# Zambia's National Land Titling Programme- challenges and opportunities

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## Abstract

The National Land Titling Programme (NLTP) was conceived in 2014 with the idea of placing all land in Zambia on title at a reduced cost for its citizens. At the time of conception there were only about 142000 certificates of title for a country with a land area of 752614 square kilometres. Almost 80 percent of the land is not registered and bringing all this land under title is a massive undertaking. The programme objectives are to guarantee security of tenure, reduce displacements, promote internal security and increase the revenue base and investment in the Country thereby contributing to socio-economic development. To achieve these objectives, the government of Zambia has piloted the implementation of the National Land Titling in two areas of Lusaka i.e. Madido which is an illegal settlement and Kamwala South which was planned by the Lusaka City Council. In customary areas work has been done by private partners to document land rights. This documentation however is not backed by law and is therefore not included in the national registration system. The government has also engaged the World Bank with the view to seek technical assistance in upscaling the efforts from the pilots and develop revenue potential from land titling.

As part of the National Land Titling Programme the government also started a national Land Audit for all parcels in resettlement areas and has engaged Land Surveyors to carry out surveys. As efforts to improve Land Administration in the country the Ministry of Lands and Natural Resources in 2013 set up the Zambia Integrated Management Land Information System (ZILMIS) to provide secure, transparent and traceable land transactions with the objective of developing an integrated GIS system that would enable access of information between the Land Register and Cadastral Information. Recognising the need for fundamental data which would form the base for Titling and sharing of information the MLNR also developed the National Spatial Data Infrastructure (NSDI) project in 2014. ZILMIS and NSDI are part of the initiative to leverage ICT and contribute to the vision on ICT in Zambia which is ***"A Zambia transformed into information and knowledge based society supported by increased access to ICTs by all citizens by 2030"***.

With all these initiatives the government has had challenges on two fronts;

1) Legal and social challenges related to land registration especially in customary areas: The Pilots have noted challenges regarding data collection and data management and also identified weaknesses in the regulatory framework related to systematic adjudication. The current legal framework is suited to sporadic titling as titles can only begin to be processed upon collection and signing of invitation to treat

documents. In customary areas the Chiefs are apprehensive of titles being issued by government as this would usurp their authority. A compromise Chief's Certificate has been issued in pilots carried out in Eastern Province which however do not have legal backing at the moment.

2) Financial challenges to achieve intended objectives. These challenges require that work be done in carrying out legal reforms to include fit-for-purpose land administration systems which would allow for cheaper and more efficient land documentation, on one hand, and find funding models that would finance the NLTP. The urban Pilots have shown a high cost of about $90 per land record in one of the pilots. This raises issues of affordability in terms of upscaling.

Lessons learnt from the pilots and customary areas are presented to help develop solutions for upscaling.

**Keywords**: National Land Titling Programme, Land Audit, National Spatial Data Infrastructure, Integrated Land Information Management System.

# 1   Introduction

Zambia gained independence in 1964 and to date only has about 200,000 registered titles in the official land registry. The number of properties in the land registration system at various stages of titling is around 600,000. This is despite the fact Zambia has a population of over 16 million spread over an area of 752,614 square kilometres. Comparatively countries like Rwanda has managed to produce 11million titles. The government recognises that a greater proportion of land is not titled. With the increased land demand in the urban fringes and the peri-urban areas it was felt that something had to be done to address the insecure land tenure holding of most of the population. It is estimated that 70% of the whole country is not titled and a lot of land is under illegal settlement.

Attempts had been made in the mid-1970s with development of the Housing (Statutory and Improvement) Areas Act (1974) to address squatting in urban areas. The Act attempted to address illegal squatting by providing for improvements in illegal settlements (thereafter declared as improvement areas) and issuing occupancy licences for a period of 30 years to residents in these areas. In tandem with this effort, the government embarked on developing site and service areas in which layout plans were developed and basic infrastructure provided. In such areas, declared as Statutory Areas the residents were provided with 99-year leases offered by the council in whose jurisdiction the area is in. The council would then hold the head-lease from the Ministry of Lands for the whole Statutory or Improvement Area. However, with time these areas have seen phenomenal growth and expansion outside the declared areas.

