

# LARGE-SCALE LAND ACQUISITIONS, DISPLACEMENT AND RESETTLEMENT IN ZAMBIA

## KEY ISSUES

- Large-scale acquisitions of land for commercial agriculture and for mining are leading to loss of land and are undermining the livelihoods of affected rural communities.
- These land-based investments have been characterised by a lack of consultation with and participation by affected communities.
- Zambia currently lacks an adequate legal framework to secure customary, informal and unregistered land rights to protect the rights of people affected by such commercial investment, and provide for transparent and accountable land administration. Expediting the ongoing process of land law reform should be a priority for government and civil society.
- The National Resettlement Policy should be finalised through a participatory process and should stipulate monetary and other in-kind compensation for loss of land and improvements.
- The National Resettlement Policy should create a mechanism to monitor and evaluate incidents of development-induced displacement and ensure compliance with international guidelines on resettlement and compensation.

## 1. BACKGROUND

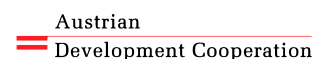
The increase in demand for land can be attributed in part to rising incomes among middle-class Zambians, but also to the Zambian government's drive to boost economic growth and reduce poverty by attracting foreign investors. This increase in leasing and selling land shows substantial demand in a context of increased land scarcity. Cases of unjust displacement, where households are forced off their land without their consent and without compensation, have been widely reported. There are, however, also instances where communities have resisted displacement.

Zambia has witnessed an increasing incidence of development-induced displacement (DID), notably due to government-led infrastructure projects, or government-facilitated land-based investments that are expected to contribute much-

desired foreign direct investment (FDI) to Zambia's economy (Government of the Republic of Zambia 2012). In the name of development, affected communities are often resettled, with little attention given to the impacts on their livelihoods and future well-being. While increased investment in Zambia is desirable, policymakers need to question at what expense this investment occurs. What safeguards can be put in place in order to ensure that people's rights to land and livelihoods are recognised? Where displacement is agreed or determined to be in the national interest, how can the rights and interests of affected people be taken into account in the resettlement process? And how can displacement and resettlement – where these occur through proper processes – be used as development opportunities, to benefit those affected and leave them better off than they were before?

This policy brief discusses the lessons learned from recent case studies on large-scale land acquisitions, conducted by

**SUPPORTED BY:**



the Zambia Land Alliance (ZLA), a civil-society organisation (CSO) that advocates for land rights of poor and vulnerable communities. The research sought to understand:

1. What has been the experience of DID and resettlement in these cases and what have been the impacts on affected communities?
2. What have been the processes and guidelines that have been used in incidents of DID and resettlement?
3. What solutions have been proposed to address DID and resettlement, and what can be further done to address the negative impacts of DID?



Photo: Zambia Land Alliance, 2013

## 2. THE RISE OF DEVELOPMENT-INDUCED DISPLACEMENTS IN ZAMBIA

Zambia has not learned enough from its history of forced displacements. The construction of the Kariba Dam in the 1950s resulted in the displacement and resettlement of approximately 57 000 mainly Tonga-speaking people (Cliggett 2005). Sixty years later, these communities continue to struggle for food security and livelihoods. Yet in recent years, investments in the mining, tourism and agricultural sectors, and also increasingly industrial developments, have led to further displacements of communities. These developments, accompanied by a growing population and increasing urbanisation, have resulted in mounting pressure on and competing demand for land. Poor people in rural, urban and peri-urban areas are most susceptible to displacement due to having unrecognised land rights.

The ZLA's research shows that displacement occurs on both statutory and customary land. Zambia's Lands Act of 1995

vests all land in the President, and also confers on him the power to alienate land for 'public purposes', for instance, for public infrastructure or for national development priorities, and therefore to displace people in the name of development. The Lands Act also prescribes for consultation to be granted by chiefs, local authorities and any other person or body whose interest might be affected in matters of land alienation, but in practice there are few mechanisms to ensure this.

### Displacement from customary land

Displacements occur on customary land areas when land is converted to statutory land and allocated to investors by traditional leaders, local authorities and the national government. While the Lands Act stipulates that consultation must take place with 'any other person or body whose interest might be affected by the grant' of the customary land, in practice, there are no stipulated mechanisms as to how people must be consulted or how their views must be addressed. Consent is only required from the chief and the local authority. Under such circumstances, entire communities can be moved off their land against their will and in the best-case scenarios are subsequently resettled.

### Displacement from statutory land

Displacements on statutory land occur in situations where settlers encroach on forest reserves or unutilised statutory land, with or without knowledge, and settle there for years. Such encroachments are sometimes due to the fact that boundaries between customary and statutory land are often unclear, as records of who owns what land are outdated as no land audit has been carried out since the 1940s. This results in a lack of clarity on who owns the land on which rural communities reside and derive their livelihoods, and leaves them powerless when outsiders (government or private investors) make claims to their land.

