are many statutes dealing with land alienation is not desirable and makes the system inefficient and ineffective. For instance, in relation to agricultural land, the Lands Act, the Agricultural Lands Act and the Land Circular No. 1 of 1985, all make reference to the administration of agricultural land in Zambia. But even when one reads all these statutes, the procedure for acquiring this land is not clear. There is overlap in these pieces of legislation which creates uncertainty in the minds of the people and the institutions responsible for land alienation.

#### **Land Policies for Equity and Poverty Reduction.**

Land policies in Zambia have tried to address equity and poverty reduction goals but progress towards these is not regularly and meaningfully monitored by public institutions. Effective monitoring is usually hampered by financial and human resource constraints in the institutions.

Zambia's draft land policy makes an attempt to incorporate some equity and poverty objectives. The draft land policy acknowledges the growing importance of the market in land allocation and it hence recognizes that certain groups of citizens are sidelined in that process, because they do not have the financial resources or because they are disadvantaged in some other way. These groups include the poor, women and those households affected by HIV and AIDS. The Draft Land Policy stipulates that a provision of a minimum of 30 percent of the available land in Zambia should be set aside for women and other disadvantaged groups. However, there are no clear guidelines on how to allocate that 30 percent of the land. Further, the 30 percent allocation has been criticized as not being sufficient to meet the demands for land for women and other disadvantaged groups. Apart from the proposed land policy, there are other existing policies such as the Gender Policy which address equity and poverty reduction goals particularly targeting women who are generally disadvantaged in access to resources such as land.

The proposal, that 30 percent of the land be demarcated and allocated to women is difficult to monitor. Monitoring and Evaluation (M&E) systems under the various sectoral ministries including the MLNREP are generally weak due to serious financial and human resource constraints. The M&E systems are essentially non-functional and therefore do not meaningfully monitor the progress in the 30 percent land allocation to women in the country.

### 3.9.3 Recommendations for the review of institutional arrangements and policies

No.	Policy issue	Proposed action
1	Conflicts of interest among public institutions	<ul style="list-style-type: none"> <li>• Delinking or separation some of the policies or land laws to reduce conflicts of interest and possible abuse of authority by clearly addressing issues of separation in the roles of policy formulation, and those of implementation and arbitration among the public institutions.</li> </ul>
2	Poor or inadequate land information management system	<ul style="list-style-type: none"> <li>• Decentralize land management systems through support of district offices to serve the public</li> <li>• ZILMIS should be enhanced.</li> </ul>
3	Overlaps of rights (based on tenure typology)	<ul style="list-style-type: none"> <li>• Clearly define the status of land under resettlement by statutes in order to avoid possible disputes with regard to land tenure</li> </ul>
4	Ambiguities in the mandates of public institutions responsible for land	<ul style="list-style-type: none"> <li>• Clarify the roles and responsibilities amongst the institutions involved in the land</li> </ul>
5	Ineffective monitoring of land policies that address equity and poverty reduction goals	The Ministry of Finance (MoF) and line ministries such as the MLNREP should enhance their recent efforts to set up M&E systems through provision of adequate funding and building the capacity of
4	Inadequate financial resources disbursed to MLNREP	<ul style="list-style-type: none"> <li>• Funding to the sectors should consistently reflect the existing priorities and commitments in order to improve service delivery in critical sectors such as land, agriculture and the environment.</li> <li>• Efforts should be made to ensure timely allocation and disbursement of</li> </ul>
5	Limited access to the judicial system by low-income groups	<ul style="list-style-type: none"> <li>• Streamline the operations of the Land Tribunal and other institutions in the Judiciary that deal with land disputes so that they are more efficient and are more accessible to the poor and marginalized people.</li> </ul>
6	Lack of Policy to prevent settlement in high risks areas	Rationalize the Disaster Management Act of 2010 to incorporate appropriate measures to prevent settlement in high risks areas.

## 4 Synthesis and Analysis

### 4.1 Overview of land governance assessment by theme

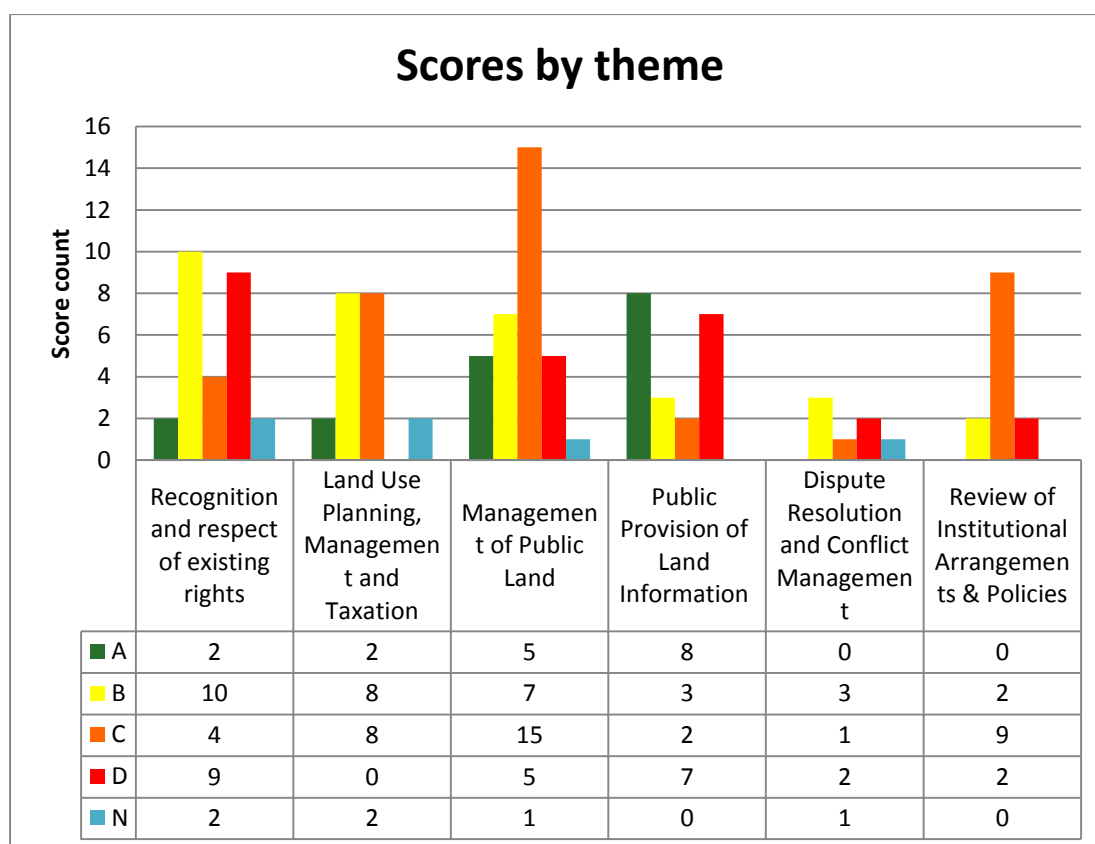


Figure 5: Distribution of scores by theme

A few lessons from the LGAF can be noted in the country's land governance system:

- 16 out of a total 120 dimensions were scored A. These represent good practices e.g. rural land rights recognition
- 33 dimensions were scored B and 39 were scored C, representing a total of 72 (60%) out of 120 dimensions. This suggests that overall, the level of land governance in the country is average and that there is still room for further improvement. These improvements might not be urgent but are nonetheless required to bring about better land governance.
- 25 dimensions were scored D. These represent the worst cases (weaknesses or bad practices) in the land governance system, thereby indicating areas that need urgent and immediate attention.
- 4 dimensions could not be assessed due to lack of data either because they needed much more work to retrieve e.g. types of land disputes or the data was simply not available in the registries. 2 dimensions could not be assessed because they were not applicable in the Zambian context.

The theme public provision of land information has the highest percentage of dimensions scoring A (40%) and also has the highest percentage scores of D (35%). The second highest percentage (15%) of score A is in management of public land followed by land use planning and management with 10%. The clustering of B and C scores across the themes compares with the national picture apart from public provision of land information. If we consider scores A and B together public provision of land information leads with 55% followed by land use planning with 50%. Institutional arrangement and policies had the lowest score of 15%.

## 4.2 Strengths of the land governance system

The preliminary assessment found a number of good practices in the Zambian Land governance system. The strengths arise from the dimensions that were scored A (see Figure 6 for the entire score sheet and Table 10 for score A only) and include:

- The fact that there is formal recognition of tenure rights in rural areas (individuals and groups). This is recognised in the Zambian Constitution and Lands Act;
- Possibility of regularising of urban informal settlements. The Housing (Statutory and Improvement Areas) Act provided for the formalisation of informal settlements through provision of services. This aspect has been included in the Urban and Regional Planning Act of 2015;
- The fact that most acquired land is transferred to destined use and owners are compensated promptly (within a year);
- The fact that most of the fees for public leases are collected from private parties. For anyone to get a Title Deed one must pay all the statutory fees required;
- A one stop shop for investment applications which is housed at the Zambia Development Agency;
- Searchable public land register/cadastre which are easily accessible with published fee schedules and contain private encumbrances, restrictions and spatial records; and.
- Valuation rolls which are publicly accessible for all taxable properties.