The government has been carrying out sporadic titling whose results have not been satisfactory. There has never been systematic land registration that would not only

ensure that all land is registered but also deliver sustainable land delivery and land-based revenue collection systems. For this reason, the Government of the Republic of Zambia through the Ministry of Lands and Natural Resources (MLNR) initiated the National Land Titling Programme (NLTP) aimed at ensuring that all land owners are issued with Certificates of Title at an affordable fee. The overall objective of this programme is to provide security of tenure, promote sustainable use of the land resource, increase the national revenue base and investment in the Country thereby contributing to socio-economic development. To further understand the status of land in the country the government also has embarked on the National Land Audit with the view of establishing the extent of tenure changes over land. Further the Land Audit will ascertain the number of titled, developed and undeveloped parcels of land in the country.

## 1.1 Land Rights Registration

One of the greatest arguments for land registration and recording is provided by De Soto (2000) who argues that documenting property rights allows for the properties to be turned into capital thereby contributing to the wealth of the nation. The Bathurst Declaration by FIG (1999) defines land registration as the process of recording rights in land either in the form of registration of deeds or the registration of title to land. It is a given that land rights recognition in countries such as Zambia is a determinant to households' improvement in their welfare. Studies also indicate that when rights are recognized there is a more likelihood for households to make long-term investments on their properties thus improving the economies in communities.

## 1.2 Land administration in the context of National Development Planning

Development outcome number 4 of the Seventh National Development Plan (7NDP) seeks to improve service delivery and particular attention is given to land reforms. The 7NDP is to be implemented between 2017 and 2021. Under the land reform programme, the government has committed to carry out the following:

a) **Land Policy review and enhancement**; It is expected that a new Land Policy will be promulgated by mid-2018. Article 253(1) of the 2016 amended constitution spells out the principles that must be in a Land Policy among which include the equitable access to land and other resources, security of tenure for lawful landholders, recognition of indigenous cultural rites, sustainable use of land, transparent, effective and efficient administration of land and effective and efficient settlement of land disputes.

b) **Lands and Deeds Act Review**; In order to streamline land administration and management and make it more robust, transparent and also ensure that land allocation becomes efficient the government will establish the Lands Commission in line with the 2016 amended Constitution. Articles 233(1) and (2) of the constitution establish the Lands Commission whose responsibility will be to administer, manage and alienate land on behalf of the president.

c) **Land Audit**; Establish the status of land especially with regard to whether it is still customary or statutory given the conversions from customary to statutory that have taken place. In the long run establish who owns what land where in the country so that effectively the country may know how much land it has for what purpose.

d) **Land Management Information System enhancement**; The current Land Management Information System called the Zambia Integrated Land Information Management System (ZILMIS) will require enhancement in readiness for the National Land Titling Programme as well as possible decentralization through the establishment of the Lands Commission. Currently the system is serving around 200 users country-wide mostly at provincial headquarters.

e) **Land e**-governance development; government's desire to have a Smart Zambia includes the possible development of land e-governance platforms to allow for quicker citizen interaction.

f) **Country-wide land titling implementation: The** commitment to carry out systematic land registration of all land in the country.

As can be observed from the above ambitious commitments, government is eager to carry out land reforms that will enhance land service delivery. To achieve these objectives government will rely not only on its resources but also on cooperating partners to achieve the set goals.

## 2 Land Administration in Zambia

Land is administered through the Lands Act of 1995 with the Commissioner of Lands who administered the land on behalf of the president. According to the Act Land is vested in the President. MLNR is the principal ministry responsible for land administration and formulation and coordination of all legislation that is related to land management in the country. As with most Sub-Saharan countries Zambia has a dual tenure system. Officially as can be seen on the Figure 1 below 6% Stateland and 94% customary land. However, since 1995 with the emergence of the Lands Act (cap 184) that allows for conversion of land out of customary tenure, a significant, but unknown, portion of customary land has been converted to statutory tenure both by individuals and the state. Honig & Mulenga (2015) for instance argue that the percentage of customary land is now approximately 60% of land implying that stateland is now around 40%. A lot of land has over the years been converted from customary land so that Title can be obtained.

