



THE REPUBLIC OF ZAMBIA

MINISTRY OF LANDS AND NATURAL RESOURCES

DRAFT NATIONAL LAND POLICY

This is a draft National Land Policy and as such is a working document and not a final policy document. 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 to and adopted.

The Ministry of Lands and Natural Resources
Mulungushi House.
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FOREWORD

During the past few years the Ministry and all the stakeholders have been involved in the preparation of a national land policy for the wellbeing of all Zambians. I now have the privilege to submit to the nation Zambia's first comprehensive national land policy. This is in line with the desires expressed by various quarters of society on the need for a comprehensive land policy to guide land administration and management for the protection of the land resource for the benefit of present and future generations.

The land policy puts into effect the equality of citizens to land wherever they may be in Zambia. From now, citizens will enjoy similar legal protection of rights and freedoms to own and transact in land, whether or not they are on state land or customary land. The policy has set the context in which the laws governing land will be changed and the way that land will be allocated to Zambians and non-Zambians. This land policy will enable all players in the public and private sectors to plan and efficiently manage this important and limited resource. It will enable the Government and citizens to correct indiscriminate use and poor development practices by promoting orderly management of land. The country needs to have a disciplined land market and effective and efficient land administration and management systems in order to achieve harmonious growth and prosperity. It also needs an improved scope for handling land disputes.

The national land policy is based on public views and expert opinions gathered through a participatory, inclusive and consultative process across the breadth and length of the country, up to holding of the national conference. This policy has also been carefully crafted to support other public policy positions such as those on environmental conservation, poverty reduction, foreign direct investments and market led development in general and specifically on successful implementation other sector policies.

The policy is a result of dialogue, sometimes explosive and emotive, but ultimately guided by goodwill and collaboration by all stakeholders. I am therefore grateful to acknowledge the contribution of all participants to the process.

I now wish to call on the nation to join hands in the implementation phase. The Government needs public support of all partners towards a Zambia where there is equitable access to secure land ownership by all Zambians, that is administered and managed efficiently and effectively for sustainable development of the country.

Honourable Jean Kapata, M.P

Minister of Lands and Natural Resources

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- a) All government ministries and departments whose staff participated at various stages of the consultative process;
- b) Members of Parliament from the three (3) Committees of Parliament namely: Agriculture, Environment & Natural Resources; Local Government, Housing & Chiefs Affairs; and Legal Affairs, Human Rights, National Guidance, Gender Matters & National Guidance for contributions provided during the pre-validation meeting;
- c) Provincial Permanent Secretaries and their technical staff who participated in the Provincial Consultative Meetings and contributed to the refinement of the policy;
- d) The House of Chiefs and all traditional leaders who provided their candid and comprehensive feedback on the various drafts of the policy document;
- e) Civil Society organizations, academicians and subject experts involved in the development of the policy;
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Finally, special thanks are extended to the cooperating partners, and in particular, the Land Policy Initiative (LPI) of the United Nations Economic Commission for Africa (UNECA) with the support of the African Union Commission (AUC), the United Nations Human Settlement Programme (UN-Habitat), the USAID supported Tenure Global Climate Change Project (TGCC) for the technical and financial support rendered throughout the process.

Trevor Kaunda
Permanent Secretary
Ministry of Lands & Natural Resources

WORKING DEFINITIONS

Adjudication refers to the determination of rights in land often in event of land claims.

Alienation refers to making of grants and dispositions of land.

Arbitration refers to settling of a dispute by a person or persons chosen to do this by parties to a dispute.

Boundary refers to either the physical objects for marking the limits of a property or line or surface marking the division between two legal divisions.

Cadastral Survey refers to survey observation and measurement to determine property boundary, location and associated attributes.

Cadastre refers to a land record. A parcel based and up-to-date land information system (not necessarily computerised) containing a record of interests in land (i.e. rights, restrictions and responsibilities). It includes a geometric description of land parcels (usually as a map, but not necessarily) linked to other records or registers describing the nature of the interests, and ownership or control of those interests, and often also the value of the parcel and its improvements.

Certificate of Title refers to an officially issued and signed document by the Registrar of Lands and Deeds, as prescribed by law that is proof or evidence of the fact that a person has been granted legal rights or title to land by the state in accordance with the lease agreement.

Common property refers to the areas that are used by all owners.

Common land refers to areas where certain people hold beneficial rights to use land that they do not own.

Communal rights refer to the right to use land and resources by a group such as a family, community or clan. Such rights are often exercised under customary tenure.

Consent refers to granting of legal right by the state to a lessee to transact in land e.g. transferring of rights property under lease.

Conversion refers to changing mode of ownership of land or land tenure i.e. converting customary tenure to leasehold tenure.

Customary Land refers to land where customary tenure is exercised (formerly Reserve and Trust Land)

Customary tenure refers to land rights that are controlled and allocated according to customary practices. These rights are not uniform and differ according to prevailing social norms and cultural practices and attitudes to land. They range from individual, family or groups of families, clans and tribal land ownership; where such land is used communally through various tenancy arrangements.

Customary Title: refers to a legal holding of land individually or collectively identifiably occupied and used for cultivation, grazing or hunting prior to sovereignty to the present day.

Demarcation refers to marking or fixing the limit or boundary of a land parcel.

Disability refers to a limitation to social functioning resulting from an impairment plus social or environmental barrier.

Dual Tenure refers to co-existence of two tenure systems such as i.e. leasehold and customary tenure.

Easement refers to a right held by one person to make specific, limited use of land owned by another person.

Empowerment refers to lawful rights to access, own land or other property and enjoy benefits accruing thereof to a person or a special group of persons and often is used to persons that may be historically or socially underprivileged e.g. women, the poor, persons living with disabled and landless people.

Equity refers to principles of fairness and fair play with regard to decisions on land access, distribution and ownership.

Estate refers to an interest in land. The term is also used to refer to the physical land and property to which that interest relates.

Expropriation is the compulsory depriving of an owner of property in return for compensation

Family Title refers to legal rights to land registered under title for members of a family.

Fiscal cadastre refers to a register of properties recording their value

Fixed boundary refers to the legal boundary of a property where the precise line has been agreed and recorded.

Freehold Tenure refers to mode of landholding where the landholder holds land in perpetuity - free of any obligations to the state except for the payment of taxes and observation of planning controls imposed in public interest.

Gender refers to the attributes and opportunities associated with being male and female, and the socio-cultural relationships between women and men, and girls and boys, as well as the relations between different groups of women and different groups of men. These attributes, opportunities and relationships are socially constructed and learned through socialization processes.

General boundary refers to a boundary for which the precise line on the ground has not been determined.

Geodetic refers to a branch of applied mathematics or the scientific discipline that deals with the measurement and representation of the Earth.

Geographic information system (GIS) refers to a system for capturing, storing, checking, integrating, analysing and displaying data about the Earth that is spatially referenced. It is normally taken to include a spatially referenced database and appropriate applications software.

Geospatial Data refers to information that identifies the geographic location and characteristics of natural or constructed features and inter-relationships of such features.

Global positioning system (GPS) refers to a system for fixing positions on the surface of the Earth by measuring the ranges to a special set of satellites orbiting the Earth.

Governance refers to the act of affecting government and monitoring (through policy) the long-term strategy and direction of an organization. In general, governance comprises the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.

Grant refers to a general word to describe the transfer of property whereby rights pass from the “grantor” to the “grantee”.

Ground Rent refers to payment by tenant (lessee) to landlord (state) for specified period of time in accordance with lease agreement. Ground rent is the land tax in Zambia. Persons holding land under lease agreement are obliged to pay ground rent to the state.

Group Title refers to a transitional registration of land rights belonging to the tribe or clan according to particular custom whereby no individual can establish or maintain land without assistance of relatives and allies.

Institutional Reform refers to change in the administrative structures of institutions involved in land management.

Land administration refers to functions involved in implementing land management policies.

Land bank refers to large area of land held by a public or private organisation for future disposal.

Lands Commission refers to institution established under article 233 of the Constitution Amendment Act No. 2 of 2016 to administer, manage and alienate land, on behalf of the President as prescribed.

Land information system (LIS) refers to a system for acquiring, processing, storing and distributing information about land.

Land Lease refers to an agreement for temporary use of land by lessee, who pays rent to the lessor (owner i.e. the state in the case of statutory lease)

Land management refers to the proper and sustainable utilisation of all aspects of land including the formation of policies.

Land market refers to the exchange of values related to land between buyers and sellers

Land parcel refers to a tract of land, being all or part of a legal estate.

Land policy refers to the principles and rules governing property rights of land and the natural resources it bears; including the legal and institutional arrangements and methods for land access and use, validation and transfer of rights.

Land is the surface of the earth and the materials below the surface and all substances above the surface, things naturally growing on the land, buildings and other structures permanently affixed to land.

Land tenure refers to the mode of holding rights in land, system of access to and control over land and related resources or the set of relationships among people concerning land or its use.

Land tenure reform refers to change in the terms and conditions of holding land through an established authority.

Land transfer refers to the transfer of rights in land.

Land use refers to the manner in which land is used.

Land value refers to the worth of a property, determined in a variety of ways that give rise to different estimates of economic value

Lands Tribunal refers to a mandated body with the authority to settle land disputes appointed by the Minister of Lands in accordance with the Lands Tribunal Act (2010).

Leasehold tenure refers to a system where land belonging to one entity (the state) is, by contractual agreement, leased to another entity for a fixed period of time.

Lessee refers to a tenant or person who leases land.

Lessor refers to Landlord or Owner who leases out land (e.g. the state).

Livelihood strategies refer to the ways in which assets or resources are used to generate access to food and other basic needs of life.

Lot refers to an agricultural smallholding.

Mortgage refers to a contract by which a borrower commits land as security for a loan.

Multi-purpose cadastre refers to a register of attributes of parcels of land

National Spatial Data Infrastructure (NSDI) refers to the technologies, policies and people necessary to promote the sharing of geospatial data throughout all levels of government, the private and non-profit sectors, academia and citizenry.

Ownership refers to the exclusive right to use a parcel of land and enjoy the yield from land and improvements. It also includes the right to transfer the parcel to another person. Rights are restricted by state legislation.

Property rights refer to rights and duties held by people that include individual or collective rights, duties and regulations relating to property.

Provisional title refers to a registered title that should in due course become an absolute title provided that no objections are registered within a prescribed period.

Public land refers to any land that is held in trust and managed by the Government and or Customary Authorities for use as national parks, forest reserves, conservation areas, recreation areas and historic and cultural sites or any land set aside for public use, such as for establishment of public educational, health service and other public institution.

Rate refers to tax on land and buildings paid by property owners to local authorities.

Registration of deeds refers to a system whereby a register of documents is maintained relating to the transfer of rights in land.

Registration of title refers to a system whereby a register of ownership of land is maintained based upon the parcel rather than the owner or the deeds of transfer.

Repossess refers to legal revocation of rights to land under a lease by the state where a lessee has failed to comply with lease conditions.

Reserve land refers to land set aside by law in public interest for public use, such as land reserved for forests and game or providing for highways, security installations or any other public use.

Resettlement refers to a situation where the state relocates and settles special groups of persons i.e. under privileged, vulnerable or displaced persons such as retirees and unemployed youth.

Right of occupancy refers to legal land right guaranteed by a local authority to a person

Settlement refers to a planned place, usually designated by the state, where several persons gain access to land (property) and come to live and share some social amenities and physical infrastructure in agricultural or urban settlement.

Spatial referencing refers to the association of an entity with its absolute or relative location.

Spatial refers to "pertaining to space".

Squatter refers to someone who one that settles on land without authority.

Stamp duty refers to a levy charged on the transfer of property

Stand refers to a parcel of land created for residential, commercial and industrial purposes.

State Land refers to land where leasehold tenure is permissible (formerly Crown Land)

Statute of limitations refers to a statute that limits the period during which a claim can be pursued, for instance for the restoration of rights in land.

Statutory allocations refer to land that is set aside by law for use by a legally constituted function or institution

Statutory Title refers to legal right to land i.e. title granted to a person by the state.

Strata title refers to title to land that is not necessarily divided horizontally, such as in high- rise buildings or for mining rights.

Subdivision refers to the process of dividing a land parcel into smaller parcels.

Systematic adjudication refers to the determination of rights in land on a regular and systematic basis, for example within one area at one time.

Sustainable livelihoods refers to when systems of human livelihood can cope with and recover from stresses and shocks, and maintain or enhance their human capabilities and assets without undermining the natural resource base.

Tenure security refers to the degree of confidence held by people that they will not be arbitrarily deprived of the land rights or of the benefits deriving from their land.

Title deeds refer to documents giving evidence of land ownership.

Title refers to the evidence of a person's right to property.

Title registration refers to the Torrens system in which the government is the keeper of all land and title records, and a land title serves as a certificate of full, indefeasible, and valid ownership.

Transparency refers to the state of conducting land business or transactions in a clear, unmistakable and accountable manner.

Vestment refers to exercise of power or interest of control of land.

Wetlands refer to areas of marsh fen, peat land or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh or brackish.