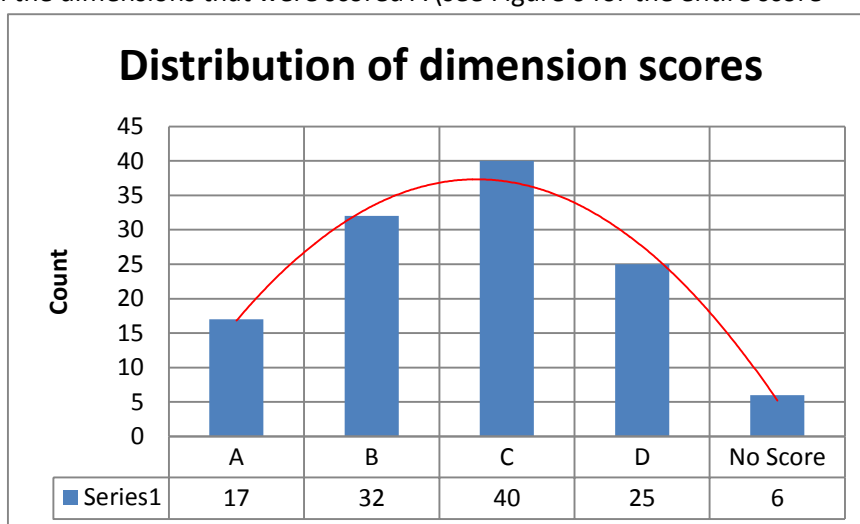


Figure 6: Distribution of dimension scores

Table 10: Summary of strengths

Indicator	Code	Dimension	Assessment Score
Recognition of a continuum of rights	1.1.1a	Individuals' rural land tenure rights are legally recognized	Existing legal framework recognizes rights held by more than 90% of the rural population
Rights to forest and common lands	2.1.3	Rural group rights are formally recognized and can be enforced.	The tenure of most groups in rural areas is formally recognized and clear regulations regarding groups' internal organization and legal representation exist and can be enforced
Tenure regularisation schemes in urban areas	3.5.2	In cities with informal tenure, a viable strategy exists for tenure security, infrastructure, and housing.	Existing regulations do not provide incentives for new informal occupations and a strategy exists to regularize land rights and provide services to existing informal occupants
Justification and time-efficiency of acquisition processes	4.2.2	Acquired land is transferred to destined use in a timely manner.	More than 70% of the land that has been acquired in the past 3 years has been transferred to its destined use
Transparency and fairness of acquisition procedures	4.3.3	Acquired owners are compensated promptly.	More than 90% of acquired land owners receive compensation within one year
	4.3.5	Timely decisions are made regarding complaints about acquisition.	A first instance decision has been reached for more than 80% of the complaints about acquisition lodged during the last 3 years
Clarity, transparency, competitiveness, and	5.1.2	Payments for public leases are collected.	More than 90% of the total agreed payments are collected from private parties on the lease of public lands

collection and auditing of payments			
Effective, consistent, transparent and participatory policy implementation	5.3.2	Approval of investment plans follows a clear process with reasonable timelines.	All investment application related documents are reviewed according to a uniform process and receive a response within 3 months of date of submission
Mechanisms for recognition of rights	6.1.2a	Non-documentary evidence is effectively used to help establish rights (Customary).	Non-documentary forms of evidence allow full recognition of claims to property when other forms of evidence are not available
Completeness of the land registry	6.2.2	Information held in records is linked to maps that reflect current reality.	More than 90% of records for privately held land recorded in the registry are readily identifiable in maps (spatial records)
	6.2.3	All relevant private encumbrances are recorded.	Relevant private encumbrances are recorded consistently and in a reliable fashion and can be verified at low cost by any interested party
	6.2.4	All relevant public restrictions or charges are recorded.	Relevant public restrictions or charges are recorded consistently and in a reliable fashion and can be verified at a low cost by any interested party
	6.2.5	There is a timely response to requests for accessing registry records.	Copies or extracts of documents recording rights in property can generally be obtained within 1 day of request
	6.2.6	The registry is searchable.	The records in the registry can be searched by both right holder name and parcel
	6.2.7	Land information records are easily accessed.	Copies or extracts of documents recording rights in property can be obtained by anyone who pays the necessary formal fee, if any
Transparency of determination of fees for service provision	6.5.1	Fees have a clear rationale, their schedule is public, and all payments are accounted for.	A clear rationale and schedule of fees for different services is publicly accessible and receipts are issued for all transactions
Transparency in the Valuation process	7.1.2	Valuation rolls are publicly accessible.	There is a policy that valuation rolls be publicly accessible and this policy is effective for all properties that are considered for taxation

### 4.3 Key issues for attention

A number of challenges were identified in the previous sections. This section focuses on the issues that were scored D in the assessment with a view to identify any potential linkages, and causes and effects. Based on the understanding that causes rather than symptoms are what should be addressed. The causes are then used as the basis for formulation of actual recommendations and follow-up actions.

#### 4.3.1 Synthesis of issues

The diagram below (Figure 7) presents together the various land governance issues as identified earlier. The issues are grouped per theme and panel topic. Institutional arrangements and policies is a panel topic and is included here as a cross-cutting topic. The issues are drawn from the assessment

scores of D only as the worst cases. For purposes of presentation, the assessment descriptions have been abridged. There were D scores for the theme Land use planning, management and taxation.

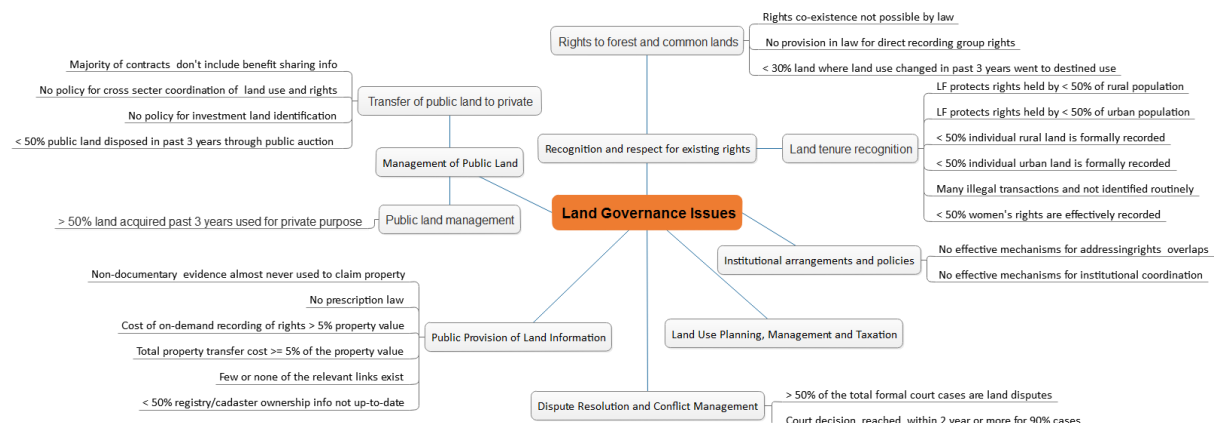


Figure 7: Synthesis of land issues

By numbers, the panel topics land tenure recognition and public provision of land information have the most issues (six) followed by transfer of public land to private use with four. Rights to forests and common land has three. Dispute resolution and institutional arrangements and policies each have two issues. Public land management has one issue. It is clear much concern should be on land tenure recognition and public provision of land information. The main issue for the former topic hinges on coverage of rights protection and recording and mapping which are estimated at less than 50%. For public provision of information, the issues are diverse ranging from (high) cost of recording of rights, lack of prescription law, non-usage of non-documentary evidence to claim property on already registered property, to outdated register.

For transfer of public land to private, the issues concern the lack of benefit sharing information in majority of contracts, the lack of policies on cross-sector coordination and identification of land for investment, and the inadequate transparency in the disposal of public land. The lack of legal provisions for co-existence of land rights e.g. with mining rights, and direct recording group rights without registration of the group first, and the low rate of conversion of land to destined use are the issue for rights to forest and common lands. The issues for dispute resolution and conflict management relate to high number of land disputes in formal courts in high duration for resolving disputes in courts. The lack of mechanisms for addressing overlaps in land rights and institutional coordination are the main challenges regarding institutional arrangements and policies. The high rate of conversion of public land to private use is the main concern for public land management.

#### 4.3.2 Cause – effect analysis

The purpose of this analysis is to identify potential linkages between the various issues discussed above. There are twenty four (24) issues that were identified affecting land governance in Zambia. These have been grouped into six main categories:

- Inadequate policy, legal, and institutional framework (PLIF),
- Inadequate data management,
- Low coverage of recording and mapping,
- Inadequate land administration process,
- Inadequate disputes resolution, and
- Illegal land transactions.

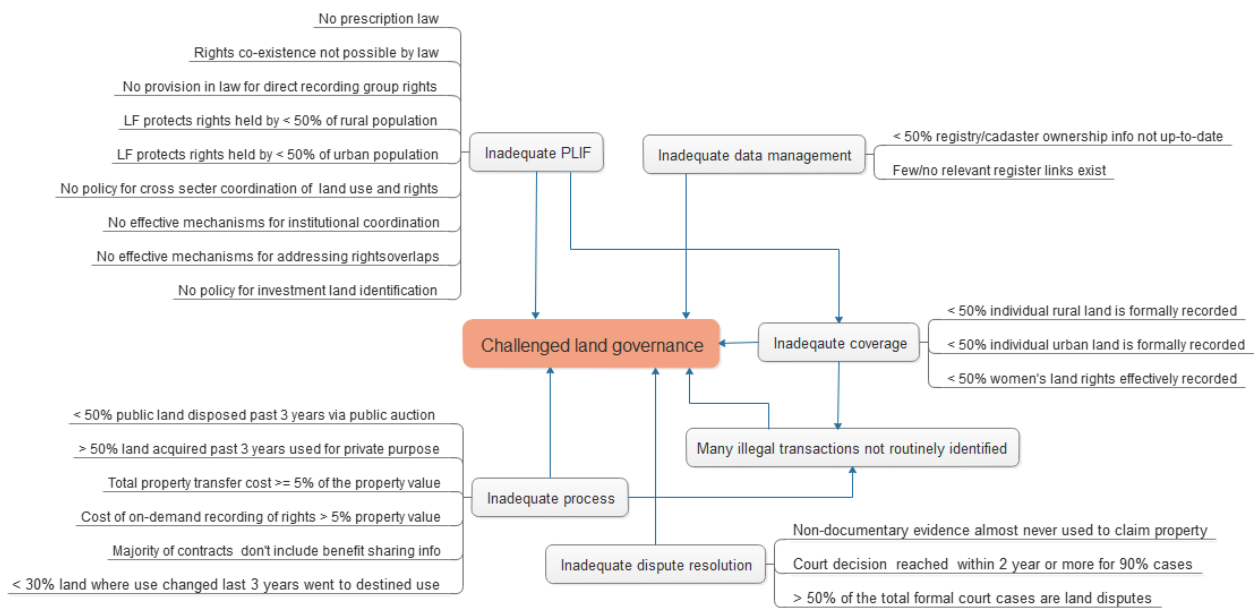


Figure 8: Problem analysis

From Figure 8 it is clear that challenges in the land governance of Zambia are more structural and procedural in nature. Under the PLIF are included policy, legal and institutional issues. Under process are included issues of public land disposal, process costs, conversions and contractual information. Issues of recording and mapping are under coverage. Use of non-documentary evidence, resolution of and number of land disputes are dispute resolution. There are potential linkages between the PLIF, recording and mapping coverage, high illegal transactions and land administration process. We see that the challenges in coverage may be embedded in the PLIF, while illegal land transactions may be due to challenges in the process e.g. the high transaction costs for many Zambians. All these challenges lead to a not so good land governance system, here referred to as “Challenged land governance” from the perspective of international best practices (LGAF). This analysis then assists in identifying key points for interventions.