### 2.1 Types of land records

Four types of Land records are issued by government or local authorities. These Land records however are only issued on Stateland or customary land which is converted to stateland. These are:

• 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 (not being issued now);

- A 30-year Land Occupancy License in municipal areas and settlement schemes;

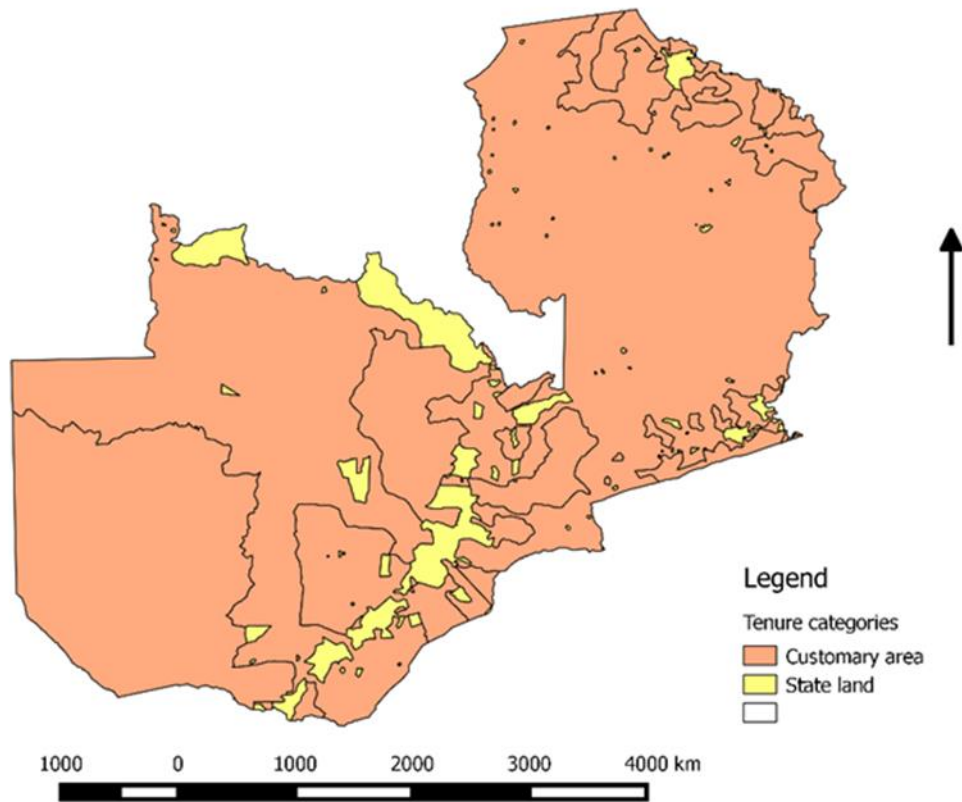- A 99-year leasehold period for surveyed land



*Figure 1: Land Tenure categories in Zambia*

## 3   National Land Titling Programme

The National land Titling Programme (NLTP) can be considered a major land reform project in Zambia as it seeks to title all land in the country. Currently, MLNR has about 600,000 properties in the property register at various stages of titling. Of these 179,000 are on title, 156,000 are on offer while 52000 are at lease stage and the rest are at application stage. This total number of records is estimated to be between 6%-8% of the entire occupied properties in Zambia. To achieve a complete country wide titling will require a huge amount of resources. The form and nature of titling the whole country is one that requires a lot of thought, planning and resources. There is need to set up a legal and institutional framework that will allow for systematic land registration for the country. According to Deininger, Selod and Burns(2012) countries need a legal and institutional framework that clearly defines the rules for allocation of property rights and, by allowing cost-effective enforcement, encourages and facilitates land-related

investment. They further state that this is a framework that recognises existing rights, enforces them at low cost, and allows users to exercise them in line with their aspirations and in a way that benefits society as a whole. The NLTP seeks, in the main to achieve these goals of aforementioned with an aspiration to increase land related revenue.