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Acronyms

AMCEN	African Ministerial Conference on Environment
CAADP	Comprehensive Africa Agricultural Development Programme
CBNRM	Community Based Natural Resource Management
FDI	Foreign Direct Investment
GMA	Game Management Area
IAPRI	Indaba Agricultural Policy Research Institute
JFM	Joint Forest Management
LGAF	Land Governance Assessment Framework
MFEZ	Multi Facility Economic Zones
NAC	National AIDS Council
SEIA	Social and Environmental Impact Assessments
SMEs	Small and Medium Enterprises
UN-Habitat	United Nations Human Settlements Programme
UNAIDS	Joint United Nations Programme on HIV/AIDS
ZDA	Zambia Development Agency
ZDHS	Zambia Demographic and Health Survey

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CHAPTER I: INTRODUCTION

Land is the basic wealth of nations. It is the basis for the survival of all life forms, human, and all the other living processes. The way that society allocates land for human and other uses determines the character, quality and pace of human development. In Zambia, there are two land tenure categories, state and customary land tenure.

This is the first comprehensive land policy framework since independence. To date, land policy was in form of Ministerial Statements in Parliament, Presidential pronouncements, the Administrative Circular No 1, 1985 that has guided the system of land allocation and the principle land legislation, Lands Act of 1995. Lack of a coherent national policy and the ad hoc guidance of land management and administration have left a number of issues and challenges without adequate policy direction.

A national land policy is needed to streamline the delivery of land administration services and management in the development of the country. The absence of an all-inclusive National Land Policy has made it difficult to address a number of challenges that retard social progress, such as the lingering negative influence of colonial legacies, indiscriminate use of land and poor land development practices. There is need to improve on land administration and management not only to preserve the country's remaining pristine conditions, its serenity and beauty, but also in order to place the country's land development on a sustainable path.

This national land policy primarily seeks to promote equitable access to land to all the people of Zambia on state and customary land, for both poor and the wealthy and irrespective of gender. The policy seeks to strengthen land tenure security and enhance sustainable and productive management of land resources by upholding transparent and cost-effective systems of administration. The policy provides a framework for better conservation and protection of ecologically sensitive areas, within and outside protected areas and a more cost-effective and efficient settlement of land disputes.

The national land policy is divided into eight chapters, starting with the introduction in **Chapter I**. The Situation Analysis is presented in **Chapter II**. It highlights the policy development process and the current situation. **Chapter III** presents the overall vision of the policy, while **Chapter IV** presents the rationale. **Chapter V** outlines the policy guiding principles and the policy objectives are presented in **Chapter VI** together with the policy measures. **Chapter VII** is the Implementation Framework.

CHAPTER II: SITUATION ANALYSIS

Zambia covers a land area of 752,614 sq. km of which 11,890 sq. km is water area. The country is administratively divided into 10 provinces, 18 City and Municipal areas and 85 District Councils. Altogether, there were 106 districts in 2016. Zambia's international boundary is 5,664 km long and experiences cross-border encroachments, especially where no physical marks exist.

2.1 International boundaries

Zambia has a long international boundary. Much of it is on land, but there are also long stretches along shared water bodies. A good measure of the international boundary is not clearly defined and in places, physical boundary markers need to be fixed. The maintenance of international boundaries is required to safeguard territorial integrity and sovereignty and also the safety and security of citizens.

There are very strong social and cultural ties that continue to thrive among cross border communities irrespective of international boundary demarcation and associated policies. There are Zambian communities with Chiefs in neighbouring countries and vice versa and communities in Zambia who cultivate and fish across boundary lines. Cross border encroachments are common even where there are physical markers.

Zambia holds Joint Permanent Commissions of cooperation with neighbouring countries. This is the appropriate forum for coordination of external boundaries. In this context, there is need to maintain international boundary infrastructures and also to continuously sensitise communities on both sides of the border in order to make them aware of the consequences of their activities.

2.2 Internal Boundaries

Internal boundaries are important instruments of national identity, fiscal, electoral administration and good governance. Clear boundaries between villages, wards, chiefdoms, constituencies, districts and provinces clarify jurisdictions and help local land administration and land dispute management. The map indicating Chiefs' area boundaries was prepared in 1957 and has not been updated, limiting its use in resolving conflicts between chiefs.

Similarly the limits of nature reserves; land reserved for forestry and national parks, also need clarification for better controls and limitation of disputes. Even when there are up to date maps, the boundaries between provinces, districts, constituencies, chiefdoms and protected areas need to be clearly defined on the ground as well to simplify local land and regional

administration for better controls and particularly limitation of encroachments on protected areas.

Clear borders are also required between villages, chiefdoms, districts, constituencies and provinces to minimise conflicts between them. Village boundaries are not clearly defined leading to regular conflicts between them particularly over shared resources. District and provincial boundaries also need delineation to clarify jurisdictions and avoid duplication and conflict among administrative authorities.

2.3 Land Tenure Categories

Land in Zambia is divided into two tenure categories designated as state and customary land. The dual system of land holding reflects the country's history of the colonial settlement on present day state land and the separation of settlements for the local population in native reserves.

Accordingly, the right to land is in form of renewable fixed term registered leaseholds on state and 'converted' customary land and individual and community land on customary land according to subsisting customary practices. There is also public land; lands used by Government in public interest, such as for educational, health, defence and conservation purposes on both state and customary land, but also state land that is not allocated to anyone or has been abandoned.

The maintenance of two tenure systems customary and leasehold tenure present unequal rights to land among citizens, an indigenous form of land holding which is generally communal in character and another land holding that is regulated by statutes. In addition, this classification of the land tenure has to certain extent created a vacuum of how to deal with land reserved or to be reserved in the public interest.

2.3.1 Leasehold Tenure

Leasehold tenure applies to state land and whatever pieces of customary land on registered lease. There were about 200,000 leaseholds on 7 million hectares, about 9 per cent of country in 2016. This is considered a low record for a country with a population of more than 15 million.

There are four different types of state registered leases: a 10-year renewable *Land Record Card* is issued on Municipal land; a 14-year *interim lease* based on a sketch pending a registered boundary survey; a 30-year *Land Occupancy License* in municipal areas and settlement schemes. Local authorities give the 10 and 30-year leases without requirement for legally approved boundaries. These leases are generally believed to be too short for any useful purpose, and

their renewal is creates a burden on the system. Otherwise, a *99-year leasehold* period is typical for all surveyed land.

The leasehold tenure system provides state guaranteed right of ownership and security of tenure. Occupants can invest without fear of dispossession as long as they meet lease conditions. Leasehold enables holders to pass on the property freely to their designated heirs. It grants holders with rights to use (or not use); exclude others from using; irreversibly change and to retain all rights not specifically granted to others. Even though these rights are not absolute, they have other obligations, such as paying taxes, being liable for suits brought against the property, and abiding by the laws of the land such as zoning laws, building codes, and environmental protection laws.

Approximately 40 per cent of the country's population is on state land. This is a considerable proportion of the population to be on less than 10 per cent of the country. State land is the location for the country's major economic activities, all the urban areas, industry and most of commercial farmland. Natural population increases, migrations and rising urbanisation rates add to intensified pressures on this small part of the country and the institutions mandated to administer state land, while the rest of the country that falls on customary tenure is relatively idle.

The challenges with respect to leasehold tenure are characterised by widespread lack of knowledge of land alienation procedures; lack of willingness by some chiefs and practical difficulties involved in conversion of customary land to leasehold; scarcity of information on land availability and under-development and non-utilisation of land.

2.3.2 Customary Tenure

Customary land accounts for a little less than 60 percent of the population. Customary land covers 90 percent of the country and is also home to the country's protected areas, the wildlife estate; national parks and Game Management Areas and 74 per cent of protected forest areas.

Customary land is controlled by traditional authorities and is administered according to local customs. Customary land tenure is often confused with communal land ownership, yet this is only one form of use of such land and includes all common resources like forest areas and woodlands, rangelands and wetland areas that cannot logically be owned or used exclusively by an individual or a family.

Customary land tenure is distinguished from statutory tenure in terms of land ownership typology; the absence of formal land documentation, land market valuation and formal land use management. Even though African customary

land tenure is regarded as typically communal and therefore without recognised individual land rights, in practice, customary law actually protects both individual and communal land rights, in perpetuity. It recognises the occupancy rights of residents against interference from anyone else, except protection from eviction by government and now increasingly also by customary authorities themselves.

Currently, statutory leasehold rights have precedence over customary land rights. While the law recognises the existence of customary land rights, no attempt has been made to provide appropriate documentation for adequate recognition and protection of individual, community and communal land rights under customary land tenure. While private, individual land rights are well acknowledged within customary tenure, they are not adequately recognised in law.

There is considerable interest in registration of customary land on leasehold title. However, some chiefs are reluctant to consent to such registrations and the process of obtaining Title is slow due to numerous procedures involved and the centralisation of the institutions involved. The related costs and red tape involved is also discouraging the conversion from customary to leasehold tenure.

There are a number of challenges involving customary tenure. Customary landholding does not qualify as collateral and therefore cannot adequately serve as capital in a market economy. Because customary tenure is held according to local traditions and practices, it differs in nature and form across the country. The rights of landowners are undefined and sometimes contradictory. Similarly, there are no clear guidelines on the role and functions of traditional authorities and local authorities in the administration of customary land, nor are there clear assignment of land rights and responsibilities especially with regard to gender and social status.

There is also inadequate sensitisation on conversion of customary tenure to lease hold tenure among all parties involved. When customary land is converted to leasehold, there is lack of popular participation by the local people in land alienation decision. The decision-making process is not adequately transparent. Much of the land is also underdeveloped and underutilised.

In most customary land practices, access to land is generally more favourable to males and married persons. The youth, childless persons and widows often face additional difficulties to access land.

With regard to customary areas, the intrusion of city limits is making customary land rights even more tenuous. Individuals have occupied land without sanction of customary leaders. Residents have sold peri-urban land on customary estate to developers without community consent. There have also been instances where customary land trustees have leased land to outside developers without consulting the local community in advance of the allocation. Such practices favour urban elites at the expense of residents. There is a desire by customary land occupants to legally document their rights to land in order to enjoy similar legal protection as provided to leaseholds without conversion of land holding to leasehold tenure.

2.3.3 Public Land

Public land is land that is owned and taken care of by the government. Public land is simply all land that is neither private nor community land and is any other land declared to be public land by an Act of Parliament. Thus, public land is collective property of the present and future generations.

The concept of public land tenure is appreciated all over the world and is based on the ‘public trust doctrine’, which revolves around matters of public good such as environmental sustainability, public safety, security, health, defence, morality, town and country planning, infrastructure and the general development imperative. The present public land tenure management system in Zambia is fragmented, uncoordinated and non-transparent and its management is spread across different tiers and arms of government. There are no clear roles and responsibilities of different tiers and departments of government in regard to public land.

The management of public land lacks a coherent information system for the collection, organisation, storage and communication of information to guide clear and transparent mechanisms for allocation and disposal of public land. There are no guidelines or national norms and standards to ensure efficient and effective use of public land in public interest. In the absence of accessible, accurate and comprehensive information in place on public land holdings, public land is liable to encroachment and other negative vices at the expense of sustainable development in the public interest.

2.3.4 Common Land

Common lands refer to grazing lands, grave sites, village woodlands, river frontages or any other classification reserved for community use by a group of people in a particular settlement area. The right to use and benefit from common land is enshrined in the national constitution in line with statutory laws and customary practices. The Forest Act of 2015, Fisheries Act of 2011 and Wildlife Act of 2015 recognise community rights to common land resources. However, the right to commercial exploitation of common land resources is regulated by appropriate management institutions as provided by

appropriate legislations. Commercial rights require incorporation of the user(s) either by the Registrar of Societies, as a cooperative or other enterprise as required by law.

There are no clear rules or guidelines with regards to regulating the co-existence of multiple rights over common land and natural resources use. 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.

Co-existence of rights over the same piece of land and its resources is legally recognised and respected in practice as long as it concerns members of the same community because no one has exclusive rights and there are often no problems enforcing such rights even though there are no clear mechanisms to resolve disputes that may arise. However, when outside interests come in, local or foreign investors, problems arise as investors demand exclusive right of use.

The land law does not provide for documentation of group rights. Groups holding land under customary, group or collective tenures cannot document their rights on their own in line with legal provisions under the Lands Act, Cap 184 & Lands and Deeds Registry Act, Cap 185. However, the costs associated with mapping and registration of such rights, the lengthy process of registration of rights and the statutory obligations (fees) that the group is subjected to after mapping and registration of rights are considered prohibitive to many. This does not include recording of rights as groups for common areas such as grazing land.

There is no provision for boundary demarcations for community land by customary law (unwritten) or written law. Currently, there are a number of initiatives to apply low cost, latest survey and mapping technologies for boundary demarcations of individual and community land in customary areas.

2.3.5 Non-Zambian Access to and Ownership of Land

The right of non-Zambians to own land is one of the emotive aspects of land tenure in the country. One aspect of the apprehension is the ease with which non-Zambian investors are granted land in comparison with the difficulties faced by citizens. 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 with 75 per cent of shareholders being Zambian, a charitable organisation, or a registered commercial bank. The Lands Act specifies the conditions for companies with non-Zambian shareholders to hold land, but is silent on the need for notification should the proportions of shareholders between Zambians and non-Zambians change.

There is widespread concern that unregulated access to and ownership of land by non-Zambians will lead to marginalisation of nationals, and this needs to be addressed to protect the land resource for the benefit of present and future generations.