#### 4.4 Recommendations

Arising from the cause – effect analysis above, four intervention areas were identified as indicated by the four green arrows in Figure 9 below. These refer to the (1) policy, legal and institutional framework, (2) data management, (3) land administration process and (4) dispute resolution. Under each intervention area, a number of recommendations are made. Annex 2 provides the full list of issues and recommendations according to the panel topics.



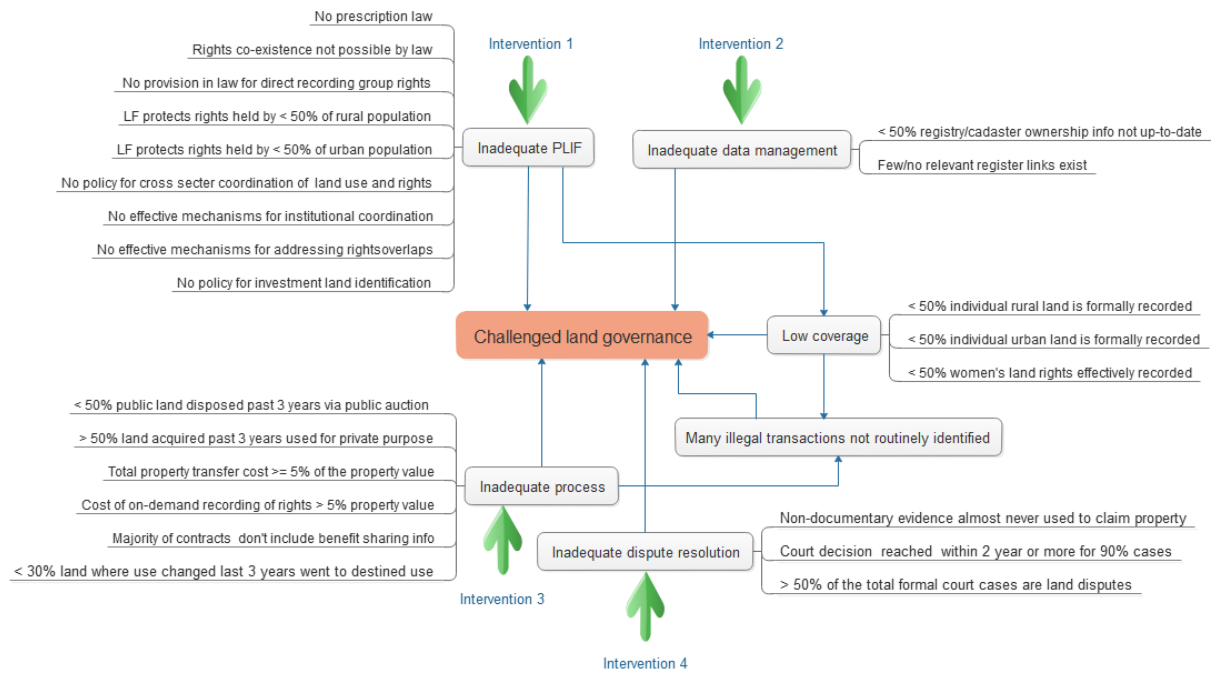


Figure 9: Intervention areas

Figure 10 below shows the recommended interventions for the identified land governance challenges. The list of interventions with responsible monitoring institutions and indicators is presented in Annex 2.

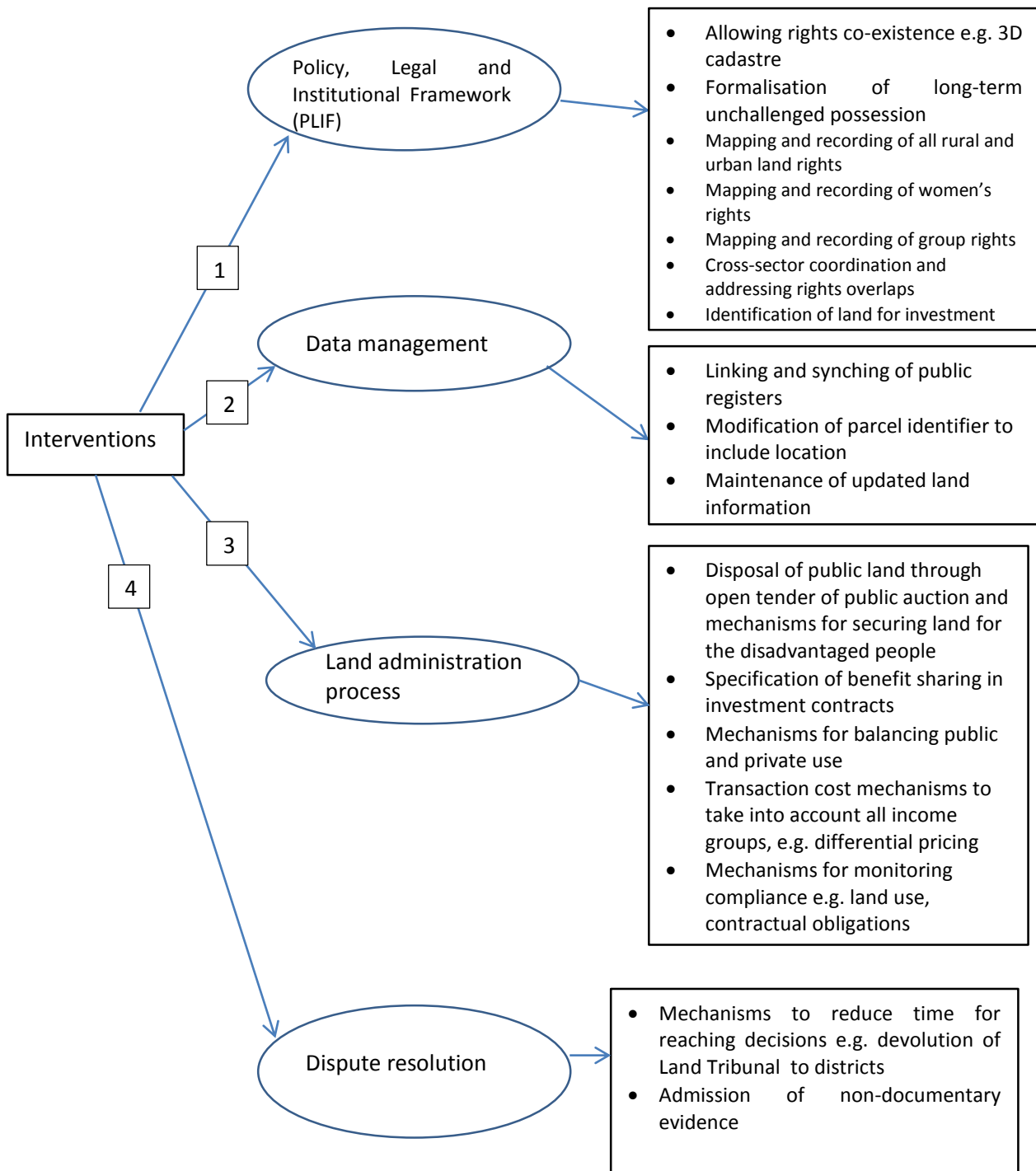


Figure 10: Chart for interventions

## 4.5 Lessons and next actions

A few lessons from the LGAF can be noted in the country's land governance system:

- There are few dimensions that were scored A. These represent good practices e.g. rural land rights recognition
- The majority of the dimension assessments are concentrated at scores B and C. This suggests that much needs to be done to improve the level of land governance in the country.

- There are several dimensions that were scored D and these represent weaknesses in the land governance system, indicating also areas needing urgent attention.
- Some dimensions could not be assessed due to lack of data either because they needed much more work to retrieve or the data was simply not being collected in the registries e.g. types of land disputes

Some immediate next actions that will be required to address the noted challenges include:

- Data digitalization (local authorities and dispute records) and recording of types of court cases. There was a data gap noted in this respect.
- Apart from synchronising and linking public registers, they should be re-structured to ensure that they speak to all the indicators and dimensions.
- To address the human capacity issue, a new education program in land governance at undergraduate level is required.
- Although the land register/cadastre is searchable by either parcel or person ID, the parcel ID needs to be re-designed. Currently, the parcel ID is not tied to location and the length of the ID grows with the number of land sub divisions.

## 5 Conclusions

The LGAF process is an important ingredient in the land governance of the country as it reveals the strengths and weaknesses in the Zambian land governance system in light of international best practice. At the same, it identifies the key areas for intervention. These will be inputs in the design of measures that will be used to reform the land governance system, for instance, the current consultation process for reviewing the draft land policy. The design stage may generate new policy, legislation, or new technology.

Zambia currently has a total population of 13.1 million (2010) people rising from about 5.7 million in 1980. About 58.5% live in rural areas and are dependent on agriculture for their livelihoods. The economy is highly dependent on copper mining industry which accounts for 95% of export earnings.