## 3.1   Land Regularisation in Stateland

Land Rights recognition in Stateland is well covered by the Lands Act. However, due to the increased encroachment of land by squatters it is estimated that 70% of the urban dwellers in all major cities and municipalities live in unplanned settlements. The rights of individuals in these areas are not well protected as they can be evicted anytime. Although the Law through the Housing (Statutory and Improvement Areas) Act Cap 194 (since replaced by the Urban and Regional Act of 2015) provides for the upgrading and regularisation of such settlements the majority of the urban dwellers continue to live without any legal rights. The Land Governance Assessment Framework study conducted in 2016 (Mulolwa et.al, 2016) found that non-documentary forms of evidence were never used to help establish rights in state-land and long term unchallenged possession of land was not formally recognised. The government recognises that as much as possible it cannot evict such large numbers of urban dwellers and therefore requires solutions that will ensure that all land holders (legal and extra-legal) are systematically recognised and registered. To bring all land held on Stateland into the register an urban systematic land registration process has been developed.

### 3.1.1   Urban Pilots

To better understand the process of urban land registration the government undertook two pilots in 2017. One in an illegal settlement called Madido and the other in a planned area called Kamwala South. The process of land registration can be surmised in Figure 2 below. The method involved field survey methods using Geodetic Survey GPS equipment which increased the costs and time.
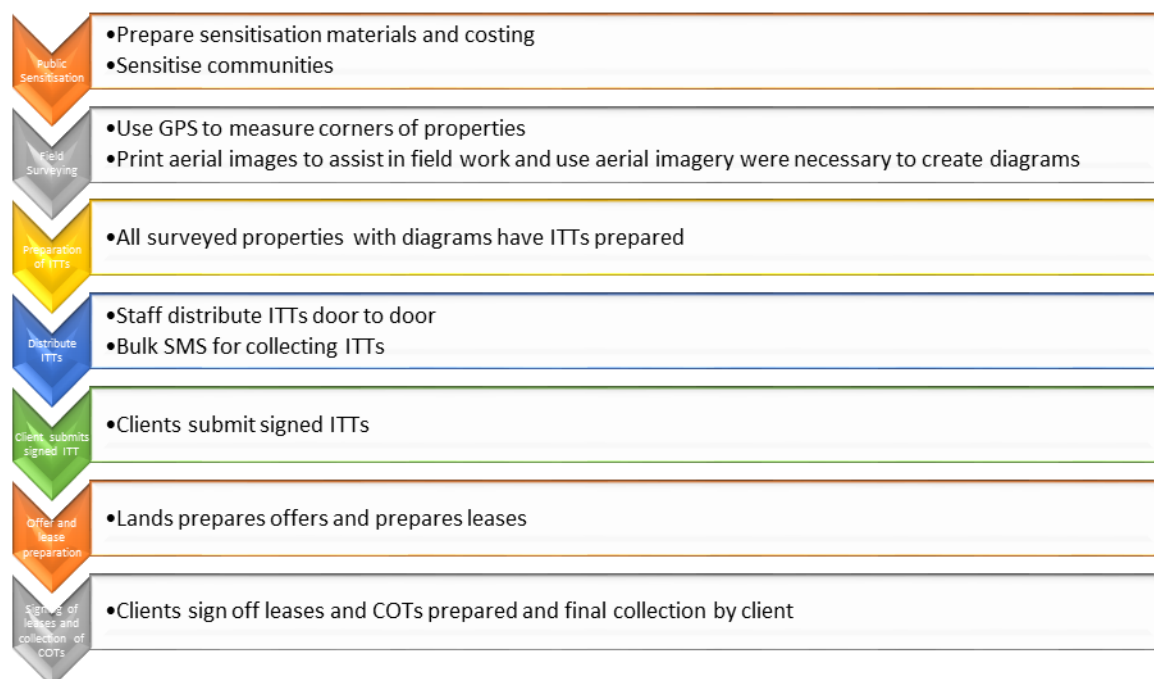
- Prepare sensitisation materials and costing
- Sensitise communities