2.3.6 Large-scale Land Based Investments

Zambia has not been spared from rising foreign interest in land. Since 2007/8 global food crises, foreign national governments, private investors, universities and hedge funds seek to contract thousands of hectares of land for up to 99 years. The rush for land is for mining and minerals, bio-fuel and food production, forests and water resources, all because of global product shortages and rising commodity prices.

Much of the land involved in foreign land investment is customary land. Since, customary land occupants do not have documented land rights, they are often at risk of loss of livelihoods when their land is transferred to private investors. Local communities can lose access to water sources, grazing land, and forest products when their land is acquired for private investments. They are not adequately compensated simply because their rights to the land in question are not documented and compensation rules and practices do not include the loss of land rights and access to water and forests resources, which can potentially increase their food insecurity and vulnerability to poverty. Subsequent resettlement cannot amend the disruption of social networks and modes of production. Displacement comes with diminished sense of control and identity. It has lasting social and environmental costs.

Women tend to be more vulnerable than men in instances where land is allocated to large scale land based investors. Women are disadvantaged due to their low literacy levels, their inadequate representation in land governance institutions and forums where discussions related to the allotment of such large parcels of land are taking place.

2.3.7 Gender, Youths, Persons with disabilities, HIV/AIDS and other Cross Cutting Issues

(i) Gender

In 2015 the estimated population of Zambia was 15,473,905 and the number of males in the country was estimated to be 7,525,764 and that of females was 7,948,141 indicating that there are proportionately more females (51 per cent) than males (49 per cent). However, available information shows that only 25

per cent of the 13, 585 state land offers for two years up to 2014 were allocated to women.

Traditional practices prescribe how land is accessed and rights to land are enjoyed before, during and after marriage as well as at succession. These practices may and often infringe upon women's rights to land. It is also generally recognised that women still lack control over land especially in customary areas. In line with some local customs, women may access land through their male relatives. The opposite is also the case with men where matrilineal kinship systems prevail. In case of divorce or death of a spouse, women in patrilineal lineage systems may lose access to land. In some parts of the country, it is still common for relatives of the deceased to grab land from orphans, widows and widowers resulting in loss of land. This situation is compounded by difficulties that people face to access justice. Accordingly, gender discriminatory practices obtain and often affect more women than men.

ii) Persons with disabilities

Persons with disabilities constitute about 10% of the population. Disability is a relative term and applies to a wide range of infirmities. The current land laws do not discriminate against anyone on the basis of disability. The problem of disability and land lies in customs, norms and beliefs that disabled people cannot use the land productively. It is therefore a matter of stigma because in reality disabled persons can hold land productively like any person.

Lack of knowledge and appreciation among land administrators on the need to allocate land to people with disabilities is responsible for relative lack of access to land by persons with disabilities. There is also limited access to land administration services by people with disabilities and stigma and prejudice against persons with disabilities restricts their equal involvement in land allocation and use.

(ii) Youth

Current laws enable a youth that has attained the age 21 years to hold land. However, there is a bias in land allocation towards older persons such as pensioners, as if they are more entitled to land than the younger persons. Land is still seen as a refuge for the aged. The youth find it generally difficult to access land.

There is public concern that the contractual age of 21 years is high taking into account the increase in the child headed households and the numbers of unemployed youths. The challenges regarding youths and land are lack of recognition of the land related empowerment needs of the youth and the absence of promotion of land ownership among the youth.

(iii) Citizen Empowerment

Government has recognized that in order to address poverty there is need to empower Zambians by increasing their access to land, and much more so for the marginalized groups such as women, people with disability, the youth and other vulnerable groups. To this end, the Government passed the Citizenship Economic Empowerment Act to address matters of empowerment. However, with regard to land, there is concern that investor incentives are more favourable to non-Zambians, yet it is nationals that account for the largest share of total investments. There is a lack of a deliberate policy to empower citizens to access land.

(iv) Private Sector Participation

Access to land has been identified as one of the main obstacles to ease of doing business and the development of a private sector driven economy. It is not easy to find surveyed land, ready for investment. It is also difficult to develop land due to lack of adequate infrastructure in areas of investment potential. The private sector is not fully involved in the land delivery system in the country.

Currently most of the land which is potentially available for investment is found in customary areas where it is not easy to obtain title, where physical infrastructure is inadequate and most of this land is in the hands of traditional rulers who perceive the land as belonging to communities and not available for outside investors.

(v) Land and HIV/AIDS

The emergence of HIV/AIDS has far reaching ramifications on land tenure. The average infection rate among people aged 14 to 49 years was 14.3 per cent in 2015 and declining. However, there are concerns that those with the HIV/AIDS virus or terminally ill persons cannot properly use land and therefore do not really need it. This impression is reinforced by the consequences of long-term illness and death. In many places close relatives grab the land and orphans and widows lose access to the land on which they

derived their livelihood following the death of a breadwinner. The logarithm of events following long term illness and death further marginalises survivors.

The challenges related to HIV/AIDS and land administration involve abandonment of land during illness, underutilisation following illness or death of family breadwinner, distress sales of land at distress prices due to illness and death of landowner and inadequate recognition of the impact of HIV/AIDS pandemic in land administration and management services.

2.4 LAND ADMINISTRATION

The Ministry responsible for land administration surveys land and registers leasehold titles. The Ministry responsible for lands has offices in each province, but decision-making and record keeping are not fully decentralised. It also collects land related revenues but does not have presence at district level.

Other Government institutions perform other land administration and management functions. Other institutions perform functions of spatial planning, land use management, valuation, revenue management and land allocation. The spread of functions across several ministries can hinder smooth functioning of land administration and management processes.

At provincial level, the Ministry responsible for land administration performs the functions of land identification, land allocation, land surveys and geo-information and revenue collection of land related fees and charges. However, as of 2017 land registration was only done at Lusaka and Ndola. The land administration services are not suitably represented at district level. They are centralised.

Provincial Planning Authorities carry out the spatial planning functions. Local authorities, city and municipal councils, identify available land. The Land valuation is a function falls under the Ministry responsible for Works and Supply. The Ministry responsible for agriculture and the office responsible for resettlement also identify and plan land for agricultural use and resettlement and similarly, the Ministry responsible for national parks and wildlife has spatial planning functions in national parks and GMAs. However, coordination between agencies involved in the land allocation is weak and information about land is not easily accessible.

Land administration at local level is delegated to local authorities and on customary lands to the chief. The chiefs are expected to participate in land identification for various public uses and make recommendations to the

Commissioner of Lands. However, the functions of the chief in land administration are not clearly defined and need institutionalisation.

2.4.1 Clarity of Institutional Mandates

There are potential areas of conflicts of interest among public institutions regarding roles in policy formulation, implementation and arbitration. The role of the ministry responsible for lands in land surveying for example competes with that of private surveyors. Whereas, public function is best served in provision of policy guidance and regulation and there is conflict of interest if the same functionary is involved in surveying practice, best executed by private sector. However, the overlapping role of the public sector is justified by the capacity of the private sector, which is still inadequate and unable to serve public demand.

There is potential conflict and overlapping functions created by the obligation of the Minister responsible for Lands to appoint Registrar of the Lands Tribunal, whereby the Minister may also be a party in land disputes.

There is also an overlap of functions and jurisdiction within and across institutions. While the Commissioner of Lands relies on surveys for decisions on subdivisions, the Ministry responsible for local authorities also originates similar decisions and so does the Ministry responsible for agriculture with respect to farmland.

The physical planning function is spread across several jurisdictions, the ministry responsible for local government, the ministry of agriculture and 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.

2.4.2 Access to Land Administration Services

The public faces a number of challenges concerning access to land administration services. Pricing of land services such as surveying, valuation, registration and land related fees and charges are not affordable to most people, which complicate public access to land.

The land title registration system in Zambia is centralised and out of reach to many. The system that was designed for the needs of a small settler population, exclusive of indigenous people is now unsuitable to the current needs of society. As a result, the cadastral survey and land registration capacity is unable to deliver timely services resulting in a backlog of

applications. The system for delivery of land administrative services is slow and expensive to the public because of centralisation and many procedures involved.

2.4.3 Survey, Cadastral and Mapping Services

Surveys and geo-information services are provided for under CAP.188 of the Laws of Zambia. Land surveys involve cadastral, geodetic, topographic, hydrographical and engineering surveys for the acquisition of primary data in the field in order to process and derive spatial information critical for a wide range of land administration and land management functions.

(i) Cadastral Surveys

The primary purpose of a cadastral survey is to determine for each land parcel its location, the extent of its boundaries and surface area and to indicate its separate identity both graphically on a map and physically on the ground. The Government maintains a cadastral property register, which serves the public with survey data that defines or re-establishes boundaries of state land or land held under leasehold tenure. The register contains approved cadastral survey records, constituting textual and graphic map data.

Public institutions and private practitioners carry out surveys. However, the inadequacy in human and institutional capacity of the surveys and geo-information resource base has over the years impacted negatively on service delivery. As a result, there are a number of illegal surveys being undertaken by unauthorised surveyors thereby contributing to unreliable data in the cadastral property register. This has also been worsened by lack of human capacity to conduct survey inspections.

(ii) Geodetic Surveys

Geodetic Surveys include the establishment and maintenance of the spatial reference frame (geodetic network) that consists of a national coordinate system of records and a physical of infrastructure trigonometric stations and township reference marks. The spatial reference network is primarily used for locating points upon the earth surface in order to control and integrate data during cadastral, topographic and engineering surveys.

The spatial reference network is equally applied in controlling and integrating land related features and data in mapping and charting operations and varied scientific applications. Limited use however still exists in several applications with potential such as transportation, navigation and communication; and

geophysics applications due to low investment and advancement in modern geodetic surveys on a national level.

Currently there is no unified consistent spatial reference frame. This makes surveying and geo-information activities more costly. Furthermore, because of lack of resources Government is unable to facilitate the surveying and geo-information activities.

(iii) *Other Surveys*

In addition, Government is unable to facilitate provision of topographic, hydrographical and engineering surveys executed by public and private domain due to resource constraints. There is a public concern that survey services are not affordable and readily accessible to the general public particularly to those people in rural areas.

The challenges relating to survey include lack of up to date, accurate and reliable survey data; costly, inaccessible and limited survey services particularly for people in rural areas as well as out of date survey laws and standards that have adversely affected service delivery. There is also lack of qualified surveyors to undertake the verification of survey work and a restrictive establishment of the ministry responsible for surveys to adequately serve the nation's growing survey needs, such as to curb current fraudulent and sub-standard surveys conducted by unauthorised surveyors. This is compounded by long-term inadequacy of public financial allocations thereby limiting the technical resource availability.

2.4.4 *Land Registration*

Land registration is provided for under the Lands and Deeds Registry Act Cap. 185. All interests in land must be registered in accordance with the Lands and Deeds Registry Act otherwise the interests become null and void. According to Sections 4 and 5 of the Lands and Deeds Registry Act, 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 (30) days, ninety (90) 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 null and void.

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. Due to traditionally centralised administrative structure, which has led to location of the registry at Lusaka, expanding needs of the country have not been taken into consideration.

The Lands and Deeds Registry issues certificates of title based on approved cadastral diagram for the period not exceeding 99 years.

There are three types of registers; the lands register, the common leasehold register and the miscellaneous register. The lands register contains documents relating to land and 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 approved by the Surveyor General.

The challenges involving land registration are as follows: centralised land registry which is considered expensive to users and a registration system is slow.

The recognition of the customary tenure and the role of the Chief as provided for by the Chiefs Act cap 287 as an authority with regards to offer of land for use and occupation to residents of customary land and by the Land Lands Act Cap 184 s7 (2) is not followed up by recognition of the customary land registers.

2.4.5 Land Information

Available information on characteristics of landholdings, such as narrative descriptions of land parcels, area, size and status for example is incomplete and not easily accessible. The statistics on the quantities of the various categories of land, as well as records on titles to land are also not complete. Accurate and up-to-date land information is a pre-requisite for effective land management and land delivery. Without reliable and up-to-date spatial (referenced) data on land, spatial planning is based on incomplete knowledge. It is therefore not possible for the state to adequately provide for the needs of institutions to support land transactions, taxation and planning.

Documentation practices under customary tenure are either weak or non-existent. Where such information exists, it is not readily available to other users. The quality of information is also not standardised and not disaggregated according to gender.

2.4.6 The Land allocation Mechanisms

First time land allocation system is based on the principle that the President holds land in perpetuity for and on behalf of the people of Zambia. The Constitution gives power to the President to grant or alienate land vested in the President in State land to any citizens and non-citizens as prescribed. On state land, land allocation is in line with provisions of various laws; the Urban and Regional Planning Act, the Lands Act, the Survey Act and the Lands and Deeds Registry Act. The State cannot make any grants unless the land has been planned and surveyed. Under customary land, the procedures vary from place to place, but generally involve direct allocation by village head persons or local chief. The market provides the mechanism for land allocation for private transfers. On newly opened lands, the system to acquire land in both municipal and agricultural areas of land allocation is through administrative mechanisms.

On state land, appropriate planning authorities generate land disposal by preparation of a layout plan. The plan is relayed to the Commissioner of Lands for scrutiny to ascertain the availability of the land. Upon approval, the plan is despatched to Survey for numbering. Copies of the numbered plans are sent to the planning authority that created the defined parcels and the local authority where the defined parcels are located.