Zambia is a multi-party state whose supreme law is the constitution which has been amended a number of times with the latest amendment in 2016. The amended constitution continues to guarantee land rights and introduces the establishment of the land commission. Further, the constitution devolves administrative power to local governments. Although there are several policies related to land, currently Zambia does not have a specific policy on Land. It has been grappling with drafting the Land Policy for almost three decades. The draft land policy is under public consultation. In addition there are several pieces of legislation that affect land, the main one being the Lands Act of 1995. To fill the gaps of the Lands Act a Customary Lands Bill is being drafted.

Zambia has a dual tenure system consisting of leasehold (Statutory) and customary tenure. This duality has persisted since the colonial times. The term of leasehold is limited to a maximum of 99 years. Other terms of leases include 14 year leases which are provisional, a 30 year leases for resettlement schemes and a 30 year occupancy licences for housing improvement areas and 10 year land records which are issued by local authorities. An important form of land holding is land that is reserved for public use e.g. forests and national parks. This category overlaps leaseholds and customary areas. In addition to leasehold and customary tenure there is also the unrecognised/ de-facto tenure which actually constitutes large portion in and around urban areas e.g. in Lusaka it is estimated that over

60% of holdings are informal. It is estimated that 90% of the rural population subsist on customary tenure.

There are several institutions which play various roles in land governance some of which overlap. The main institution dealing with land is the MLNREP. The ministry deals with general administration of land including allocation, surveying and registration. Other key players include the Ministry of Agriculture, MLGH, the Vice President's office and Ministry of Tourism and Arts and Ministry of Chiefs and Traditional Affairs. Chiefs play an important role in the administration of customary land. There are 4 paramount chiefs, 8 senior chiefs and 240 chiefs country wide.

The preliminary assessment found a number of good practices in the Zambian Land governance system with regard to international best practices and these include:

- The formal recognition of tenure rights in rural areas (individuals and groups) as specified under the Zambian Constitution and Lands Act;
- Possibility of regularising of urban informal settlements as provided by the new Urban and Regional Planning Act of 2015. This aspect was also included in the repealed Housing (Statutory and Improvement Areas) Act;
- The prompt transfer of acquired land to destined use and timely compensation of owners;
- Collection of most agreed payments from private parties on the lease of public lands;
- A one stop shop for investment applications which is housed at the Zambia Development Agency;
- Searchable public land register/cadastre which are easily accessible with published fee schedules and contain private encumbrances, restrictions and spatial records; and
- Valuation rolls which are publicly accessible for all taxable properties

The identified weaknesses (issues) in the land governance system as compared to international best practices are summarised below:

- Less than 50% land rights are protected in practice or recorded and mapped (including women's rights);
- The cost of on-demand recording of rights and property transfer exceeds 5% of the property value, hence illegal transactions are high;
- Less than 50% of public land is not disposed of through open tender and lack benefit sharing information;
- There is no policy for prior land identification for investors and for cross sector coordination on land use;
- Non-documentary forms of evidence are almost never used (in statutory areas) to obtain recognition of claims to property;
- Different public land registers are not synchronized, linked nor regularly updated;
- The formal court system takes too long to dispose of most land related cases;
- There is no effective mechanism for dealing with institutional overlaps in land related matters

**Statutes**

Lands Act, Cap 184, of 1995..... 19  
Lands and Deeds Registry Act, Cap 185 ..... 51  
The Fees and Fines Act, Cap 45..... 53

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## ANNEXES

### Annex 1: participants (expert investigators, panellists)

Name	Organization	Sector	Position	Panel
Paul Samboko	Indaba Agricultural Policy Research Institute (IAPRI)		Research Associate	1
Michelle Wilson	Ministry of Local Government and Housing –Department of Physical Planning and Housing (GIZ/MLGH)	Public	Urban Planning Advisor	1
David Kafwamba	University of Zambia	Academic Institution	Lecturer	1
Alexander Chileshe	UN-Habitat		Representative	1 and 3
Matt Sommerville	TetraTech		Chief of Party USAID Land Tenure	1,2 and 3
Dr Orleans Nfune	University of Zambia	Academic Institution	Lecturer	1,5 and 9
Caroline Mufune	Zambia Land Alliance	CSO	Programmes Assistant	1
Tapuwa Nzara	Zambia Land Alliance	CSO	Programmes Manager	1
Obote Shakachite	Copperbelt University	Academic Institution	Lecturer	2 and 9
Paul Zulu	Sport-AID Development	CSO	Director	2,3 and 5
Richard Mumba	COMACO	CSO	Extension Manager	2
Robert Chimambo	Zambia Climate Change Network (ZCCN)	Private	Board Member	2
Keith Siame	Mwashibukeni Community Trust	Private	Chairperson	2 and 5
Tobias Cheembo	Mwashibukeni Community Trust	CSO	Board Member	2
Kebby Kambulwe	Friends of Nature and Environmental Conservation Southern Africa	CSO	Director	2
Getrude Ngenda	University of Zambia	Academic Institution	Lecturer	3
Daniel Apton Phiri	Copperbelt University	Academic Institution	Researcher	3 and 9
Meembo N. Changula	Department of Physical Planning and Housing – Ministry of Local Government and Housing (MLGH)	Public	Principal Planner – Forward Planning	3
Dr Glynn Khonje	University of Zambia	Academic Institution	Lecturer	3
Musonda Kapena	Namfumu Conservation Trust	CSO	Director	3 and 5
Grace C. Mtonga	Civic Forum on Housing & Habitat Zambia	CSO	Director	3
Fortune S. Kachamba	EBM Chambers	Private	Lawyer	4
Prof Patrick Matakala	CERED ltd	Private		4



<b>Name</b>	<b>Organization</b>	<b>Sector</b>	<b>Position</b>	<b>Panel</b>
Emmanuel Tembo	University of Zambia	Academic Institution	Lecturer	4,6 and 8
Tonny Mwanalushi	Self Employed	Private	Registered Surveyor	4
Henry Machina	Sector/Central Statistical Office (CSO)	Private	Development Practitioner	4
Danny Mubanga	University of Zambia	Academic Institution	Lecturer	4 and 9
Francis K Ng'omba	Lusaka City Council	Local Government	Director City Planning	4
Chaka H. Kaumba	Department of National Parks & Wildlife	Public	Senior GIS Officer	4
Lovemore S. Simwanda	Zambia Development Agency (ZDA)	Public	Business Development Specialist	5
Dr Silvester Mashamba	University of Zambia	Academic Institution	Lecturer	5
Dr Bridget B. Umar	University of Zambia	Academic Institution	Lecturer	5 and 9
Martin Sekeleti	WE EFFECT	CSO	Programme Coordinator	6 and 8
Majumo Khunga	Barnaby & Chitundu Advocates	Private	Partner	6
Dr Peter Nsombo	University of Zambia	Academic Institution	Lecturer	6,8 and 9
Agnes C. Mumba	Caritas - Lusaka	CSO	Coordinator	6 and 8
Edward Mukonde	Mukonde Chartered Surveyors	Private	CEO	7 and 9
Sebastian Markart	Ministry of Local Government and Housing –Department of Physical Planning and Housing (GIZ/MLGH)	Public	Development Advisor	7
Andrew Kalemba	Lusaka City Council	Local Government	Assistant Director	7
Sunday Mumba	Zambia National Building Society	Public	Manager- Valuation Surveying	7
Theresa Munanko Theu	Landworth Property Consult	Private	Managing Consultant	7
Tamara Banda Kalabo	Government Valuation Department -Ministry of Local Government and Housing.	Public	Chief Valuation Officer	7
Alick Mwanza	University of Zambia	Academic Institution	Lecturer	8
Dr Peter Nsombo	University of Zambia	Academic Institution	Lecturer/EI	8
Dimuna Phiri	Zambia Land Alliance	CSO	Researcher/EI	8
Prof Thomson Kalinda	University of Zambia	Academic Institution	Lecturer	9

## ANNEX 2: POLICY MATRIX

<b>Panel 1: Rights and respect for Existing Rights</b>				
	<b>Policy issue</b>	<b>Proposed action</b>	<b>Responsible agency</b>	<b>Monitoring indicator</b>
1	Non-uniformity of policies and Laws governing land administration	Policies and Laws should be applied equally and fairly in both categories of land tenure.	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>Ministry of Justice</li> </ul>	
2	Partial protection of customary rights	Develop Land policy to guide customary land administration process and harmonise existing legal frameworks	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>Ministry of Justice</li> </ul>	
3	Hindrances to recognition and protection of rights over land and forests	<ul style="list-style-type: none"> <li>Harmonise land and forest legal frameworks</li> <li>Facilitate joint forest management of forests on customary lands</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>Ministry of Justice</li> </ul>	
4	Protection of individual rights constrained by customary norms and practices	Adopt customary land bill (Act) to formalize customary land rights and protect women's rights to land	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>Ministry of Gender</li> <li>Ministry of Traditional Affairs</li> </ul>	% increase in access to land, registration of rights by women
5	Land rights of people in unplanned urban settlements not well protected	<ul style="list-style-type: none"> <li>Implement Urban and Regional Planning Act of 2015</li> <li>Regularise unplanned urban settlements</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>District Councils(MLGH)</li> </ul>	% increase in issuance of titles in unplanned settlements
6	Customary land is rarely recorded or mapped	<ul style="list-style-type: none"> <li>Enshrine recording and mapping of customary land in land policy and customary land bill</li> <li>Introduce customary land register as policy</li> </ul>	<ul style="list-style-type: none"> <li>District Councils (MLGH)</li> <li>Ministry of Traditional Affairs Deeds and Registry (MLNREP)</li> <li>Ministry of Justice</li> </ul>	Production of village maps
7	Most land in unplanned and improvement areas is not recorded and mapped	Implement Urban and Regional Planning Act of 2015 Survey all unplanned areas	<ul style="list-style-type: none"> <li>Survey Department (MLNREP)</li> <li>District Councils (MLGH)</li> </ul>	% increase in surveys and registration of rights by occupants
8	Illegal land sales of customary and state land	Provide for introduction of district land information systems as a policy measure aimed at reducing fraud	<ul style="list-style-type: none"> <li>District Councils (MLGH)</li> <li>Survey Department (MLNREP)</li> <li>Deeds Registry (MLNREP)</li> </ul>	% increase in surveys and registration of land transactions
9	Women's rights to land not registered under customary tenure	<ul style="list-style-type: none"> <li>Enshrine women's rights in customary land bill</li> <li>Issuance 'traditional certificates' to women and other vulnerable groups to encourage formalization of rights</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection (MLNREP),</li> <li>Ministry of Gender</li> <li>Ministry of Traditional Affairs.</li> <li>Ministry of Agriculture</li> </ul>	% reduction of case of land cases filed by women % increase in access to land, registration of rights by women