- Use GPS to measure corners of properties
- Print aerial images to assist in field work and use aerial imagery were necessary to create diagrams

- All surveyed properties with diagrams have ITTs prepared

- Staff distribute ITTs door to door
- Bulk SMS for collecting ITTs

- Clients submit signed ITTs

- Lands prepares offers and prepares leases

- Clients sign off leases and COTs prepared and final collection by client

*Figure 2: Land Regularisation in Urban Areas*

Staff were required to distribute Invitations To Treats (ITT) door to door which increased costs. The process was client driven as it required the client to accept the offer after which the client had to pay consideration and survey fees before a Certificate of Title could be prepared. The fees of about $450.00 per parcel were considered exorbitant by a number of land holders. Table 1 shows some of the challenges found in the pilots.

*Table 1: Challenges of Land Regularisation process in Urban Areas*

| PROCESS | CHALLENGE |
|---|---|
| **SENSITISATION** | 1. Kamwala South not properly sensitised thus uptake is poor. <br> 2. Poor preparation of sensitisation. Official sensitisation material requires developing (nametags, printed material) <br> 3. Clients scepticism that there is actually a titling exercise going |
| **SOCIAL SURVEY** | 1. Unfinished structures- means no one to ask who owns the property <br> 2. Properties in road reserves and not according to planning standards |

| | |
|---|---|
| **PREPARATION OF LAYOUTS** | 1. Preparation of new plans by planning authority to regularise area takes time. |
| **CADASTRAL SURVEYS** | 1. Availability of survey equipment and staff<br><br>2. Disputes over boundaries |
| **PREPARATION OF ITTS AND COLLECTION OF ITTS** | 1. Slow pace of preparation due to lack of staff (not dedicated to the pilots).<br><br>2. Office work not compensated for as with those who go out in the field (allowances)<br><br>3. Collection uptake requires payment of statutory fees which are deemed to be expensive<br><br>4. Despite being informed clients are taking long to collect ITTs and leases |
| **PREPARATION OF LEASES AND SIGNING** | 1. Leases are prepared using type writers<br><br>2. Delays in signing of leases by clients and Lands |
| **PREPARATION OF COTS** | 1. Dependent on lease signing by clients and Lands |

The overall lessons are summarised as:

1) The execution of the Pilots was slow and the costly.
2) The systematic regularisation manual which was prepared requires refinement to help improve efficiencies
3) The regulatory framework is not well-suited to a systematic regularisation process.
4) Organisation issues of the pilot teams. Very ad-hoc and not properly coordinated to follow the process through.

## 3.2   Land Rights recognition in Customary Land

The law in Zambia allows individuals to hold land under customary tenure with their rights protected within the limits of custom and tradition.  While customary authorities have been granted the right to administer such land in their chiefdoms, including allowing for conversion to leasehold, there is no legal instrument that limits the chiefs' discretionary powers in the administration of land.

The immediate challenge is how customary land would be treated in the titling process especially in giving legal effect to the document that registers land rights in customary areas. Currently only the Ministry of Lands is legally mandated to document and register rights on land. Local communities (traditional authorities)

and Civil Society Organisations may document such rights but such rights do not have full legal recognition although the Lands Act recognizes customary rights per se. Traditional authorities may know who owns what land where in their areas but normally do not document the land in an official register. This lends itself to the possible displacement of villagers and has been a source of serious consternation especially in the face of large-scale land investments.