On receipt of the numbered copy, the local authority invites applications and the prospective owner accordingly applies to local authority. A committee interviews applicant and selects 'suitable' candidate based on a number of requirements to establish capacity of the applicant to develop the land. Names of approved candidates are presented to district council meeting for adoption and the approved list of applicants is sent to the Commissioner of Lands, who may reject or approve the applications.

To obtain title, the approved applicant pays prescribed fees before commissioner of lands can offer the lease to the applicant. The applicant thereafter is required to raise survey diagrams by paying for the services of a licensed surveyor; pay for a cadastral drawing and an examination fee for approval of the survey diagram. Stakeholders have indicated that the procedure is slow.

For customary land, the prospective developer requires the consent of the local Chief to convert the landholding to statutory leasehold and to obtain a certificate of title. Once the Chief is satisfied that the land is available, a consent letter and site plan is prepared by a planning authority depicting the land that is being applied for consideration and approval of the local authority. A committee that deals with land matters inspects the land in question and interviews the applicant. Where the applicant is successful, the local authority

recommends the allocation of the unnumbered plot, to the Commissioner of Lands. The application forms, site plan and council minutes are attached to the recommendation letter that certifies that the recommended plot is indeed available as offered by the Chief for allocation to the applicant. If satisfied the Commissioner approves the application. For land in excess of 250 hectares the Commissioner of Lands seeks endorsement of the Minister responsible for lands before approving the application.

There is concern that the conversion of tenure from customary to statutory leasehold ultimately obliterates the very existence of customary tenure because it is permanent. There is no reversion to customary tenure at the end of the lease, or even in the event that the developer abandons the land in the interim period. The absence of records to indicate the extent of conversions contributes to apprehension among customary authorities over their shrinking sphere of control.

Under settlement schemes, the Scheme manager transmits the application for title directly to the Commissioner of Lands through the provincial lands officer. But in the case of unoccupied non-agricultural state land, it is the Regional Planning Authority, such as physical planning and housing office, who issue a sketch map where stands are pre-demarcated. Once the application is received at the Commissioner's office, the application is scrutinised by the Map room where it is plotted into a Master Map to avoid duplicate registration and overlaps. The application is sent to Survey where it is checked against the Master for presentation to the Commissioner of Lands for offers. An offer letter is then prepared and transmitted to the applicant stipulating the charges to be paid before lodging for title.

State consents are required for assignment, transfer, sublease, mortgage and subdivision of leaseholds. To transfer and register leased land, a lawyer is required to prepare a non-encumbrance certificate and draft the purchase and sale agreement. In addition, the seller has to pay for state's consent to the sale, pay property transfer tax before lodging the assignment for registration at the Land and Deeds Registry at an additional fee. It takes an average of 39 days and payment of a series of fees between 1% and 10% of the value of the property plus 3% of the value of the property or the price paid for the transaction (whichever is higher), and additional miscellaneous cash payments in fees and legal services.

In urban areas, applicants for land can apply to the Planning Authority, the Council and the ministry of Lands, or directly to entities that construct houses. There is no assurance of services for land. At least 70% of new housing is in unplanned settlements without formal tenure systems, planning, construction standards, or services. It is not possible to obtain a leasehold interest in an unplanned settlement on state land, unless the settlement has been "declared" as housing area by the Ministry of Local Government and Housing. The

Ministry may “declare” a settlement if 60% or more of the land is publicly owned and 50% or more of the dwelling structures are built of standard materials. Only then may the local authority consider an application for renewable 30-year occupancy rights.

Generally, the processes involved to obtain land and the centralised issuance of certificate of title is considered lengthy and costly to prospective landowners.

Land allocation within the customary tenure system varies according to applicable land ownership system. However, there are similarities in the way that land is regarded, including the importance of land and the use of geographical features to identify boundaries. Under customary tenure, a group or a community that is linked through a combination of kinship and by residence holds the land. This land-holding group differs in size from a family, to a village, to a larger line, clan and /or tribe. Representatives of the first land occupants, through a Chief and a cortege of elders responsible for land administration lead the group or community and make land allocation decisions.

The reliance on geographical features to determine boundaries among groups and villages can complicate territorial integrity and the management of the land, leading to conflicts between chiefs and within the chieftdom, between villages and individual households within villages. It is probably more critical where Chiefs’ boundaries cross the national border, as affected persons would not know which country they are. Between urban and customary areas, the absence of regularly updated maps also complicates controls and resolution of territorial disputes.

2.4.7 Unauthorised Land Allocation

The problem of illegal allocation of land is more exposed as an urban feature. According to the 2010 census of population and housing, 70 per cent of Lusaka land is unplanned. However, the problem is widespread in rural areas as well where encroachments are rife in protected forests.

The problem of unauthorised land allocation is explained by a number of issues ranging from shortage of land in some parts of the country due to rising population pressures, corruption, lack of transparent land delivery systems, inadequate capacity due to inadequate budget allocation for development control and monitoring, weak institutional and legal framework for land administration and inadequate land use planning and development controls. Policy measures are required to address this situation.

2.4.8 Taxation, Valuation and Non-Tax Revenues

The contribution of real estate sector to GDP in 2014 was a low point of 3.5 per cent. This low level of real estate contribution to GDP is partly explained by the weight of the informal sector, of unincorporated and unregistered enterprises, in this important sector of the economy. According to the GDP Benchmark Estimates Summary Report (2010) of the Central Statistical Office, the informal sector share of the real estate sector is 91.8 per cent. Such a scenario implies weak regulatory framework, low reach of land administration and inability to capture land values through taxation and valuation services throughout the country leads to a low contribution of the land sector to development of the economy.

Local government revenue generation through property tax is inadequate because property markets are not well developed and property registers and valuation rolls are either not in place or up to date. Even where this is not the case, the value of land is not adequately included in the valuation of properties. Thus, the economic contribution of land to social development is not up to the expected levels.

2.4.9 Land Markets

Land markets deal with value, transfer, lease and mortgage of rights in land. Land markets build capital out of land. Poorly functioning land markets can cause several ills including land speculation, creation of slums and squatter settlements, environmental deterioration and an inefficient urban development pattern which increases the cost of provision of infrastructure services and adversely affects the growth of the urban economy. Efficient and effective operations of land markets facilitate investments in the market economy.

The land market in Zambia is relatively young. It was suppressed between 1975 and 1995 when land buying and selling activities were prohibited by law. The passage of the Lands Act of 1995 and the liberalisation of the economy in general, unlocked land market restrictions. However, the land market is not functioning well due to shortage of a required professional cadre of surveyors, land management specialists and real estate professionals and weak regulatory environment.

Even though land has value, especially land located in areas with high levels of economic activity, it is allocated freely, save for administrative and tax charges to the beneficiary. Private land transactions are restricted to state land. This causes artificial limits to land availability and causes false shortages. The result is that land quickly changes hands once it is allocated at increasing value to the beneficiary, so that land allocation is a conduit for land sales and not for immediate use. In spite of restrictions of the formal land market to state land, land sales are now common in all parts of the country including private sale of customary land.

Informal property ownership by the majority, most of whom are poor, means that land is not an asset base for poverty reduction.

Other challenges of the land market are, the lack of valuation capacity in land administration and of determined land value resulting in speculative sales. The

lack of regulation of the land market transactions and an effective regulatory framework for real estate agents lead to fraudulent behaviours, especially so given an environment that is lacking adequate and reliable land market information or accessible nationwide register of land rights.

2.5 The Land Development Fund

The Land Development Fund (LDF) was established by the Lands Act of 1995 to assist councils in opening up new areas for development through the provision of infrastructure such as roads, electricity, water, sanitation etc. The source of Fund is the treasury and a percentage of ground rent on a revolving basis. Although this fund is available, the finance is low resulting in relatively low impact.

The challenges of Land Development Fund therefore relate to lack of increased funding levels to ensure a wide range of beneficiaries. Delayed funding due to poor project management skills by local authorities and indiscipline in fund utilisation despite the existence of guidelines.

2.6 Land Dispute Management

Civil Society land advocacy records indicate a rising number of land disputes before the formal court system due to a wave of illegal land allocations involving non-Zambians and between nationals as a result of large-scale investments in agriculture and mining, as well as due to urban expansion and other private uses countrywide. The increase in the number of land disputes is especially greater in rural and peri-urban communities.

There is also considerable frustration with timeliness of resolving conflicts in the formal system. Expert opinion suggests that a decision in a land-related conflict may take up to 2 years or more for 90% of cases.

Legal and logistical costs are a major challenge faced by rural communities to justice through the formal judicial system. Civil society organisations provide paralegal services in urban/peri urban and rural communities and subsidised legal assistance to women and poor people to access justice on land disputes. However, these institutions have limited financial and human resource capacity to serve all that need assistance. The public also lacks information on ways and means available to them to defend their land rights.

2.7 Land Use Management

Spatial planning involves allocation of land resources to achieve maximum efficiency while respecting the nature of the environment and community welfare. Physical planning functions are carried out by a number of different agencies at national and local levels. Even though the Constitution of Zambia assigns spatial planning to local authorities, there is apparent lack of coordination of different spatial planning functions over a number of sector ministries such as agriculture for the creation and planning of farmland, national parks and wildlife for land use planning in national parks and GMAs and so on for forestry management, roads etc. The Ministry responsible for local government is the national spatial planning authority, but its mandate is limited to functioning of spatial planning in local authorities.

Long-term inadequate resource allocation to spatial planning has led to sporadic and unplanned development and use. Increasing demands of a growing population, growth of urban areas, cascading poverty and its attendant pressures on environment has worsened performance of land use management functions. Where planning functions exist, they are confined to the urban sphere and settlement areas. Even in urban areas, the application of regulations is weak and lack enforcement. Approved land use plans are often not followed up with land development services. In general, there is a lack of an up-to-date national land use plan. Planning controls and land use guidelines are restricted to urban and industrial settlements on state land to the exclusion of customary land use practices, as a result, a number of settlements on customary land are approaching urban population densities without benefit of planning schemes. Local authorities lack adequate planning and enforcement of land use controls and restrictions. There is also lack of compliance by land users to physical planning guidelines.

2.7.1 Urban Settlements

Any settlement with a population in excess of 5,000 is classified as an urban area in Zambia. Cities and towns serve as centres of commerce and industry. As the economy grows, towns and cities expand in size and volume and the contribution of the urban sector to the national economy increases. The urban sector will play a critical role in the structural transformation of the economy and in sustaining the high rates of economic growth in the country's long-term future.

The urban population is expected to increase gradually at an average growth rate of 3.5 per cent per annum from 40.6 per cent in 2011 to 46.1 per cent of the total population by 2035. In terms of absolute numbers, this represents an expected increase for the urban population from 5.56 million in 2011 to 12.43 million in 2035. Zambia is set to be among top rapidly urbanising countries in Africa well into the future (CSO 2012). However, urban development is generally haphazard, uncontrolled and characterised by unguided land use and amidst poverty. Poverty is also an urban issue as 28 per cent of the urban population is classified as poor (CSO, 2010). There is rising cost and shortage of land, lack of access to land and insecure tenure.

2.7.2 Rural Settlements

Rural areas are important to the economic success of the country and quality of life. Zambia's rural areas have diverse population levels, natural resources, geographies and physical characteristics and economies. Rural areas and urban areas are interdependent in terms of markets, resources and amenities. It is important to leverage rural assets and amenities and protect the environment as a foundation for a sustainable economy.

Zambia's rural settlements are predominantly poor and cannot improve their wellbeing on their own. About 58 per cent of the rural population was classified as being extremely poor in 2010 compared to 13 per cent of the

urban population. Apart from poverty, some cultural beliefs and practices such as unequal participation of women and men in land and property ownership also hinder development.

The inadequate access and distribution of essential services to rural settlements is encouraging greater concentration of the population and overcrowding in areas with accessible social infrastructure services in spite of abundant available land. All land in Zambia needs to be planned in order to release ample space for development.

2.7.3 *Unplanned Settlements*

The problem of land access in urban areas has given rise to unplanned land settlements. While unplanned land settlements occur in both urban and rural areas, it is much more prevalent in urban areas.

The rapid growth of the urban population estimated at 4.3 per cent per year is nearly twice the rural population growth rate of 2.3 per cent per year (CSO 2012). This is adding enormous pressure on urban land delivery mechanisms. Lack of equitable access and allocation of land in urban areas is the main factor behind expansion of unplanned settlements and persistence of illegal land developments. There is also evidence of growth of unauthorised settlements in parts of rural Zambia as well. Unless land is decisively planned and efficiently managed, land racketeering and land development problems in the near future are expected to multiply.

Invasion of planned areas by squatters has led to shortage of planned land uses such as land for commercial zones, clinics, schools, industrial zones and others that are taken up by unauthorised settlements. As a result, development takes place contrary to the provisions and the vision of a Development Plan, thereby creating a shortage of land for the planned development, which may end up in less suitable areas.

2.7.4 *Housing Land*

The 2010 Census of population and Housing report indicates that 36 per cent of the dwelling units are in urban areas and 64 per cent in rural areas. Out of the total housing stock, only 31 per cent meets the minimum development and health standards and 69 per cent is informal or non-compliant housing.