10	Lack of Land Audits	Carry out Land audits once thereafter carry out updates frequently.	<ul style="list-style-type: none"> <li>• Survey Department (MLNREP)</li> </ul>	Frequent up-to-date reporting of available land
11	Hindrances to individualization of tenure	<ul style="list-style-type: none"> <li>• Simplify procedures for conversion of customary land to leasehold to make process more accessible</li> <li>• Formalize customary land rights through adoption of the customary land bill</li> </ul>	<ul style="list-style-type: none"> <li>• District Councils (MLGH)</li> <li>• Chiefs</li> <li>• Deeds and Registry (MLNREP)</li> <li>• Ministry of Justice</li> </ul>	% increase in registration of rights (certificates) by the poor and villagers

**Panel 2: Rights to forest and common lands & rural land use regulations**

1	Lack of implementation of the Forest Act, 2015	<ul style="list-style-type: none"> <li>• Implement provisions of the Forest Act, monitor and enforce the laws</li> <li>• Develop policies regulations regarding privately owned trees</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry Department (MLNREP)</li> <li>• Ministry of Justice</li> </ul>	
2	Lack of co-existence of multiple rights on the same plot (surface and sub soil)	Harmonise the various legislations.	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Mining Cadastre, Ministry of Mines</li> </ul>	
3	Lack of policies and legislation on common land	<ul style="list-style-type: none"> <li>• Develop and implement policies, guidelines, rules and regulations for common lands</li> <li>• Develop plans to clearly identify and demarcate common land areas</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry Department (MLNREP)</li> <li>• Ministry of Justice</li> </ul>	<ul style="list-style-type: none"> <li>• Reductions in encroachments on common lands</li> <li>• Production of maps</li> </ul>
4	Lack of mechanism for conflict resolution	<ul style="list-style-type: none"> <li>• Identify nature of land disputes and develop mechanisms for resolving them, evaluate disputes case by case</li> <li>• Harmonise various pieces of legislation so that issues of multiple land rights are handled as one.</li> </ul>	<ul style="list-style-type: none"> <li>• Forestry Department (MLNREP)</li> <li>• Ministry of Justice</li> <li>• Lands Department (MLNREP)</li> </ul>	
5	Lack of enforcement of regulations on rural land transferrability	Develop systems for rural land transferability	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> <li>• Lands Department (MLNREP)</li> <li>• Ministry of traditional affairs</li> </ul>	
6	Land use planning does not capture all comments from stakeholders	<ul style="list-style-type: none"> <li>• Undertake comprehensive review of planning legislation</li> <li>• Develop effective land use management tools for rural areas implement strategies</li> </ul>	<ul style="list-style-type: none"> <li>• District Councils (MLGH)</li> <li>• Ministry of Justice</li> <li>• Ministry of traditional affairs</li> <li>• Ministry of Lands, Natural Resources and</li> </ul>	

7	Lack of coordinated plans for land use change	Commercial farming blocks must be well regulated and guidelines formulated	Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)	
8	Lack of specific laws addressing the rezoning of rural lands	<ul style="list-style-type: none"> <li>• Assemble required information on rezoning.</li> <li>• Develop resource and land use data</li> </ul>	<ul style="list-style-type: none"> <li>• District Councils (MLGH)</li> <li>• Ministry of Justice</li> <li>• Ministry of traditional affairs</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> </ul>	
9	Unplanned excision of rural land use	Develop baseline indicators for monitoring implementation of land reforms and distribution	<ul style="list-style-type: none"> <li>• District Councils (MLGH)</li> <li>• Ministry of Justice</li> <li>• Ministry of traditional affairs</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> </ul>	
10	Unclear communal land boundaries	Develop land use policies and plans on land conversions	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> </ul>	

**Panel 3: Urban Land Use Planning and Development**

1	A regulatory framework that is restrictive to land owners/users and that does not promote development	<ul style="list-style-type: none"> <li>• Build capacity at all levels for implementation of Regulations</li> <li>• Mobilise resources for implementation, sensitisation and education of people on Regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• Ministry of Finance</li> </ul>	
2	Regulations do not adequately address urban disaster risks	<ul style="list-style-type: none"> <li>• Develop national level disaster prevention and reduction programmes</li> <li>• Prepare disaster risk maps and information systems and early warning mechanisms review Town Planning Regulations to include disaster preparedness</li> <li>• Strengthen zoning regulations and incorporating disaster prevention mechanisms.</li> <li>• Strengthen public awareness/citizen participation/all stakeholders (including politicians) in locational decision making</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• Department of resettlement</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional Affairs</li> </ul>	
3	Inadequate information on urban expansion and infrastructure development	<ul style="list-style-type: none"> <li>• Improve the capacity of institutions to generate information on urban expansion and infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• Department of resettlement</li> </ul>	

		<ul style="list-style-type: none"> <li>• Implement public awareness and sensitisation programmes on urban land use and infrastructure master plans</li> <li>• Provide information on urban expansion plans and infrastructure through leaflets in various local languages and road shows which tend to be close to the people</li> <li>• Review all the existing urban land use plan to indicate urban expansion and infrastructure development plans</li> <li>• Improve availability, accessibility to and flow of information on urban expansion</li> </ul>	<ul style="list-style-type: none"> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional Affairs</li> </ul>	
4	Lack of adequate and clear public process and input by all stakeholders in urban land use change plans	<ul style="list-style-type: none"> <li>• Ensure full public engagement in Land Use Planning and comments are considered and validated by the public</li> <li>• Build capacity at Local Authority level for increased Public engagement and Participation e.g. the use of e-Governance and e-Planning</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• Department of resettlement</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional Affairs</li> </ul>	
5	Developers that apply for change of use, modification of urban land use plans which entail revocation of statutory Development Plans do not swiftly develop their land	<ul style="list-style-type: none"> <li>• Review the conditions for granting of permission for variation, change of use of land use plans</li> <li>• Review penalties and sanctions and make them stringent</li> <li>• Build capacity at local authority level for effective and efficient development monitoring</li> <li>• Revise the provisions of the URP law relating to requirements or period in which developers are compelled to develop their land after approval or grant of permission to develop</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Finance</li> </ul>	
6	Although a policy for low cost housing and services exists implementation has not always been effective	<ul style="list-style-type: none"> <li>• Strengthen the capacity of Local Authorities and relevant Central Government Institutions e.g. Department of Housing and Infrastructure Services in</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Finance</li> </ul>	

		<p>the MLGH and NHA to deliver low cost housing</p> <ul style="list-style-type: none"> <li>• Build capacity for low cost housing development at Local Authority level</li> <li>• Develop a National Housing Policy that focuses on low cost housing development and that devolves responsibility for delivery of such housing to right level</li> <li>• Increase budgetary allocation for low cost housing</li> </ul>		
7	<ul style="list-style-type: none"> <li>• Outdated and outmoded urban land use plans</li> <li>• Inadequate capacity to implement</li> <li>• Inadequate financial resources</li> <li>• Highly centralised system of land use planning</li> <li>• Political interference in implementation of plans and</li> <li>• Inadequate public participation in land use planning</li> </ul>	<ul style="list-style-type: none"> <li>• Review all urban land use plans for large cities as per statutory requirement</li> <li>• Prepare new land use plans for all new districts and Sensitization, community education and awareness creation</li> <li>• Build capacity at all levels: central, local government and community for implementation of the plans and mobilise resources for preparation of urban land use plans</li> <li>• Devolve responsibility to local authorities and communities for implementation of land use plans</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional Affairs</li> <li>• Ministry of Finance</li> </ul>	
8	<p>In spite of the existence of a hierarchy of regional/detailed land use plans, which are specified by law, in practice urban development occurs in an ad hoc manner with infrastructure provided some time after urbanization.</p>	<ul style="list-style-type: none"> <li>• Review and harmonise all land use plans and prepare implementation action plans</li> <li>• Develop human and technical capacity to interpret and implement land use plans at all levels e.g. Central and Local Government and Community levels</li> <li>• Review and amend all urban land use plans to respond to rapid urbanisation, growing population and socio-economic needs of the Zambian society</li> <li>• Increase budgetary allocations for preparation and implementation of Land Use Plans.</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional Affairs</li> <li>• Ministry of Finance</li> </ul>	