A number of organisations have been carrying out land rights documentation in customary areas. These include land right documentation by TGCC in Eastern Province in which they developed a toolkit for land documentation of customary areas as part of the USAID's Mobile Applications to Secure Tenure (MAST), MEDEEMs parcelCert and the Social Tenure Domain Model. These tools have found a measure of acceptance by some traditional authorities but do not go far enough to legally protect the owners of the documented land. This is because there is no legal framework to register such land in the national land registers. Though the Land Act recognises customary tenure it does not however recognise customary land rights and one requires to convert such rights to statutory rights for them to be registered. On the other hand, land documentation which is acceptable by the traditional authority and is issued by the traditional authority is not admitted in the official land registers and has no basis in law (All transactions on land must be registered in the Lands and Deeds Registry according to the Lands and Deeds Registry Act).

## 3.3   ZILMIS

Zambia Integrated Land Management Information System is a three tier land information system that was developed from 2013 with centralized system administration functionality and real time remote transaction processing. The overall objective of the system is to store all land records and transaction. In concept the system was meant to include an integrated Geographical Information system (GIS) component to enable direct access and connectivity between the registration and the cadastral information   Figure 3 shows the 3 tier ZILMIS system.
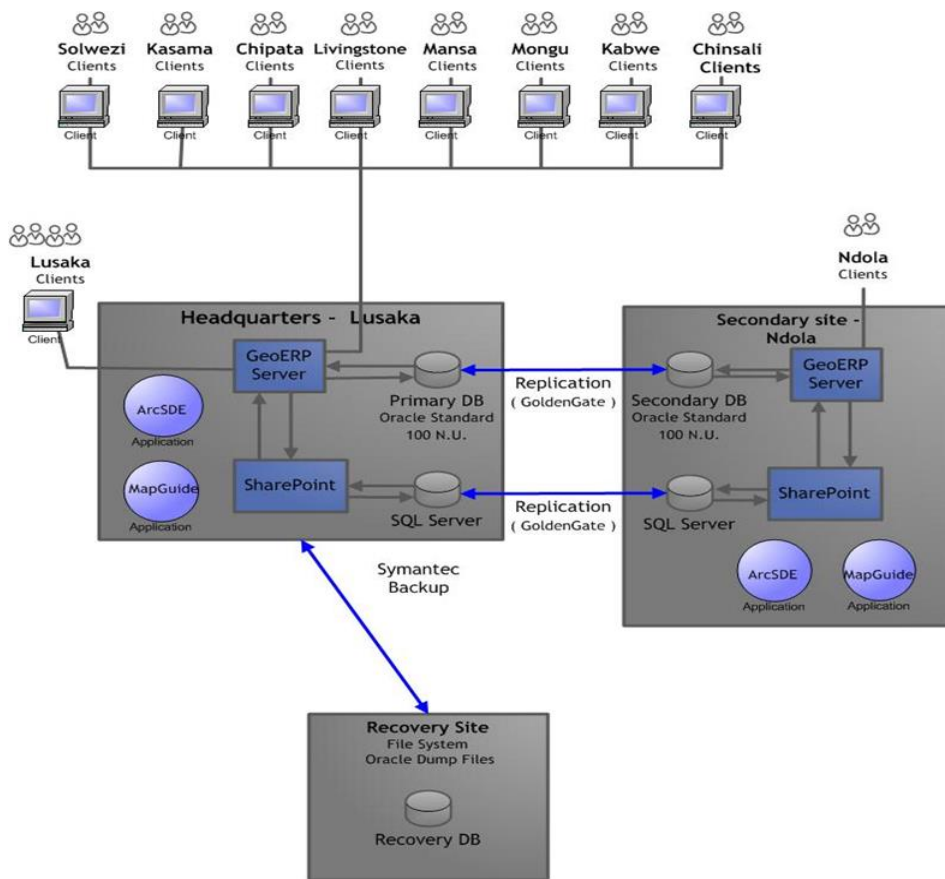
*Figure 3: ZILMIS Tier System*

The system is currently struggling to contain the records and is perceived to be sluggish. There is need for enhancements to improve its performance especially in the light of the proposed increased volume of records that will be introduced during the full scale implementation of the NLTP.  The storage servers are now at their limit and are not able to contain even the existing records. The Share Point servers are due for upgrade and generally slow down the work of staff. Data in the system has been found to have duplicates and a lot of data cleaning is required. Enhancements proposed for the system include the linking to banks and mobile money applications for purpose of billing as well as payments. Further integrations are proposed to link ZILMIS to the National Registration System and the Revenue Authority.