It is estimated that 1.3 million additional urban dwellings are required by 2030. When cities double in size, they triple in area. At current density of 30 dwellings per hectare, a total of 48,000 hectares of land is required for urban growth and 67,200 ha inclusive of urban services by 2030. Without densification of urban areas to cope with rising demand for urban space and

optimal use of infrastructure, the country faces unprecedented urban sprawl. Effective and efficient land use planning and management is therefore critical to address this challenge.

2.7.5 Resettlement Land

Resettlement is a government strategy where farmland is allocated to individuals who are primarily unemployed or in temporal employment so that they become self-employed in the agricultural sector and raise their standard of living through productive use of the land resources. Resettlement has a pro-poor emphasis where the poorest of the poor, who may not be able to get land on the open market, are deliberately accorded an opportunity to own land with guaranteed security of tenure. Individuals who are on pensionable employment can only qualify when they are transitioning to retirement by having attained minimum age of 45 years. In an effort to combat youth unemployment, youths as young as 18 years of age, are eligible to be allocated farm land under the Resettlement Programme.

Zambia as a country is experiencing high level of illegal settlement in protected forest and game management areas and privately-owned land, among others. Government's Resettlement Programme offers an opportunity for a durable solution to those that need farm land by absorbing citizens that are being internally displaced from such areas. There is need for a structured approach to the identification of resettlement land in all parts of the country in line with coherent land use plans.

2.7.6 Agriculture Land

The total population of Zambia doubles every 15 years. This has a knock on effect on the country's growing food security needs. Agricultural food production has to increase by two and half times by 2030 just to maintain the current rate of consumption. Therefore, the country needs to reverse the declining smallholder access to land to achieve the required minimum food security targets.

Overall population density is low at 14 persons per km², but the national average farm size is 4 ha and that of smallholders is 1.8 ha and declining as shown by shortening of fallow cycles and rotations, which imply declining soil quality and fertility and potentially land productivity. There is need to resolve the apparent paradox of inadequate access to land for many rural households in spite of low population density and ample land by improving access to basic services, water, road infrastructure and markets to make rural settlements economically viable in all areas of the country and to achieve a smallholder-led, pro-poor agricultural development trajectory.

2.7.7 Natural Resources, Environment and Landscape Management

Nearly 40 per cent of the country is under one form of conservation management, such as forest, national park or game management areas. There are also important areas outside protected areas that provide key ecosystem services. While protected areas are clearly demarcated, the management of zones around protected areas are at the discretion of agencies involved. Therefore, the integrity of ecologically important expanses outside the protected area is not so secure.

Concerns have been raised regarding instances where land has been allocated on vital eco-systems, river frontages and other critical ecologically sensitive habitats to the detriment of the environment. This vice needs to be arrested through the development, implementation and enforcement of the relevant policy measures and legislation.

There are synergies between different land uses and that achieving these synergies requires stakeholder coordination and spatial planning at a landscape scale. Meeting the increased demand for agricultural products requires an ecologically sensitive approach which should be well planned.

2.7.8 Mining

Zambia is better known as a world-class producer of cobalt and copper. There are also substantial reserves of other base metals and industrial mineral resources, yet to be fully exploited. Mining and quarrying contribute 13 per cent to GDP and nearly 70 per cent of foreign earnings.

The Constitution protects the right to property and at the same time permits acquisition of minerals, natural gas, or any right accruing from a license issued for prospecting or mining minerals on customary or leasehold land. Failure of a landholder to allow for mineral exploration and extraction justifies the acquisition of the land. While the ministry responsible for mines issues mining and mineral exploration and extraction licences, the Commissioner of Lands issues leasehold rights in order to allow a surface land rights. If the mining occurs on customary land, the consent of the chief is required to allow registration of leasehold rights.

Small-scale mining licences receive 10-year renewable licenses and large-scale mining operations can receive a 25-year renewable license. The law requires that mining rights holders obtain consent from traditional leaders (if on customary land) or any other legal occupier of the land prior to commencement of the mining activities. Currently, the lease period of the

certificate of title applicable to mining operator is same as the term of the mining license.

Mining is often considered to have a relatively small footprint compared with agriculture; however, mining activity has potential to disturb the ecological balance of an area, the livelihoods of existing landowners by impacting negatively on their food security due to loss of their legal rights to land. There is a need to properly plan and manage mining areas to ensure sustainable development.

Mining license acquisition can lead to loss of land rights and create insecure livelihoods to existing landowners if not well planned and managed. Therefore, while mining activities contribute to job creation and national income, it is important to strike a balance and apply measures to protect the rights of existing land occupants and preserve communities and at the same time accommodate mining operations.

2.7.9 Infrastructure

Public utilities, transport and communications, energy, water supply, irrigation and sanitation systems provide important services to households, businesses and industry. These services require considerable amounts of land and proper planning is required to deliver them in a predictable and proper way.

Inappropriate land tenure, weak land rights regimes can be problematic to provision of infrastructure. The concentration of the urban population in unplanned settlements where residents have weak land rights makes it difficult to provide affordable, accessible and suitable infrastructure services. To start with, the specific needs of residents of unplanned settlements may be overlooked in favour of overall national priorities. It is difficult to provide compensation to neighbourhoods that do not have formal land rights in the event of disruption. Besides, infrastructure delivery is considerably cheaper in planned than in unplanned settlements.

2.8 THE LEGAL FRAMEWORK

Section 233 of the Constitution of the Republic of Zambia Act 2016 establishes the Lands Commission that “shall have offices in all Provinces and progressively in districts”. Accordingly, the Lands Commission shall administer, manage and alienate land, on behalf of the President to citizens and non-citizens for a prescribed tenure. Section 254, provides for classification of all land in Zambia as state land, customary land and any other classification, as prescribed.

2.8.1 The Lands Act

The *Lands Act* 1995 provides for administration of leasehold tenure and the continuation of customary tenure. The Act is ineffective in a number of areas, particularly because it has no appropriate regulatory instruments to support it. For instance, in spite of stipulating the mode of land alienation, the Ministry has maintained the provisions of the 1985 Administrative Circular. Similarly, the recognition of customary land tenure by Section 7 of the Act is not followed by recognition of ownership rights. In short, the Act has a number of limitations. Some of these can be summed up as:

- (i) Lack of clarity in role of chiefs as custodians of customary land;
- (ii) Absence of provisions for formal registration of customary tenure;
- (iii) No jurisdiction for dispute resolution involving land rights originating from customary tenure;
- (iv) Weak restrictions or limitations to foreign ownership of land;
- (v) Weak guidelines on procedures for allocation and sale of land.
- (vi) Weak guidelines on procedures for allocation and sale of land.

The rules and procedures governing access to land for investors are similar to those of nationals as well as established inhabitants of customary land. The procedures for registration of leasehold rights on customary land are the same for occupants and new settlers. There is need for different procedures for land acquisition affirmative to indigenous and nationals over residents and foreigners.

There are concerns that the legal recognition of customary land is inadequate. The Land Act of 1995 offers discretion to the chiefs in allocation of customary land, but does not require upkeep of transfer records to ascertain land use rights. There is need for land records to protect community land uses to avoid private enclosures of community land.

The Land Act makes the conversion of land from customary to statutory tenure irreversible. The conversion of tenure from customary to leaseholds effectively extinguishes customary rights. This is equal to systematic erosion of customary land rights in the country and is a source of concern among chiefs and customary land rights holders alike.

2.8.2 The Survey Act

The Survey Act (CAP 188) of 1960 specifies the administration of surveys and the licensing of surveyors. The Act also provides for responsibility of Government in the supervision and control of all surveys and charting of land and the preserve of records pertaining to survey. The Act, which was passed

in 1960, is not consistent with emerging survey and mapping technologies, methods and professional practices in use.

The Act prescribes survey standards and accuracies that are too stringent and not fit for purpose, thereby depriving the public and people in rural areas of simpler, quicker and affordable survey services. The public perceives that prescribed survey fees and charges are unaffordable. There is concern by the profession over the extent of state versus self-regulation of professional survey practice. The Act has extensive provision for cadastral surveys and to a less extent for non-cadastral and geo-information services.

2.8.3 *The Lands and Deeds Registry Act*

The Lands and Deeds Registry Act provides for registrations of Titles and other miscellaneous documents. The Act restricts conveyance to legal practitioners by the Act and lack of provisions for certification and registration of conveyors and related agents is restrictive and limits the process of registration to one category of practitioners.

Even though the Act provides for appointment of District Registrars, this is limited to only a few major towns. The position of the district registrar has remained vacant, thereby causing costly registration of documents.

The Act has a number of challenges, some of which are the absence of provisions for registration of rights of landholders under customary tenure and the non-creation of District Registries, which makes the system centralised and costly to users. Lack of integration of the existing township and municipal registries established under the repealed Housing (Statutory and Improvement Areas) Act Chapter 194 and the Town and Country Planning Act Chapter 283 makes the register incomplete.

2.8.4 *Customary Land Law*

Customary land law is not codified. African customary law and practice is governed by interpretations of oral traditions and customs defining humankind land relationships. According to legal experts, customary land law is a living law and is not static

The primary legal mechanism to protect the customary land rights of local communities is the *Lands (Customary Tenure) (Conversion) Regulations (2006)* which call on the chief and local authority to confirm, through signed written consent that the land is not being used for other purposes; the members of the community were consulted; the investor's interest does not conflict with the needs, interests and rights of local land users and recommendation for

leasehold title. The requirement for consent of a customary ruler by applicant for certificate of title does not require proof of community consultations.

CHAPTER III: THE VISION OF THE LAND POLICY

3.1 The Vision

The vision of the National Land Policy is a Zambia where there is equitable access to secure land ownership by all Zambians, and is administered and managed efficiently and effectively for sustainable development of the country.

Land is recognised as a resource to foster development. To this end, it is the vision of this policy to provide for access and use of land by non-Zambians. This is in line with the Article 254 (2) of the Constitution of Zambia (Amendment) No.2 of 2016 which indicates that the President may alienate land to citizens and non-citizens as described. This Policy provides that ownership of land remains the preserve and privilege of Zambians while non-Zambians can only sub-lease land from the government and from Zambians.

CHAPTER IV: RATIONALE

Land is not only an economic and environmental asset. It is also a social, cultural and spiritual resource. Land is an important factor in the construction of social identity, organisation of religious life and the reproduction of culture. Land links generations, families, lineages and communities and a policy is needed to address these dimensions in the development a modern society.

The absence of a coherent land policy is responsible for disorderly management of land. A national land policy advances discipline in the land market, minimises land encroachments and avoids multiple land sales; unapproved development schemes and haphazard developments. The national land policy has to produce effective and efficient land administration and management systems for both state and customary land, harmonise land investments for agriculture, forestry and fisheries, energy and mining uses and also produce a framework for accessible land dispute management.

Gender disparities in the manner rights to land to land are enjoyed or accessed in the country continue to exist due to several reasons. This policy will ensure that they are opportunities for every Zambian to be able to access land and secure their interests in land whether male or female.

The national land policy balances the needs of rural and urban areas through effective land use planning and controls. The policy defines the incentive framework for optimal land utilization; the development and management of urban lands, for rural renewal and supports development of sustainable infrastructures.

The policy supports the Urban and Regional Planning Act 2015, which allows the application of land use planning principles throughout the country. It supports a framework that accommodates actions to mitigate climate change impacts, sustain forests, food, and water and health benefits to help local communities and to conserve biodiversity and ecosystem services.

The policy seeks to domesticate key provisions of some international instruments such as the Voluntary Guidelines on the Responsible Governance of Tenure, the Sustainable Development Goals, the African Union (AU) Framework and Guidelines, the AU Guiding Principles on Large Scale Land-based Investments and the Nairobi Action Plan. It also domesticates relevant provisions of the Universal Declaration of Human rights, the Convention on the Elimination of Discrimination against Women [CEDAW (1979)], the 1995 Beijing Declaration and Platform of Action, the 2003 Protocol to the African

Charter on Human and People's Rights, the 2004 Solemn Declaration on Gender Equality in Africa, the 2008 SADC Protocol on Gender, the Convention on the Protection of World Cultural and Natural Heritage (UNESCO, 1972); the Right to Food (as recognized by Article 25 of the Universal Declaration of Human rights; the International Covenant on Economic, Social and Cultural Rights) and the United Nations Declaration on the Rights of Indigenous Peoples and the African Charter on Human and Peoples' Rights.

CHAPTER V: GUIDING PRINCIPLES

Article 253 of the *Constitution of Zambia (Amendment)* [No. 2 of 2016] provides the guiding principles of land policy and stipulates that:

“Land shall be held, used and managed in accordance with the following principles”:

- (i) Equitable access to land and associated resources;
 - (ii) Security of tenure for lawful landholders;
 - (iii) Recognition of indigenous cultural rites;
 - (iv) Sustainable use of land;
 - (v) Transparent, effective and efficient administration of land;
 - (vi) Effective and efficient settlement of land disputes;
 - (vii) River frontages, islands, lakeshores and ecologically and culturally sensitive areas to be accessible to the public; not to be leased, fenced or sold; and to be maintained and used for conservation and preservation activities;
 - (viii) Investments in land to also benefit local communities and their economy; and,
 - (ix) Plans for land use to be done in a consultative and participatory manner.
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CHAPTER VI: OBJECTIVES AND MEASURES

6.1 International Boundaries

Objective 1: Ensure that boundaries are clearly marked in order to minimise border disputes.