9	The urban planning process/authority cannot cope with the increasing demand for serviced units/land as evidenced by the fact that almost all new dwellings are informal	<ul style="list-style-type: none"> <li>• Strengthen the capacity of local planning authorities for preparation, implementation and review of the planning programme to respond to growing urban development needs</li> <li>• Build human, and technical capacity and mobilise adequate resources for planners to respond to demands of rapid urbanisation, population growth and rural to urban migration at right level</li> <li>• develop effective instruments to make it relevant to changing societal needs</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional Affairs</li> <li>• Ministry of Finance</li> </ul>	
10	The provisions for obtaining a building permit are technically justified but not affordable for (and not complied by) the majority of those affected	Review the existing Building Regulations to make them more effective	District Councils (MLGH)	
11	As much as two-thirds of all urban space is occupied by informal unplanned (or squatter) settlements with no proper security of tenure	<ul style="list-style-type: none"> <li>• Review the Lands Act so that the residents of informal settlements are provided with formal title</li> <li>• Develop new planning standards and guide line for informal and unplanned for settlements</li> <li>• Develop new Urban and Regional Planning regulations and standards for informal and unplanned settlements</li> </ul>	<ul style="list-style-type: none"> <li>• Lands Department (MLNREP)</li> <li>• District Councils (MLGH)</li> </ul>	
12	Continued existence and occurrence of unplanned settlements in urban areas	<ul style="list-style-type: none"> <li>• Introduction of by laws by Councils to penalize residents not paying ground rent.</li> <li>• Standardize infrastructure and service provision within a city</li> </ul>	<ul style="list-style-type: none"> <li>• Lands Department (MLNREP)</li> <li>• District Councils (MLGH)</li> </ul>	
13	There are however no clear provisions for management and publicity of relevant records that are followed in practice for common property under condominiums	<ul style="list-style-type: none"> <li>• Revise the Common Leasehold Schemes Act to fully articulate the provisions for the management and publicity of relevant records pertaining to condominiums</li> <li>• Amend the Common Leasehold Schemes Act to streamline procedures for</li> </ul>	<ul style="list-style-type: none"> <li>• Lands Department (MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Justice</li> </ul>	



		preparation of titles for registration purposes		
<b>Panel 4: Public Land Management</b>				
1	Lack of complete recording of public lands	New Public land declaration should be preceded with recording of such on maps and surveyed accordingly on the ground	<ul style="list-style-type: none"> <li>• MLNREP</li> </ul>	
2	Restricted or lack of access to Information on public land	Improve accessibility of information to the public by provision of infrastructure and lowering of costs for public land inventory	<ul style="list-style-type: none"> <li>• MLNREP</li> <li>• District Councils (MLGH)</li> </ul>	
<b>Panel 5: Transparent process and economic benefit of transfer of public land to private use</b>				
1	Lack of information on the scale of land investments involving transfer of public land to private use in Zambia	<ul style="list-style-type: none"> <li>• Create and maintain an updated database on transfers of public land for private use.</li> <li>• Improve coordination of all the institutions involved in land administration in Zambia.</li> <li>• Synchronization of the local authorities with the Ministry of Lands, Natural Resources and Environmental Protection (MLNREP) in the publication of dealings on public land</li> </ul>	<ul style="list-style-type: none"> <li>• Zambia Development Agency</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• District Councils (MLGH)</li> </ul>	Improved publication of statistics of public land transfers and investment
2	The public does not fully capture benefits arising from changes in permitted land use	<ul style="list-style-type: none"> <li>• Develop guidelines to allow citizenry to participate in the whole process – Transparency</li> <li>• There should be public hearings for transfer of public land and change of land use</li> <li>• Develop instruments to eliminate abuse and discretionary powers in the guidelines.</li> </ul>	<ul style="list-style-type: none"> <li>• Zambia Development Agency</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Traditional affairs</li> </ul>	
3	Lack of access to land by women and youths	<ul style="list-style-type: none"> <li>• Enforce the gender policy in terms of allocating 30% of all public land leased for private use to women</li> <li>• Land acquisition by women and youth to be a major component of empowerment strategies such as Economic Empowerment Funds and</li> </ul>	<ul style="list-style-type: none"> <li>• Zambia Development Agency</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Citizen Economic Empowerment Commission (CEEC)</li> </ul>	

		the Youth Development Fund.	<ul style="list-style-type: none"> <li>• Ministry of Traditional affairs</li> </ul>	
4	Investors negotiating with traditional leaders for large tracts of land with little community involvement and no involvement of ZDA	<ul style="list-style-type: none"> <li>• Have a policy on identification, assessment of land for investment in different sectors of development</li> <li>• Have Policy on implementation and monitoring</li> <li>• Have a comprehensive Integrated Land Use plan for the whole country</li> <li>• Harmonize policies (ad-hoc) that deal with investment (land identification, assessment, monitoring)</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• Ministry of Traditional Affairs</li> <li>• District Councils (MLGH)</li> </ul>	
5	Lack of adequate human and financial capacity in institutions charged with the responsibility of land administration	<p>Build institutional and human capacity in the institutions responsible for transferring land to investors</p> <p>Provision of adequate funding to institutions involved in land administration at various levels would enhance their efficiency and effectiveness</p>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• Ministry of Traditional Affairs</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Finance</li> </ul>	
6	Lack of regular monitoring of compliance with contractual obligations	<ul style="list-style-type: none"> <li>• Publication of status of compliance routinely to the public</li> <li>• System audit to check whether the system is working or not as desired.</li> <li>• Improve on information (results) accessible to the public by the relevant institutions</li> </ul>	<ul style="list-style-type: none"> <li>• Zambia Environmental Agency (ZEMA)</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• District Councils (MLGH)</li> </ul>	

7	The scope for resettlement is not clearly circumscribed and procedures that exist to deal with it are not in line with best practice	<ul style="list-style-type: none"> <li>• Decentralization of land administration functions to the district level</li> <li>• Develop inter agency coordination in land administration matters.</li> <li>• Publication of the resettlement policy</li> <li>• Enact legislation on Resettlement</li> </ul>	<ul style="list-style-type: none"> <li>• Zambia Environmental Agency (ZEMA)</li> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• District Councils (MLGH)</li> <li>• Department of Resettlement</li> </ul>	
8	Right holders and investors do not negotiate freely and directly with full access to relevant information	<ul style="list-style-type: none"> <li>• Inclusion of Prior Free and Informed Consent (PFIC) in the Land Policy</li> <li>• Enshrine land rights education in the basic education system.</li> <li>• Float Investment opportunities to both foreign and local investors</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• Ministry of general Education</li> </ul>	
9	The majority of contractual arrangements do not include benefit sharing	Conversions of customary to leasehold tenure must make explicit provisions for community consultations and consent, not just the chiefs' consent.	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> </ul>	% increase in monitoring and reporting of land acquisitions and compensations
10	Lack of access to spatial and temporal information on concessions/leases involving public lands by private parties.	<ul style="list-style-type: none"> <li>• Develop mechanisms for post project implementation provision of information to affected communities and the public in general</li> <li>• Adoption of the access to information bill (Act) to formalize access to public information by the public.</li> </ul>	<ul style="list-style-type: none"> <li>• Lands Department (MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• Ministry of Justice</li> <li>• Ministry of Information and Broadcasting</li> </ul>	
11	Lack of access to information for third party monitoring of compliance to safeguards by investors and the state	<ul style="list-style-type: none"> <li>• Develop clear guidelines on how third parties can access information on any transaction involving public lands</li> <li>• Provide a platform for affected communities to continually engage with both the state and the investors</li> </ul>	<ul style="list-style-type: none"> <li>• Lands Department (MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• Ministry of Justice</li> <li>• Ministry of Information and Broadcasting</li> </ul>	
<b>Panel 6: Public provision of land information: registry and cadastre</b>				
1	Lack of mechanisms for recognition of land rights	The Draft Bill on Customary lands should give clarity on regulations of formalizing land rights and administration of customary land	<ul style="list-style-type: none"> <li>• Lands Department (MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Justice</li> </ul>	

2	The high cost of first time registration of land rights	<ul style="list-style-type: none"> <li>• Review costs to make them pro-poor</li> <li>• Introduce mechanisms to limit the number of properties one can have per land use (residential, commercial and farmland) to ensure equity</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• District Councils (MLGH)</li> </ul>	Increased access to land by all classes of people % Increase in the number of issuance of titles
3	The high cost of recording a property transfer	<ul style="list-style-type: none"> <li>• Streamline the cost of property transfer governed by the Law and Regulations with a view of reducing the cost of property tax.</li> <li>• Provide deliberate prescription of the cost associated with the property transfers to avoid abuse</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Ministry of Finance</li> <li>• Zambia Revenue Authority (ZRA)</li> </ul>	% increase in compliance of transfer registration % increase in revenue collection
4	Information in the public registry is not synchronised to ensure integrity of rights and reduce transaction cost	To synchronise public registries in all institutions dealing with land matters	<ul style="list-style-type: none"> <li>• Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>• Zambia Development Agency (ZDA)</li> <li>• District Councils (MLGH)</li> </ul>	increase in access to attributes on land ownership
5	Registry information is not up-to-date and does not reflect ground reality	<ul style="list-style-type: none"> <li>• Regular updating of Registry information to reflect ground reality</li> <li>• Synchronisation or linking of the registries among responsible should be synchronized or linked.</li> </ul>	<ul style="list-style-type: none"> <li>• Registry and Deeds (MLNREP)</li> <li>• District Councils (MLGH)</li> </ul>	
6	Investment in land administration is not sufficient to cope with demand for high quality services	<ul style="list-style-type: none"> <li>• Capacity building (human and capital) in land administration to sufficiently cope with demand for high quality services</li> <li>• Establish a multi-criteria scenario development and planning</li> </ul>	<ul style="list-style-type: none"> <li>• Registry and Deeds (MLNREP)</li> <li>• District Councils (MLGH)</li> <li>• Ministry of Finance</li> </ul>	
<b>Panel 7: Valuation and Taxation</b>				
1	High differences between recorded values and market values	<ul style="list-style-type: none"> <li>• Introduce new methods of valuation such as Computer Assisted Mass Appraisal (CAMA) Systems</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Local Government and Housing</li> <li>• Local councils</li> </ul>	Improved consistency between market values and those recorded