## 3.4   National Spatial Data Infrastructure

The NSDI was set up to create a network of organisations and to be a unified collection of spatial data. The objectives of the NSDI are to:

- create a reliable Hub for all the Geographical Data in the country,

- be the basis for Titling at a nationwide level,

- enable recognition of people's right on their land,

- create the basis for updating topographical maps,

- create a hub that will enable **sharing and coordinating** geographical data between ministries and other agencies,

The NSDI consists of a Geodatabase, **Web Services** to enable users use the data stored in the Geodatabase and a **Portal** for users that do not have a GIS system of their own. Under the NSDI the government has acquired aerial imagery at 20cm ground resolution along stateland areas and 10cm orthophotos for 15 major towns.
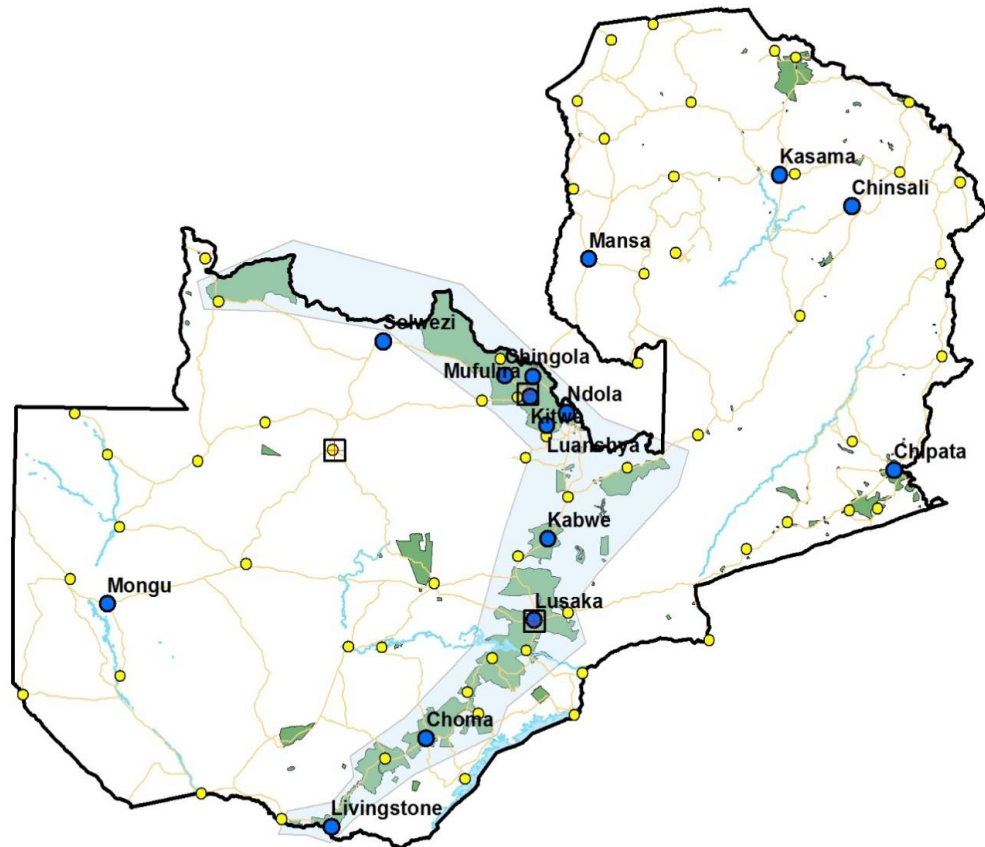


*Figure 4: Stateland 20cm and 15 Major towns*

The government has also acquired 50cm satellite imagery for 88 townships and has obtained 250cm satellite imagery for the whole country. All these images form the basis for the National Land Titling programme as well as mapping for the country.