Measures

- (i) Maintain and monitor the extent of boundaries at all times to avoid any form of cross border encroachments;
- (ii) Establish and maintain international boundaries on land and shared water bodies monitor, and regularly maintain boundary infrastructures and sensitise the public on boundary positions; and,
- (iii) Seek to harmonize regional land policy frameworks, processes and management systems.

6.2 Internal Boundaries

Objective 2: Prepare and update internal boundaries in order to promote national identity, fiscal, electoral administration and good governance frameworks.

Measures

- (i) Up-date and make available all maps, narrative descriptions and ancillary data for clear physical interpretation of administrative boundaries;
- (ii) Clearly delineate and clarify jurisdictions of natural conservation areas, forests and national parks, GMAs and other protected areas;
- (iii) Clearly delineate provincial, district and chiefdom boundaries in order to clarify boundary positions; and,
- (iv) Maintain and monitor internal boundary infrastructures and sensitise the public on boundary positions.

6.3 Land Tenure

Objective 3: to address the land tenure constraints that impact social and economic development through the implementation of a comprehensive land policy.

6.3.1 Leasehold Tenure

Objective 4: To implement measures that will ensure that leasehold land managed in an effective and sustainable manner.

Measures

- (i) Replace all leases for 14 and 30 year term with 99 year renewable Leasehold Titles subject to meeting terms and conditions in the lease agreement and the relevant legislation for Zambian citizens only;
- (ii) Lease period for investment projects shall be tied to the period of the licenses and concessions for the planned developments, but shall not exceed 25 years, and shall be renewable subject to terms and conditions set in the license, concession and lease agreement;

- (iii) Include specified land use easements, legal servitudes and other social and conservation conditions in land lease conditions; and,
- (iv) Establish procedures for sound community consultation and participation by all those materially affected by leases and guidelines for recording and enforcing resultant agreements;
- (v) Formulate and implement measures for systematic mass title regularization to provide security of tenure on land.

6.3.2 *The Customary Land Tenure*

Objective 5: To strengthen customary land administration in order to guarantee security of tenure.

Measures

- (i) Develop and disseminate guidelines for the issuance of customary land certificates and the ensuing rights and obligations to be enjoyed under such certificates;
- (ii) Provide guidelines for registration of all interests in land either as group land rights, or individual private land;
- (iii) Build capacity for documentation of land rights at local levels;
- (iv) Provide legal recognition of land certificate issued by traditional authorities and procedures for issuance customary land certificate;
- (v) Make registered customary land interests transferable; and,
- (vi) Establish procedures for protection of customary interest in communal land resources in the name of the community and/ or Chiefdom.

6.3.3 *Public Land Tenure*

Objective 6: To institutionalise public land tenure in policy and law.

Measures

- (i) Compile and maintain an inventory of public land;
- (ii) Establish clear and transparent mechanisms for allocation and disposal of public land;
- (iii) Provide information to the general citizenry on public land, its registration, use and benefits;
- (iv) Provide a mechanism for change of use of public land through a public review; and,
- (v) Classify at least 50 metres of land along and from a listed natural river/lake or public reservoir as public land and justify developments within the zone by way of Development Plan and or an Environmental Impact Assessment.

6.3.4 Common Land

Objective 7: To protect and conserve commons lands, which are essential for the livelihood support, economic growth and for the overall well-being of a community.

Measures

- (i) Promote involvement of community institutions at village and Chieftdom levels in order to strengthen decentralized governance of natural resources.
 - (ii) Discourage privatisation of common land through a public vetting system;
 - (iii) Develop a legal framework to:
 - a. Regulate and manage common lands, including recording and registration of group interest, such as grazing in common lands.
 - b. Address the needs for the conservation of common lands
 - c. Provide boundary demarcation of community common land;
 - d. Provide conflict resolution framework;
 - e. Preserve the existing common lands from encroachment, unauthorized construction and measures to prevent such uses; and,
 - f. Enable the poor and marginalised to assert their claims and entitlements on common lands.
 - (iv) Provide rules and guidelines for coexistence of multiple rights over common land natural resources in line with the Constitution;
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- (v) Encourage development of community capacity such as training programmes for village leaders and rural volunteers on natural resource management and decentralized governance;
- (vi) Include principles of community based natural resource management in the School curriculum starting with basic concepts at primary level; and,
- (vii) Facilitate the process of identification, management and development of common lands.

6.3.5 Non-Zambian access to Land

Objective 8: To regulate access to land by non-Zambians with a view to providing for access and use rights on land to non-Zambians while restricting ownership of land, both state and customary to Zambians only.

Measures

- (i) Review the measures for regulating foreign ownership of land with a view to providing for sub-leasing and/or renting of land only by non-Zambians;
 - (ii) Introduce and implement stringent change of land use conditions for both Zambian and non-Zambian owned companies to curb the proliferation of unfinished investment projects, land hoarding and land speculation as well as the indiscriminate disposal of land for profit;
 - (iii) Introduce and implement limitations/ceilings on the amount of land allocated for use by a single foreign investor;
 - (iv) Develop and implement modalities aimed at permitting Non-Zambian owned companies to access and use land on a sub-lease or rent basis from the government, customary land authorities or private landowners for investment purposes in line with their residential and investment objectives, but not exceeding a period of **25years**, and renewable on the fulfilment of prescribed conditions;
 - (v) Existing long term leases shall be reviewed and the land in question cannot be disposed of/sold/exchanged by the lessee without prior consultation with and approval by the government;
 - (vi) Develop and implement stringent laws/measures to control non-Zambian access to land;
 - (vii) Clarify and provide regulations/guidelines on the role of Chiefs in customary land administration and the powers of executive authority in allocation and registration of land rights of non-Zambians; and;
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- (viii) Maintain a gender disaggregated register of land in the hands of non-Zambian persons in order to regulate and address public apprehension on non-Zambian land investments.

6.3.6 Large Scale Land Based Investments

Objective 9: To ensure accountability, transparency, monitoring and compliance to lease conditions to protect land rights and safeguard against environmental damage.

Measures

- (i) Develop a land investment code of conduct to protect the interests of Zambians;
- (ii) Recognise and respect all existing rights to land and natural resources;
- (iii) Require a Social and Environmental Impact Assessments (SEIA) prior to lease of land to minimise negative social and environmental impacts and,
- (iv) Establish procedures for sound community consultation and participation by all those materially affected and guidelines for recording and enforcing ensuing agreements before land can be leased out.

6.3.7 Compulsory Acquisition

Objective 10: To review the compulsory acquisition of land and other property.

Measures

- (i) Provide land sharing alternatives to compulsory land acquisition in case of development projects;
- (ii) Ensure that Compensation is fair and adequate and determined through negotiations taking into account the proposed investment, negative impacts and undertaken in a gender sensitive manner;
- (iii) Ensure that the market value of customary land is determined by open market procedures and is fair and adequate; and,
- (iv) Ensure that to the extent possible land acquisition for all types of land uses shall not render a land titleholder, their kith and kin and descendants completely landless.

6.3.8 Development Conditions

Objective 11: To improve security of leasehold tenure

Measures

- (i) Develop and/or review legislation to enforce the conditional development and utilisation clauses to improve the leasehold tenure and curb land hoarding practices for purposes of advancing equitable distribution of land;
- (ii) Consider application of financial charges in place of re-entry on non-compliant properties;

6.3.9 Gender, Youths, Persons with disabilities, HIV/AIDS and other Cross Cutting Issues

Objective 12: To achieve a gender sensitive, and a youth friendly land sector which is inclusive of persons living with disabilities and other socially marginalised groups.

Measures

- (i) Review statutory laws and practices that perpetuate gender discrimination in the land sector;
 - (ii) Engage and sensitize traditional leaders to work towards eradicating customary practices that perpetuate gender discrimination in the land sector;
 - (iii) Ensure that women and men have equal access to land rights before marriage, during marriage, in instances of divorce, after marriage and in instances of succession without discrimination;
 - (iv) Mainstream gender in all institutions administering and managing land;
 - (v) Implement a 50 per cent land ownership for women;
 - (vi) Promote sustained land and gender awareness campaigns using various media and forums;
 - (vii) Encourage co-ownership and registration of land rights for married couples as a means of protecting the same rights and the rights of families in the event of divorce or death of a partner;
 - (viii) Recognise the impact of HIV/AIDS pandemic in land administration and management services and work in partnership with other stakeholders to redress the impact of the pandemic;
 - (ix) Develop mechanisms to enhance access to land and land administration services by persons with disabilities;
 - (x) Involve persons with disabilities in land administration and management decision-making;
 - (xi) Lower the contractual age for land acquisition from 21 to 18 years to enable more youths to enjoy rights to land and succession;
 - (xii) Ensure that land is alienable and transferrable without discrimination on grounds of gender, age (for those that qualify), ethnicity, geographical origin, disability or social economic status; and,
 - (xiii) Periodically identify land for development programmes that will primarily benefit the poor, women, youths, persons with disabilities and other socially marginalized groups.
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6.4 Efficient, effective and transparent Land administration processes and services

Objective 13: To strengthen the administration and management of land services.

Measures

- (i) Streamline, reorganise and enhance the coordination mechanisms and cooperation among land administration and management institutions involving Resettlements, Spatial planning and land use, valuation and land allocation ;
- (ii) Create inclusiveness and accountability in the land delivery process;
- (iii) Restructure the network of institutions dealing with land administration and management and develop flexible systems allowing for public-private partnerships and private sector participation;
- (iv) Facilitate equal representation of men and women in land administration institutions at national, provincial, district and customary levels;
- (v) Ensure that all institutions allocating and administering land provide engendered reports;
- (vi) Expedite the implementation of E- governance in land administration to help harmonize operations and improve service delivery;
- (vii) Establish public documentation centres of gender disaggregated land information in provinces and districts as appropriate; and
- (viii) Ensure that the functions of the Ministry responsible for land are decentralised in line with the national decentralization policy of government.

6.4.1 Institutional Mandates

Objective 14: To clarify institutional mandates

Measures

- (i) Review and realign the mandates, roles and responsibilities and composition of the various agencies involved in land administration and management at the national and local levels.
 - (ii) Support training in all key aspects of land administration such as land survey, valuation, planning and law.
 - (iii) Establish an institutional coordination framework to enhance communication and collaboration for all land and natural resources management agencies;
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6.4.2 Land Registration

Objective 15: To create and maintain a professional, accountable, transparent and timely land registration system.

- (i) To modernise, digitise and unify land information and management registry;
- (ii) Ensure that the land registration system is able to deliver its services according to the expectation of citizens, at reasonable expense, cost effectively, timely, in a transparent manner and sealed against corrupt practices;
- (iii) Link and harmonise the property registry with the multi-purpose cadastre and land use management and control registry systems;
- (iv) Progressively decentralise land registration services and delegate land registration functions to provinces, districts and where necessary devolve through public private participation approach to local settlements;
- (v) Employ a system of land registration that avoids duplicate issuance of one parcel and forgery, adequately protect rights and permit efficient, simple, quick, secure and low cost transactions;
- (vi) Provide for registration of properties and issuance of certificates of title for public, private and customary estates and maintain a national lands register;
- (vii) Provide for registration of miscellaneous documents for all land tenure categories; and,
- (viii) Encourage stakeholder involvement in land registration and data exchange using state of art land information tools and technologies to document different land rights and claims at community levels.

6.4.3 Survey, Cadastral and Mapping Services

Objective 16: To enhance efficiency and cost effectiveness of survey and mapping functions through commercialisation, notwithstanding the public need to provide all basic and control services.

Measures

- (i) Implement an automated cadastral survey and land titling system to support efficient functioning of the land market and facilitate financial intermediation;
 - (ii) Decentralisation of survey and mapping services to districts and customary areas;
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- (iii) Provision of survey services on cost recovery basis;
- (iv) Up grading of the technical capacity of survey and mapping functions for continuous service delivery improvements; and,
- (v) Management of a National Land Data Bank for the land management information system.

6.4.4 Provision of accurate maps

Objective 17: To prepare basic topographic maps at scales that conforms to policy needs and technological advances and regulate the preparation of Atlases and Tourist maps according to the law.

Measures

- (i) Digitise data and maintain and update periodically all maps in line with the *World Land Use Survey Standards*;
- (ii) Issue copyright rights to ensure its privacy, confidentiality and any other matters incidental to the same.

6.4.5 Application and promotion of fit-for-purpose approaches

Objective 18: To fix and record property boundaries through a variety of techniques, accuracies and costs.

Measures

- (i) Establish new rules, standards and principles to arrive at appropriate levels of accuracy and the quality according to the purpose of survey and area concerned and at the same time permit the use of more rapid survey techniques;
 - (ii) Establish and maintain a multi-functional and multi-purpose cadastre for land registration, land planning and development across all land tenure classifications;
 - (iii) Adopt latest Remote Sensing and Geographical Information Systems (GIS) techniques to support land and property information systems and enable generation of public financial resources through up to date records;
 - (iv) Document real property boundaries and include other information such as forests, buildings, roads and rivers to help landowners to define the
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- extent of their properties and for the management of construction, planning and environmental projects; and,
- (v) Establish a water surface rights cadastre to enable the Ministry responsible for water resources to support farming investments on water surfaces, such as cage - pen aquaculture.