2	Limitations on the exemptions to the payment of land/property taxes	<ul style="list-style-type: none"> <li>• Broaden exemptions to dwellings wholly owned and occupied by persons over the age of 65, and any other persons/institutions with special needs</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Local Government</li> <li>• Ministry of Justice</li> </ul>	Enacted regulations including age group of 65 and special needs groups
3	Not all property holders liable for land/property tax are listed on the tax roll	<ul style="list-style-type: none"> <li>• Introduce “new technologies of valuation assessment” and review the Rating Act to align it to the new technologies.</li> <li>• Re-establish links between local authorities and MLNREP</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> <li>• MLGH</li> <li>• MLNREP</li> <li>• Local councils</li> </ul>	Increase number of properties on the tax roll
4	Lack of full compliance of paying property tax	<ul style="list-style-type: none"> <li>• Link property tax to other services such as payment of power</li> </ul>	<ul style="list-style-type: none"> <li>• Zambia Revenue Authority</li> <li>• ZESCO</li> <li>• MLGH</li> </ul>	Improved compliance-increased number of properties paying tax
5	The amount of property taxes collected is between 3 and 5 times the cost of staff in charge of collection.	<ul style="list-style-type: none"> <li>• increase institution capacity in carrying out the process of delivering, informing, and collection of taxes</li> </ul>	<ul style="list-style-type: none"> <li>• Local councils</li> <li>• ZRA</li> </ul>	Collection exceeds cost of staff

**Panel 8: Dispute Resolution**

1	Difficult in extracting records (by case type) in court registries	<ul style="list-style-type: none"> <li>• Digitalization of case records for easy access and measured.</li> <li>• Recording of the nature of the case</li> </ul>	<ul style="list-style-type: none"> <li>• Courts of Law</li> <li>• Lands Tribunal</li> <li>•</li> </ul>	Availability of statistics of types of cases in annual reports Availability of statistics of types of cases, on-going and disposed of in annual reports
2	Poor linkages between traditional resolutions systems and the formal systems	<ul style="list-style-type: none"> <li>• Link traditional courts to the formal judicial resolution system</li> <li>• Build capacity of traditional courts in documentation</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> </ul>	Improved linkages with traditional systems and formal systems
3	Poor access to dispute resolution mechanism	<ul style="list-style-type: none"> <li>• Encourage the use of Alternative Dispute Resolutions</li> <li>• Recognise informal institutions of dispute resolutions</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> <li>• NGOs</li> <li>• Ministry of Traditional Affairs</li> </ul>	Increased access to dispute resolution
4	process for appealing disputed rulings not	<ul style="list-style-type: none"> <li>• Introduce the use of barristers and solicitors to</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> </ul>	Number of appealed

	accessible, affordable and timely	improve accessibility and affordability		disputed rulings increased
<b>Panel 9: Review of Institution arrangements and Policies</b>				
1	Overlaps of rights (based on tenure typology)	<ul style="list-style-type: none"> <li>Clearly define the status of land under resettlement by statutes in order to avoid possible disputes with regard to land tenure and land alienation in areas under customary jurisdiction where settlement schemes are set up</li> <li>Define clearly the nature of rights to land</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>Local Councils</li> <li>Disaster Management and Mitigation Unit (DMMU)</li> <li>Chiefs</li> </ul>	
2	Ambiguities in the mandates of public institutions responsible for land alienation	<ul style="list-style-type: none"> <li>Clarify the roles and responsibilities amongst the institutions involved in the land alienation process</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li>Chiefs</li> <li>Local Councils</li> </ul>	
3	Poor or inadequate land information management system	<ul style="list-style-type: none"> <li>MLNREP should consolidate efforts to decentralize land management systems through support of provincial offices</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> </ul>	
4	Lack of a comprehensive land policy	<ul style="list-style-type: none"> <li>Comprehensively review, harmonize and update the various land-related Laws in order to provide a clear regulatory framework for policy implementation.</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li></li> </ul>	
5	Ineffective monitoring of land policies that address equity and poverty reduction goals	<ul style="list-style-type: none"> <li>The MoF and line ministries such as the MLNREP should enhance their recent efforts to set up M&amp;E systems through provision of adequate funding and building the capacity of staff.</li> <li>The M&amp;E information system at the MLNREP should also be enhanced by including gender disaggregated and wealth based indicators in order to monitor progress or impacts of policy implementation on disadvantaged groups like women and the poor.</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Finance (MoF)</li> <li>Ministry of Lands, Natural Resources and Environmental Protection(MLNREP)</li> <li></li> </ul>	
6	Ineffective monitoring of land policies that address	<ul style="list-style-type: none"> <li>Adequately fund agencies like ZEMA and local Councils</li> </ul>	<ul style="list-style-type: none"> <li>MoF</li> <li>ZEMA</li> <li>Local councils</li> </ul>	

	ecological and environmental goals		<ul style="list-style-type: none"> <li>• MoA</li> </ul>	
7	Inadequate financial resources disbursed to MLNREP	<ul style="list-style-type: none"> <li>• Funding to the sectors should consistently reflect the existing priorities and commitments in order to improve service delivery in critical sectors such as land, agriculture and the environment.</li> <li>• Efforts should be made to ensure timely allocation and disbursement of budgeted resources. There should also be more transparent and effective budget and procurement systems.</li> <li>• Broaden the scope of the Land Development Fund to include other land policies</li> </ul>	<ul style="list-style-type: none"> <li>• MLNREP</li> <li>• MoF</li> </ul>	
8	Limited access to the judicial system by low-income groups	Streamline the operations of the Land Tribunal and other institutions	<ul style="list-style-type: none"> <li>• MLNREP</li> </ul>	
9	Lack of Policy to prevent settlement in high risks areas	<ul style="list-style-type: none"> <li>• Rationalize the Disaster Management Act of 2010 to incorporate appropriate measures to prevent settlement in high risks areas.</li> </ul>	<ul style="list-style-type: none"> <li>• DMMU- office of the President</li> <li>• Local councils</li> </ul>	Less settlements in high risk areas

### Annex 3: LGAF Scorecard

		Score – Panel Consensus Position						
LGI-Dimension	Dimension description		A	B	C	D	N <sup>14</sup>	
<b>Panel 1: LAND TENURE RECOGNITION (Legal and Institutional Framework)</b>								
<b>Recognition of a continuum of rights: the law recognizes a range of rights by individuals (incl. secondary rights, rights by minorities and women)</b>								
1	1	1a	Individuals' rural land tenure rights are legally recognized	1				
1	1	1b	Individuals' rural land tenure rights are protected in practice.				1	
1	1	2	Customary tenure rights are legally recognized and protected in practice.		1			
1	1	3	Indigenous rights to land and forest are legally recognized and protected in practice.					1
1	1	4	Urban land tenure rights are legally recognized and protected in practice.				1	
<b>Respect for and Enforcement of Land Rights</b>								
1	2	1	Accessible opportunities for tenure individualization exist.			1		
1	2	2	Individual land in rural areas is recorded and mapped.				1	
1	2	3	Individual land in urban areas is recorded and mapped.				1	
1	2	4	The number of illegal land sales is low.				1	
1	2	5	The number of illegal lease transactions is low.			1		
1	2	6	Women's property rights in lands as accrued by relevant laws are recorded				1	
1	2	7	Women's property rights to land are equal to those by men.			1		
<b>PANEL 2. RIGHTS TO FOREST AND COMMON LANDS &amp; RURAL LAND USE REGULATIONS</b>								
<b>Rights to forest and common lands</b>								
2	1	1	Forests are clearly identified in law and responsibility for use is clearly assigned.		1			
2	1	2	Common lands are clearly identified in law and responsibility for use is clearly assigned.		1			
2	1	3	Rural group rights are formally recognized and can be enforced.	1				
2	1	4	Users' rights to key natural resources on land (incl. fisheries) are legally recognized and protected in practice.		1			
2	1	5	Multiple rights over common land and natural resources on these lands can legally coexist.		1			
2	1	6	Multiple rights over the same plot of land and its resources (e.g. trees) can legally coexist.		1			

<sup>14</sup> N means for no score



			Score – Panel Consensus Position					
LGI-Dimension			Dimension description	A	B	C	D	N <sup>14</sup>
2	1	7	Multiple rights over land and mining/ other sub-soil resources located on the same plot can legally coexist.				1	
2	1	8	Accessible opportunities exist for mapping and recording of group rights.				1	
2	1	9	Boundary demarcation of communal land.					1
<b>Effectiveness and equity of rural land use regulations</b>								
2	2	1	Restrictions regarding rural land use are justified and enforced.		1			
2	2	2	Restrictions on rural land transferability effectively serve public policy objectives.		1			
2	2	3	Rural land use plans are elaborated/changed via public process and resulting burdens are shared.			1		
2	2	4	Rural lands, the use of which is changed, are swiftly transferred to the destined use.				1	
2	2	5	Rezoning of rural land use follows a public process that safeguards existing rights.		1			
2	2	6	For protected rural land use (forest, pastures, wetlands, national parks etc.) plans correspond to actual use.		1			
<b>PANEL 3. URBAN LAND USE, PLANNING, AND DEVELOPMENT</b>								
<b>Restrictions on rights: land rights are not conditional on adherence to unrealistic standards</b>								
3	1	1	Restrictions on urban land ownership/transfer effectively serve public policy objectives.		1			
3	1	2	Restrictions on urban land use (disaster risk) effectively serve public policy objectives.		1			
<b>Transparency of land use restrictions: changes in land use and management regulations are made in a transparent fashion and provide significant benefits for society in general rather than just for specific groups.</b>								
3	2	1	Process of urban expansion/infrastructure development process is transparent and respects existing rights.			1		
3	2	2	Changes in urban land use plans are based on a clear public process and input by all stakeholders.		1			
3	2	3	Approved requests for change in urban land use are swiftly followed by development on these parcels of land					1
<b>Efficiency in the urban land use planning process: land use plans are current, implemented, do not drive people into informality, and cope with urban growth.</b>								
3	3	1	Policy to ensure delivery of low-cost housing and services exists and is progressively implemented.			1		
3	3	2	Land use planning effectively guides urban spatial expansion in the largest city.			1		
3	3	3	Land use planning effectively guides urban development in the four next largest cities.			1		