## 4  Challenges of the National Land Titling programme

Having outlined the number of activities that government is undertaking and the ambitions to achieve the set goals it is clear that challenges beset the well-intended goals of providing secure title to the citizens. Among these challenges are:

## 4.1 Legal challenges

a) Zambia has never had a comprehensive Land Policy which would address all matters relating to Land administration especially in respect of customary land rights. The delays in promulgating a land policy has meant that subsidiary legislation which ought to emanate from a comprehensively agreed Land Policy cannot be enacted or amended. The proposed establishment of Lands Commission as envisaged in the Constitutional Amendment of 2016 can also not be implemented in the absence of an agreed Land Policy. The legislative framework on Land Administration e.g. the proposed introduction of a customary bill, the amendment to the Lands Act and Lands and Deeds Registry Act all depend on an overarching Land Policy.

b) The Land Survey Act has been considered to be too prescriptive even to the point of suggesting what equipment to use for demarcation. The Survey fraternity together with the Survey Control Board are working towards amending the Survey Act and Regulations to allow for low cost methods of surveying.

c) They are different registration conditions depending on the location of the property. This creates challenges on the admission of land rights which sit for instance in peri-urban areas. There is need for a consistent land registration law which covers all forms of land tenure categories. The dual land tenure system provides challenges that require addressing to allow for a uniform titling process or a fit-for-purpose system that will be accepted by every stakeholder.

d) Client driven systems have meant that government cannot process title until a client has accepted the offer by paying consideration and has signed the lease. Only then can a Title Deed be prepared.

## 4.2 Technical challenges

a) The current sporadic issuing of Title Deeds consists of too many processes which cause delays in the issuance of titles. Data collection is slow and paper based which leads to poor data maintenance.

b) Lease preparation is still done using manual typewriters and is not automated despite having an information system that could automate the production of titles.

## 4.3 Organisational challenges

a) Manpower and equipment deficiencies have been noted to slow the process of titling. To achieve the numbers of titles envisaged a project management team with field adjudication teams need to be established as soon as possible.

b) The organization and coordination between the different departments especially in regard to the titling process does not engender quick processing of titles

c) The number of private sector players in land surveying is currently very small. This present challenges in upscaling and allowing the private sector to participate in a national programme such as this.

## 4.4   Financial challenges

a) The expected cost of the National Land Titling Programme over a five-year period is in the region of US$250 million. This presents a financial challenge to government to raise the amounts on its own.
b) On the revenue collection side, it has been observed that all payments are centralized at the national headquarters or regional offices of the Ministry. This means that a client has to make an effort to travel long distance and come to que and ask for their bill and pay the amounts. The Ministry has not leveraged mobile money and other new technologies to collect revenue and distribute bills to the clients.
c) Ground rent is not based on valuation of properties but is based on whether a property is in a high, medium or low cost area. It is therefore possible that a high cost property built in an area designated as low cost will pay next to nothing as ground rent and vice-versa.

# 5   Opportunities the National Land Titling programme

The challenges highlighted present opportunities for the NLTP. One thing that is clear is that the government is eager to see the process through and achieve a nation-wide mass systematic land registration. The embedding the NLTP in the medium to long term goals of national development signifies government's resolve to empower its citizens. Although the financial requirements are huge the Ministry of Finance has been supportive in releasing government subvention towards the programme. It is expected that with a functioning and improved Project Management Structure and land information system which will incorporate fit-for-purpose tools, we shall begin to see gains in the mass titling programme.

A great number of citizens are eager to see that they have secure title to protect their land. This means that such a programme is very welcomed by the people.

These challenges are not unsurmountable and can be resolved with the help of cooperating partners. It is therefore our considered view that government should continue to engage cooperating partners to actualize the full implementation of the programme.

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