6.4.6 National Spatial Data Infrastructure

Objective 19: Implement a National Spatial Data Infrastructure (NSDI) framework.

Measures

- (i) Establish a National Spatial Data Infrastructure (NSDI) framework (policies and regulations);
- (ii) Maintain a unified national geodetic spatial reference frame consistent with the international terrestrial reference frame and Global Navigation Satellite Systems (GNSS) networks.

6.4.7 Land Information

Objective 20: To maintain an accurate, gender-disaggregated and up-to-date land information for regional and urban land management.

Measures

- (i) Digitise all land records to maintain a robust land information management system and customise a modern reporting system;
- (ii) Identify and remove barriers to women's access to land information to create gender-equitable access to land information;
- (iii) Build the capacity of districts to manage such data;
- (iv) Publicise latest information on operation of land market in terms of prices, supply of serviced land, development projects to enable stakeholder decisions.

6.4.8 Land allocation

Objective 21: To implement an easy, equitable, transparent and cost effective land allocation system.

Measures

- (i) Promote an institutional reconfiguration of local land administration institutions that advances social cohesion and ensures democratic land allocation procedures;
- (ii) Promote equitable access to land and its use across gender and class;
- (iii) Decentralisation of land allocation system;
- (iv) Formulate simplified land allocation guidelines that enhance transparency and equity in land allocation and procedures on both state and customary land;
- (v) Ensure that land acquisition processes and procedures provide equal opportunities for both men and women to access and own land without discrimination on both customary and state leasehold tenure; and,
- (vi) Ensure that all land for human settlements, agriculture, industry and commerce and other uses is planned, surveyed and serviced in advance of allocation.

6.4.9 Taxation, Valuation and Non-Tax Revenues on Land

Objective 22: To simplify taxes, improve collections and strengthen valuation capacity at all levels.

Measures

- (i) Establish mechanisms for improving tax and valuation systems compliance;
- (ii) Adopt appropriate measures to control land value escalation;
- (iii) Offer relief from rating on lands actually in agricultural use, while charging tax at standard rate on idle land;
- (iv) Charge tax on customary estates used for commercial purposes;
- (v) Employ a progressive tax system based on the land use;
- (vi) Maintain property transfer tax;
- (vii) Charge consideration fees to applicants for state land at the time of offer at a rate determined by the valuation agency;
- (viii) Develop guidelines and regulations on the nature and type of obligations applicable on the registration of land rights on customary land.

6.4.10 Land Markets

Objective 23: Formalise land ownership in the country to create an asset base for the poor, promote a property market, expand financial intermediation and widen the municipal tax base.

Measures

- (i) Regularly update land rights registers and real estate registers and publicise information in the registries and market trends;
- (ii) Promote the development of mortgage finance and assist the poor in using land and real estate as collateral; and
- (iii) Reduce land market distortions to improve fiscal policy performance;
- (iv) Develop and implement measures suitable for mass title regularization.

6.4.11

Objective 24: Strengthen valuation capacity at all levels of land administration and improve valuation systems and regulatory compliance.

Measures

- (i) Provide adequate educational facilities to train land valuers;
 - (ii) Offer fitting support to the valuation agency for timely valuation of all land and real property to meet public needs;
 - (iii) Employ a progressive tax system based on the land use;
 - (iv) Capture land value gains (or so called unearned income) that accrue on account of public investment, infrastructure in rating valuation.
 - (v) Regularly review and improve valuation systems to raise regulatory compliance and adopt appropriate tax and nontax revenue measures to control land value escalation, promote land ownership, equitable land distribution and poverty alleviation;
 - (vi) Develop and implement a regulatory framework and minimum standards to regulate the conduct of property developers and other land agents for purposes of protecting the public and maintaining sanity in this area.
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6.5 Spatial Planning and Regulation of Urban and Rural Areas

Objective 25: Prepare and update a national planning framework to guide national development planning proposals.

Measures

- (i) Support timely preparation of integrated development plans in order to prevent unplanned settlements and developments;
 - (ii) Decentralise land administration services and simplify procedures for acquisition of land;
 - (iii) Adopt an urbanisation policy to bridge physical and economic development planning and upgrade urban develop;
 - (iv) Ensure gender sensitive participatory planning processes and openness to development needs and proposals from the society;
 - (v) Ensure that Land use change guidelines are adhered to and are consultative of key stakeholders and the public;
 - (vi) Formalise land ownership for informal housing settlements;
 - (vii) Sustain and renew established rural communities in a way that responds to the spatial and economic attributes of the area;
 - (viii) Harmonize approaches by other agencies (such as agriculture, forestry, energy, national parks and wildlife, transport, and urban development) and assist central funding and local monitoring functions; and,
 - (ix) Strengthen rural settlements to enhance their economies and accommodate additional population through provision of public services; and
 - (x) Ensure that land allocated for various forms of development is serviced with the minimum requirements to protect the public, the land and other natural resources.
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6.5.1 Urban Settlements

Objective 26: To harmonise local land allocation policies and draw up plans for major urban expansions to provide land for housing in large tracts with plot layouts and trunk services (major roads and primary water supply and sanitation services) provided ahead of demand.

Measures

- (i) Ensure that Land in urban areas shall be planned to provide for a rational and optimum density pattern; and,
- (ii) Ensure that allocation of housing-sites and houses in urban areas for the public or private sector development, shall set aside a proportion for vulnerable households including women and persons with disabilities;
- (iii) Develop and enforce regulations that will ensure that mandatory minimum requirements are met before land is allocated for different uses.

6.5.2 Rural Settlements

Objective 27: To guide the identification of most suitable areas for location of various activities in rural areas in order to provide for orderly provision of essential services.

Measures

- (i) Sustain and renew established rural communities in line with the spatial and economic attributes of the area;
 - (ii) Ensure that rural settlement policies and plans adhere to local land tenure practices and are appropriate to local circumstances;
 - (iii) Strengthen rural settlements to enhance their economies and accommodate additional population through provision of public services;
 - (iv) Safeguard key resources of rural areas and ensure that water quality, pastures, forests and woodlands are protected in order to maintain the quality of life and economic viability of the area; and,
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- (v) Prohibit cultivation, vegetation removal and settlements on slopes at risk of soil erosion;
- (vi) Ensure the enforcement of planning standards in rural as well as customary land areas.

6.5.3 Unplanned Settlements

Objective 28: To regulate with a view to eliminating the growth of unplanned areas through timely provision of shelter or serviced building plots.

Measures

- (i) Enlist participation of CBOs and NGOs in land tenure up grading of informal housing settlements;
- (ii) Encourage local authorities to support residents to form CBOs and NGOs for land tenure upgrading purposes;
- (iii) Urge local authorities to raise funds for planning and surveying through such schemes as plot development revolving funds, cost recovery and cost sharing methods and self- financing for planning and surveying;
- (iv) Enable systems for timely planning, surveying and servicing land for development in the urban fringe, and,
- (v) Decentralize land allocation services as close to the people as possible to improve service delivery

6.5.4 Land for Housing

Objective 29: To institute forward planning of land for housing and publicise its availability

Measures

- (i) Enforce land subdivisions regulations and curb illegal subdivisions while promoting compliance with relevant regulations;
 - (ii) Ensure establishment of local nature conservation areas, such as for maintenance of appropriate tree and vegetation cover and greenbelt for all settlement areas;
 - (iii) Prohibit regularisation of new land invaders, intruders and squatters on the same piece of land;
 - (iv) Enable systems for timely planning, surveying and servicing land for development in the urban fringe.
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6.5.5 Resettlement Land

Objective 30: Enhance collaboration with Chiefs and Government to continually avail adequate land for resettlement purposes in all districts of the country.

Measures

- (i) Deliberately designate some idle state land for resettlement purposes in each district of the country;
- (ii) Support the Resettlement Programme as a way of modernizing rural areas and for empowering women, youth and other vulnerable groups;
- (iii) Ensure that households affected by internal displacement due to investment projects are adequately compensated and resettled elsewhere by the developer or investor causing the displacement in line with national laws and guidelines relating to compensation and resettlement of displaced persons;;
- (iv) Enhance collaboration with traditional leaders and other landowners to continually avail adequate land for resettlement purposes in various parts of the country;
- (v) Ensure that all individual properties held under Resettlement Schemes have certificates of title; and,

- (vi) Encourage gender and youth friendly rural resettlement schemes.

6.5.6 Agriculture Land

Objective 31: To improve smallholder access to secure ownership of agriculture land.

Measures

- (i) Provide agricultural land infrastructures to all parts of the country;
 - (ii) Promote commercialisation of smallholder farmers through provision of adequate land and secure land rights and protection of common property resources;
 - (iii) Provide land for various agricultural uses; aquaculture, apiculture, crops, livestock and wildlife ranching and other such enterprises through improved land delivery mechanisms.
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6.5.7 Environment, Natural resources and Landscape Management

Objective 32 Ensure optimal utilisation of the land resources through formulation of provincial, district and local land use policies that incorporate area-specific concerns and priorities.

Measures

- (i) Ensure that land policies, plans and programmes conform to prescribed environmental conservation principles and guidelines;
 - (ii) Regulate the acquisition of certain types of agricultural land to protect prime farmlands, irrigated lands and lands for communal forests and pastures, floodplains and other wetland areas in line with regional and local priorities;
 - (iii) Protect lands required for social development such as land uses linked to livelihoods of rural populations;
 - (iv) Promote properly guided and coordinated development to minimise land use related conflicts and negative environmental impacts;
 - (v) Encourage provincial and local authorities to establish and implement integrated land management policies that recognise and provide for the preservation of the natural character of wetlands, and lakes and rivers and their limits and protection them from inappropriate subdivision;
 - (vi) Protect and enhance native vegetation and ensure that land use, subdivision and development activities minimise the removal of native vegetation;
 - (vii) Ensure that exotic forestry activities do not have significant adverse effects in relation to landscape values and natural features;
 - (viii) Review and strengthen legislation for protection of significant indigenous vegetation and habitats of indigenous fauna;
 - (ix) Strengthen legislation for the maintenance and enhancement of public access to and along the lakes, and rivers;
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- (x) Provide adequate legal safeguards for recognised customary sites and the protection of historic and cultural heritage sites from inappropriate subdivision, use and development;
- (xi) Identify, map and protect wildlife migration corridors in partnership and consultation with neighbouring states and local communities; and,
- (xii) Encourage the establishment of natural resource conservancies and sanctuaries at community level.

6.5.8

Objective 33: To manage land with a view to improving carbon storage by protecting grasslands, rangelands and forests to meet the food needs of a growing population and exports.

Measures

- (i) Require public land management agencies to incorporate landscape values through their processes and actions;
- (ii) Encourage provincial and local authorities to adopt landscape conservation objectives and policies;
- (iii) Recognise and provide for the preservation of the natural character of wetlands, and lakes and rivers and their limits and protect them from inappropriate subdivision, use and development;
- (iv) Protect and enhance native vegetation and ensure that land use, subdivision and development activities minimise the removal of native vegetation; and,
- (v) Encourage location of exotic forestry activities where adverse effects on landscape values and natural features can be avoided.

6.5.9 Mining Land

Objective 34: To ensure that mining developers adopt principles of Free, Prior and Informed Consent of local people for decisions that may affect them.

Measures

- (i) Ensure that developers and communities conclude agreements that recognise the land rights of local communities.
- (ii) Develop specific policies to address involuntary displacement in line with international best practice;

6.5.10 Preservation of Land for future use

Objective 35: To ensure the preservation of land for future use

- (i) Establish and manage a Land Bank mechanism to support various uses;
 - (ii) Develop, implement and enforce guidelines and regulations for the management and use of Land Banks
 - (iii) Support utilities to involve communities in the design and planning activities of infrastructure projects to optimise land uses.
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CHAPTER VII. THE IMPLEMENTATION FRAMEWORK

7.1 The Institutional Framework

In order to effect the measures outlined above, it will be necessary to strengthen the system of land administration and management and devolving to the district level the authority to administer plan and control land in line with the National Decentralization Policy.

In line with the Constitution of Zambia (Amendment) Act, 2016, Government will unify land practices, usages and legislations governing land holdings, land acquisition, usage and delivery into one national system of land administration and management.

7.1.1 The Ministry Responsible for Land Administration

Within the context of institutional reforms, the ministry responsible for land shall seek to develop and maintain a single land administration service. It shall,

- (i) Supervise, regulate and certify the production of maps;
 - (ii) Offer policy direction to the Lands Commission;
 - (iii) Formulate land policies, monitor and coordinate their implementation and mobilise resources to facilitate implementation;
 - (iv) Regulate and control non-Zambian interests in land
 - (v) Exercise the powers of compulsory acquisition and development control and assess compensation upon compulsory acquisition;
 - (vi) Supervise and regulate the land market through controlling the survey and demarcation of land for land use and registration;
 - (vii) Review organisational frameworks and mandates with a view to outsourcing delivery of services;
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- (viii) Set service standards and performance of land planners, surveyors, valuers, estate agents and other land related professionals and ensure quality control and capacity building;
- (ix) Manage the Land Development Fund;
- (x) Monitor and evaluate performance of the land sector institutions in collaboration with civil society, the private sector and other stakeholders.