			Score – Panel Consensus Position					
LGI-Dimension			Dimension description	A	B	C	D	N <sup>14</sup>
3	3	4	Planning processes are able to cope with urban growth.			1		
<b>Speed and predictability of enforcement of restricted land uses: development permits are granted promptly and based on reasonable requirements.</b>								
3	4	1	Provisions for residential building permits are appropriate, affordable and complied with.			1		
3	4	2	A building permit for a residential dwelling can be obtained quickly and at a low cost.					1
<b>Tenure regularization schemes in urban areas</b>								
3	5	1	Formalization of urban residential housing is feasible and affordable.		1			
3	5	2	In cities with informal tenure, a viable strategy exists for tenure security, infrastructure, and housing.	1				
3	5	3	A condominium regime allows effective management and recording of urban property.			1		
<b>PANEL 4. PUBLIC LAND MANAGEMENT</b>								
<b>Identification of public land and clear management: public land ownership is clearly defined, effectively serves the public purpose, is inventoried, under clear management responsibilities, and relevant information is publicly accessible.</b>								
4	1	1	Criteria for public land ownership are clearly defined and assigned to the right level of government.			1		
4	1	2	There is a complete recording of public land.		1			
4	1	3	Information on public land is publicly accessible.		1			
4	1	4	The management responsibility for different types of public land is unambiguously assigned.		1			
4	1	5	Responsible public institutions have sufficient resources for their land management responsibilities.			1		
4	1	6	All essential information on public land allocations to private interests is publicly accessible.			1		
<b>Justification and time-efficiency of acquisition processes: the state acquires land for public interest only and this is done efficiently</b>								
4	2	1	There is minimal transfer of acquired land to private interests.				1	
4	2	2	Acquired land is transferred to destined use in a timely manner.	1				
4	2	3	The threat of land acquisition does not lead to pre-emptive action by private parties.		1			
<b>Transparency and fairness of acquisition procedures: acquisition procedures are clear and transparent and fair compensation is paid expeditiously.</b>								
4	3	1	Compensation is provided for the acquisition of all rights regardless of their recording status.			1		
4	3	2	Selective loss of rights arising from land use change is compensated for.		1			
4	3	3	Acquired owners are compensated promptly.	1				
4	3	4	There are independent and accessible avenues for appeal against acquisition.		1			

			Score – Panel Consensus Position					
LGI-Dimension			Dimension description	A	B	C	D	N <sup>14</sup>
4	3	5	Timely decisions are made regarding complaints about acquisition.	1				
<b>PANEL 5: TRANSPARENT PROCESS AND ECONOMIC BENEFIT OF TRANSFER OF PUBLIC LAND TO PRIVATE USE</b>								
<b>Transfer of public land to private use follows a clear, transparent, and competitive process and payments are collected and audited (with the exception of transfers to improve equity such as land distribution and land for social housing).</b>								
5	1	1	Public land transactions are conducted in an open transparent manner.				1	
5	1	2	Payments for public leases are collected.	1				
5	1	3	Public land is transacted at market prices unless guided by equity objectives.			1		
5	1	4	The public captures benefits arising from changes in permitted land use.			1		
5	1	5	Policy to improve equity in asset access and use by the poor exists, is implemented effectively and monitored.			1		
<b>Private investment strategy</b>								
5	2	1	Land to be made available to investors is identified transparently and publicly, in agreement with right holders.				1	
5	2	2	Investments are selected based on economic, socio-cultural and environmental impacts in an open process			1		
5	2	3	Public institutions transferring land to investors are clearly identified and regularly audited			1		
5	2	4	Public bodies transferring land to investors share information and coordinate to minimize and resolve overlaps (including sub-soil).				1	
5	2	5	Compliance with contractual obligations is regularly monitored and remedial action taken if needed.			1		
5	2	6	Safeguards effectively reduce the risk of negative effects from large scale land-related investments.			1		
5	2	7	The scope for resettlement is clearly circumscribed and procedures exist to deal with it in line with best practice.			1		
<b>Policy implementation is effective, consistent and transparent and involves local stakeholders.</b>								
5	3	1	Investors provide sufficient information to allow rigorous evaluation of proposed investments.					1
5	3	2	Approval of investment plans follows a clear process with reasonable timelines.	1				
5	3	3	Right holders and investors negotiate freely and directly with full access to relevant information.			1		
5	3	4	Contractual provisions regarding benefit sharing are publicly disclosed.				1	

		Score – Panel Consensus Position					
LGI-Dimension	Dimension description		A	B	C	D	N <sup>14</sup>
<b>Contracts involving public land are public, easily accessible, with agreements monitored and enforced.</b>							
5	4	1	Information on spatial extent and duration of approved concessions is publicly available.			1	
5	4	2	Compliance with safeguards on concessions is monitored and enforced effectively and consistently.			1	
5	4	3	Avenues to deal with non-compliance exist and obtain timely and fair decisions.			1	
<b>PANEL 6: PROVISION OF LAND INFORMATION (REGISTRY AND CADASTRE)</b>							
<b>Mechanisms for recognition of rights</b>							
6	1	1	Land possession by the poor can be formalized in line with local norms in an efficient and transparent process.		1		
6	1	2a	Non-documentary evidence is effectively used to help establish rights (Customary).	1			
6	1	2b	Non-documentary evidence is effectively used to help establish rights (statutory)				1
6	1	3	Long-term unchallenged possession is formally recognized.				1
6	1	4	First-time recording of rights on demand includes proper safeguards and access is not restricted by high fees.				1
<b>Completeness of the land registry</b>							
6	2	1	Total cost of recording a property transfer is low.				1
6	2	2	Information held in records is linked to maps that reflect current reality.	1			
6	2	3	All relevant private encumbrances are recorded.	1			
6	2	4	All relevant public restrictions or charges are recorded.	1			
6	2	5	There is a timely response to requests for accessing registry records.	1			
6	2	6	The registry is searchable.	1			
6	2	7	Land information records are easily accessed.	1			
<b>Reliability: Registry information is updated and sufficient to make meaningful inferences on ownership</b>							
6	3	1	Information in public registries is synchronized to ensure integrity of rights and reduce transaction cost.				1
6	3	2a	Registry information is up-to-date and reflects ground reality (Agricultural).				1
6	3	2b	Registry information is up-to-date and reflects ground reality (Non-Agricultural).				1
<b>Cost-effectiveness and sustainability: land administration services are provided in cost-effective ways that are sustainable in the long term.</b>							
6	4	1	The registry is financially sustainable through fee collection to finance its operations.			1	

			Score – Panel Consensus Position					
LGI-Dimension			Dimension description	A	B	C	D	N <sup>14</sup>
6	4	2	Investment in land administration is sufficient to cope with demand for high quality services.			1		
<b>Fees are determined transparently to cover the cost of service provision</b>								
6	5	1	Fees have a clear rationale, their schedule is public, and all payments are accounted for.	1				
6	5	2	Informal payments are discouraged.		1			
6	5	3	Service standards are published and regularly monitored.		1			
<b>PANEL 7: LAND VALUATION AND TAXATION</b>								
<b>Transparency of valuations: valuations are based on clear principles, applied uniformly, updated regularly, and publicly accessible. Describe the process of fixing and revising land valuation.</b>								
7	1	1	There is a clear process of property valuation.			1		
7	1	2	Valuation rolls are publicly accessible.	1				
<b>Collection efficiency: land and property taxes are collected and the yield from doing so exceeds collection cost</b>								
7	2	1	Exemptions from property taxes payment are justified and transparent.		1			
7	2	2	All property holders liable to pay property tax are listed on the tax roll.		1			
7	2	3	Assessed property taxes are collected.		1			
7	2	4	Receipts from property tax exceed the cost of collection.		1			
<b>PANEL 8. DISPUTE RESOLUTION</b>								
<b>Assignment of responsibility: responsibility for conflict management at different levels is clearly assigned, in line with actual practice, relevant bodies are competent in applicable legal matters, and decisions can be appealed against</b>								
8	1	1	There is clear assignment of responsibility for conflict resolution.		1			
8	1	2	Conflict resolution mechanisms are accessible to the public.		1			
8	1	3	Mutually accepted agreements reached through informal dispute resolution systems are encouraged.		1			
8	1	4	There is an accessible, affordable and timely process for appealing disputed rulings.			1		
<b>The share of land affected by pending conflicts is low and decreasing</b>								
8	2	1	Land disputes constitute a small proportion of cases in the formal legal system.				1	
8	2	2	Conflicts in the formal system are resolved in a timely manner.				1	
8	2	3	There are few long-standing (> 5 years) land conflicts.					1
<b>PANEL 9. REVIEW OF INSTITUTIONAL ARRANGEMENTS AND POLICIES</b>								
<b>Clarity of mandates and practice: institutional mandates concerning the regulation and management of the land sector</b>								
9	1	1	Land policy formulation, implementation and arbitration are separated to avoid conflict of interest.			1		

			Score – Panel Consensus Position					
LGI-Dimension			Dimension description	A	B	C	D	N <sup>14</sup>
9	1	2	Responsibilities of the ministries and agencies dealing with land do not overlap (horizontal overlap).			1		
9	1	3	Administrative (vertical) overlap is avoided.			1		
9	1	4	Land right and use information is shared by public bodies; key parts are regularly reported on and publicly accessible.		1			
9	1	5	Overlaps of rights (based on tenure typology) are minimal and do not cause friction or dispute.				1	
9	1	6	Ambiguity in institutional mandates (based on institutional map) does not cause problems.				1	
<b>Equity and non-discrimination in the decision-making process</b>								
9	2	1	Land policies and regulations are developed in a participatory manner involving all relevant stakeholders.			1		
9	2	2	Land policies address equity and poverty reduction goals; progress towards these is publicly monitored.			1		
9	2	3	Land policies address ecological and environmental goals; progress towards these is publicly monitored.			1		
9	2	4	The implementation of land policy is costed, matched with benefits and adequately resourced.			1		
9	2	5	There is regular and public reporting indicating progress in policy implementation.			1		
9	2	6	Land policies help to improve land use by low-income groups and those who experienced injustice.		1			
9	2	7	Land policies proactively and effectively reduce future disaster risk.			1		