7.1.2 The Lands Commission

In order to streamline the administration and management of land, Article 233 of the Constitution of Zambia (Amendment) Act, 2016 creates the Lands Commission.

The functions of the Commission shall be set by Parliament and its composition shall reflect the necessary expertise, equity and accountability values of this policy. The form, structure and detailed functions of the Lands Commission shall be determined by the legislation promulgated to operationalize the Commission.

7.1.3 The Role of Customary Establishments in Lands Administration

Chiefs and other customary leaders perform a number of roles that are tied to land. Chiefs represent cultural values and practices embodying the fertility and spirituality of the land; social and cultural identities of the people; the duty to work for material progress in the community and the maintenance of peace and unity within and between neighbourhood communities. In recognition of these functions, the customary authorities have authority to:

- (i) Consent to allocation of land to individuals, families and investors for their use in line with integrated development plan;
 - (ii) Ensure equitable allocation of land between men and women in their operational areas;
 - (iii) Document all land rights and maintain a land register for own area;
 - (iv) Maintain a gender disaggregated register of land rights including communal and common land;
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- (v) Superintend the use and allocation of rights to communal land;
- (vi) Assign and resolve overlapping and competing uses and provide social and economic safeguards for community resources;
- (vii) Communicate community interests to Government and other land administration institutions;
- (viii) Oversee protection and uses of land resources, forests, fisheries, wildlife and other communal resources for the benefit of the people.

7.2 Land Valuation

The Government will review the relationship between the valuation agency and the cadastral function to harmonise standards and reduce the duplication of records, staff and effort.

The expected increase in the volume of land transactions and the enhanced role of the valuation agency demands augmentation of the valuation skills of employees in specialised areas and computerisation to coordinate large volumes of land sales data and monitor land sales to detect land speculation or to identify social or economic changes reflected in the land market data. Accordingly, the Government will improve valuation capacities of local authorities to strengthen revenue generation.

7.3 Local Authorities

In view of the policy measures to reform the institutional architecture of land administration and management and the need to move to systematic land delivery rather than reactive (sporadic) consent based system, the Government will streamline and simplify the system for allocation of land rights and reduce the number of authorities involved in land alienation to make the system more accessible and affordable to wide range of eligible landholders. The local authorities shall:

- (i) Take a leading role in the preparation of district spatial plans;
 - (ii) Participate in the delivery of residential land in collaboration with the Ministry responsible for lands;
 - (iii) Manage the release of land for urban development and provision of services;
 - (iv) Facilitate the preparation of demand driven land-use plans of villages and other rural settlements using available local resources;
 - (v) Carryout mass awareness campaigns on the needs for village and other rural settlement renewal and planning;
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- (vi) Perform land allocation and land utilization functions in line with government's national decentralization policy and sector devolution guided by laws and regulations that may be developed from time to time.

7.4 Lands Dispute Management

The systematic registration of land rights has the potential to increase the number of land disputes during the adjudication process. Accompanying measures to improve the system for land dispute mediation is required to ease access to justice through the judiciary and other alternative dispute resolution mechanisms at local level. A fast track mechanism for speedy resolutions and disposal of land disputes is needed. The Government shall support measures to:

- (i) Establish mechanisms for prevention and resolution of conflicts during formalization of customary land rights at local level.
- (ii) Review the status and jurisdiction of the Lands Tribunal with a view to its transformation into a Land Court System;
- (iii) Promote mediation as an alternative land dispute resolution
- (iv) Build capacity for paralegal (advice and mediation) dispute management and of the customary system of dispute handling to promote equitable justice and to complement and support the judicial system.
- (v) Build capacity of customary authorities in negotiation skills to enable them to better represent community interests.

7.5 The Legal Framework

The legal framework refers the instruments, which are necessary to put into effect the objectives of the policy. Land legislation affects both governmental agencies and the general public. The legislation stipulates the responsibilities of action and the limits of authority of the governmental agencies.

The legal framework of land administration and management consists various pieces of legislation with direct or indirect implication on the administration of land. This section presents dimensions of this land policy requiring new legislations, repeal of existing laws, amendments of some clauses and review.

7.5.1 The Constitution of the Republic of Zambia

The Republican Constitution, which is the supreme law of Zambia decrees Zambia as a unitary, Republican multi-party state. Some of the important provisions concerning land matters are contained in the sections dealing with fundamental rights and freedoms. The Constitution 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.

The Constitution provides for existence of the customary tenure, but leaves its administration to policy guidance. 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.

7.5.2 The Principle Land Administration Acts

The key Act for the regulation of land administration is the Lands Act CAP 184, supported by The Survey Act, CAP 188 and the Land and Deeds Registry Act CAP 185.

(i) The Lands Act

The Lands Act CAP 184 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. It also provides for the establishment of the Lands Tribunal and Lands Development Fund. This Act will be substantially amended to reflect the following position of the policy:

- (i) Review and update the Lands Act to reflect the unified land administration;
 - (ii) Provide recognition and protection of the rights of customary landowners.
 - (iii) Clarify the role of Chiefs in customary land administration and the powers of executive authority in allocation and registration of land rights of Zambians and non-Zambians;
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- (iv) Bring land alienation procedures into line with this policy and provide for adequate deterrence for unauthorised involvement in land allocation.
- (v) Prepare a legislation to regulate interest in land by non-Zambian persons, natural and legal persons by regulating issuance, sale, transfer, mortgage or disposal of or dealing with any share in any such private company or society which owns land in Zambia or any person who is not a citizen of Zambia.
- (vi) Provide for registration of all non-Zambia leasehold lands to enable control.
- (vii) Amend relevant legislation to provide for the administration and registration of public lands which assures that public lands may not be sold;
- (viii) Increase the land tenure categories in line with this policy and improve security of land rights through public tenure, state leasehold tenure and the customary land tenure to reflect the reality of individual private and community (group) land tenure;
- (ix) The land rights under the Land (perpetual Succession) chapter 186 will apply to registered customary land rights;
- (x) Review the provision for re-entry of properties;
- (xi) Review the measures for regulating foreign ownership of land;
- (xii) Prepare regulations to address land concentration and adequate land access by indigent population;
- (xiii) Provide for description of the functions of the Office of the Commissioner of Lands and the Minister responsible for Land;
- (xiv) Provide for a transparent system for change of public land to leasehold tenure;
- (xv) Review the land law to provide a regulatory framework to harmonise administration of surface and below the surface land use rights;
- (xvi) In line with international best practice ensure that natural assets on the land belong to the landholder to encourage their conservation and commercialisation.
- (xvii) Provide for equitable access and protection to landownership by women, youths and persons with disabilities;
- (xviii) Establish a Land Disputes Arbitration and Mediation Panel for speedy adjudication of disputes during the customary land tenure reform phase;
- (xix) Review and update the Act in order to align it to the principles of decentralization and sector devolution.

(ii) The Land Survey Act

225. The Land Survey Act (CAP 188) provides for the manner in which surveys are carried out and the subsequent method in which diagrams and plans are prepared. The Act provides for the protection of survey beacons and other survey marks. The Act further establishes and empowers the Survey

Control Board to register, licence and regulate professional practice. The following are some of the legislative measures to implement this policy:

- (i) The Act, which was passed in 1960, is now out of date and not consistent with survey and mapping technologies, methods and professional practices in use and shall be repealed to provide for;
 - a. Certification and regulation of surveyors,
 - b. The development and upholding of technical standards and procedures and
 - c. Maintenance of spatial data infrastructure such as survey and map records and beacons and reference marks.
- (ii) The Act will stipulate the legislative framework on administration and management of international boundaries;
- (iii) Review the survey standards and accuracies prescribed in the subsisting Act to better serve the public and people with fit for purpose approaches.
- (iv) Provide for self-regulation of professional survey practice and adequate state oversight and sanctions for professional malpractice.
- (v) Make adequate provisions for the regulation of cadastral surveys as well as of mapping and geodetic survey applications.

(iii) The Lands and Deeds Registry Act

The Lands and Deeds Registry Act, CAP 185 provides for registration of all land and all incidental matters relating to Title and other miscellaneous deeds. The Act will be amended to:

- (i) Provide for registration of rights to land ownership in customary areas
- (ii) Provide for reasonable public access to the land registry
- (iii) Register properties issued under the Housing (Statutory and Improvement) Areas Act.

(iv) The Lands Tribunal Act

The Lands Tribunal Act, 2010 provides for continued existence of the Lands Tribunal and provides for the powers and functions of the Tribunal inter alias. The Government will review the law on land dispute management in order to establish a land court across the Judiciary as well as to support local level mediation of land disputes.

(v) Other Legislation

There are other pieces of legislation that affect land administration, but are implemented by other agencies. These include statutes that control the

environment; registration of water rights, the use of agricultural land and others that in one way or the other affect land rights. Many of these statutes relate to land use and have a bearing on land management. Others legislation, such as the Land (Perpetual Succession) Act, CAP 186, Common Leasehold Schemes Chapter 208 and Lands Acquisition CAP 189 are administered by the Ministry responsible for Lands. These pieces of legislation will be reviewed and harmonised with the amendments to the principal land administration laws.

The following are some of the relevant laws;

- (i) Agricultural Lands Act Chapter 187:
- (ii) Co-operative Societies Chapter 397:
- (iii) Common Leasehold Schemes Chapter 208:
- (iv) The Environmental Management Act, 2011.
- (v) Fencing Act Chapter 190
- (vi) Forests Act of 2015
- (vii) Investment Act Chapter 385
- (viii) Land (Perpetual Succession) Act Chapter 186
- (ix) Landlord and Tenant (Business Premises) Act Chapter 193:
- (x) Lands Acquisition Act Chapter 189:
- (xi) Local Government Act Chapter 281
- (xii) Mines and Minerals Development Act, 2015
- (xiii) Property Transfer Tax Act Chapter 340:
- (xiv) The Urban and Regional Planning Act, 2015
- (xv) Water Act Chapter 198:
- (xvi) National Parks and Wildlife Act:
- (xvii) Intestate Succession Act
- (xviii) Lands Tribunal
- (xix) Gender Equity and Equality Act (2015)
- (xx) And other legislation

7.6 Resource Mobilisation and Financing

The implementation of the National Land Policy will require both the local and external resource mobilisation. This will be done through collaboration with local communities, cooperating partners and donors including the international and local NGOs and the private sector at international, regional and sub-regional levels. In both the financial and human resource terms, the mobilisation and allocation of resources will be based on the principles of efficiency, cost effectiveness, accountability and transparency. Based on these principles, financial resources will be mobilised through national budgetary provisions, bilateral and multilateral cooperation and other arrangements, such as tax revenues and user fees derived from delivery of land administration and management services.

Priority will go to building capacity in the devolved administrative framework to ensure effective delivery of services through coordinated planning of activities, resource mobilisation, implementation, monitoring and evaluation.

Training and capacity building needs assessment will be periodically carried out to determine the type and scope of training and capacity building interventions required by various categories of staff.

7.7 Monitoring and Evaluation

The implementation of this National Land Policy will be coordinated and monitored by the Ministry responsible for Lands in collaboration with all relevant agencies. Some of the areas to be monitored will include:

- (i) Land allocation according to gender, youth and persons with disabilities;
- (ii) Land prices and land transactions by category and location;
- (iii) Planning permissions;
- (iv) Land disputes and legal settlements;
- (v) Land use;
- (vi) Taxation rates and revenue;
- (vii) Public perceptions of accountability and transparency
- (viii) Duration for first time registration and transfer of land ownership

Following the adoption of the National Land Policy, priority will go to preparation of a national land policy implementation plan that will indicate responsibilities of various actors in the implementation of this policy. Other priority actions include the following:

- (i) Information dissemination and creation of public awareness of the policy and its provisions;
 - (ii) Institutional and legal reform processes;
 - (iii) Preparation of new land allocation guidelines;
 - (iv) Preparation of Integrated Development Plans
 - (v) Land Audit;
 - (vi) Preparation of low cost informal township upgrading strategies;
 - (vii) Systematic land registration (National land registration and titling)
 - (viii) Develop and implement a programme for settling land disputes arising from implementation of the policy measures.
 - (ix) Review of new institutional arrangements for revenue collection.
 - (x) Formulation of work plans by agencies concerned with the implementation of this Land Policy, and integration of these work plans into corporate plans and budgets.
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The ministry responsible for lands will take a leading in the implementation of this policy. The implementation will be undertaken in liaison with other public sector institutions, statutory bodies and agencies and all relevant stakeholders. The responsible agency will ensure that the policy is implemented in a coordinated manner and that periodic reviews are made to assess progress on the performance of policy based on the set targets.

A monitoring and evaluation framework for policy implementation will be developed, outlining information or data collection requirements, analysis, benchmarks and verifiable indicators of performance. The monitoring and evaluation system will track outcomes from the policy implementation and detect slippages for corrective measures where necessary.

To track down performance at specified intervals, selected indicators to monitor the policy performance will be developed. Annual and medium term policy performance will form the basis upon which policy performance will be monitored.

After 7 years of implementation, a mid-term policy evaluation will be carried out as part of the monitoring and evaluation process to determine progress achieved and to keep abreast with emerging trends in the sector.