## 3. KEY FINDINGS ON THE RESETTLEMENT PROCESS IN ZAMBIA

The ZLA's recent research on large-scale land acquisitions focused on four case studies of land-based investment where communities have been affected by displacement and resettlement, and in some cases have received compensation (and in others not).

3.1 AmatheonAgri is an agricultural investment in the Big Concession farm block established between 1973–1974 in Mumbwa District, Central Province. A Germany/United Kingdom-based investor has begun work on an agribusiness and farming project and amassed plots of land through the acquisition of brownfield<sup>1</sup> sites within the farm block, which is

<sup>1</sup> 'Brownfield' refers to developments that take place where there were previous commercial investments, and so dispossession took place further in the past.

statutory rather than customary land. As of 2014, the investor had acquired 14 237ha of land, and voiced the intention of acquiring up to 60 000ha in total.

**3.2 Kalumbila Minerals Ltd. (KML)** is a new mining venture consisting of 50 000ha of customary land for the 'Trident Project' in Solwezi District, Northwestern Province. Trident represents the second mining project in Solwezi by First Quantum Minerals (FQM), a Canadian-based mining company. Its other holding is the Kansanshi Copper Mine, also located within Solwezi District. FQM acquired an additional five large-scale mining licences with which to expand their operations; the project consists of three different sites and deposits named Sentinel, Enterprise and Intrepid. FQM acquired the mining licences for the Trident Project in 2011, after one year of surveys and prospecting; unlike the Kansanshi Project, this investment represents a greenfield<sup>2</sup> investment. As such, it was known that the Project would result in the displacement and resettlement of a number of households as the land acquired is customary land.

**3.3 Chiansi Irrigation Project (CIP)** is an initiative of the Chanyanya Smallholders Cooperative Society (CSCS) in Kafue District. It represents a case of community organisation, whereby a community came together to form a cooperative, combining land into a block title, and engaging an investor to help create local jobs and infrastructure development. The CSCS has brought together approximately 1 575ha of land and engaged InfraCo, a British-based private infrastructure development group that seeks to provide infrastructure development projects in a private-public partnership model. The project began in 2008 as a pilot project, and is now set for the start of Phase 2, an expansion of the current model. The partnership has resulted in the development of irrigation structures to help bolster a commercial agriculture enterprise, as well as irrigation facilities for market garden plots for the CSCS members. However, as a result of the project, a number of CSCS members were displaced and resettled.

<sup>2</sup> 'Greenfield' refers to developments where there were none before, and so are more likely to lead to dispossession of local people.

### 3.4 Lusaka South Multi-Facility Economic Zone (LS MFEZ)

consists of 2 100ha of land set aside for investment in manufacture development and other industry. It is a part of a wider project that seeks to draw in investment interests by facilitating procedures such as land acquisition, coupled by employment permits, tax incentives and company registration by the Zambia Development Agency (ZDA). The project has also been coupled with infrastructure development, through the completion of the Lusaka Ring Road. Lusaka South MFEZ consists of 2100ha of former Forest Reserve land (Forest 26)<sup>3</sup>, which has been de-gazetted, in the southwestern part of Lusaka. The then Forest 26 was identified for the potential location of the LS MFEZ project in 2000 (see *Table 1 below*).

A number of government bodies take part in the resettlement process. Because no single body has been tasked with providing an overview of the process, there are gaps in oversight of displacement and resettlements that arise from the lack of cohesion among government bodies. Incidents of displacement and resettlement are often guided by three state institutions:

1. the Office of the Vice President (OVP),
2. the Department of Resettlement (DoR) and,
3. the Disaster Management and Mitigation Unit (DMMU).

While the DMMU addresses incidents of displacement, the DoR guides the process of resettlement. However, these departments do not coordinate work.

The Zambia Environmental Management Agency (ZEMA) requires that an environmental impact assessment (EIA) is carried out whenever large-scale investments that change land rights and land use takes place. Where EIAs reveal that displacements will occur, a Resettlement Action Plan (RAP) should be developed and made public. In practice, this does not seem to be enforced thoroughly; among our four case

<sup>3</sup> The Lusaka South Multi-Facility Economic Zone area may be interchangeably referred to as LS MFEZ or Forest 26 throughout the report.

**TABLE 1: SUMMARY OF THE ZLA CASE STUDIES**

CASE NAME	LOCATION	SECTOR	APPROX. NUMBER OF AFFECTED PEOPLE	AMOUNT OF LAND ACQUIRED
AmatheonAgri	Mumbwa District	Agriculture	<b>TOTAL</b> 43 households (182 people) <b>PHASE 1</b> 4 households <b>PHASE 2</b> 39 households	14 237ha <b>PHASE 1</b> 1 200ha <b>PHASE 2</b> 13 037ha
Kalumbile Minerals Ltd	Solwezi District	Mining	<b>TOTAL</b> 570 households	50 000ha
Chiansi Irrigation Project	Kafue District	Agriculture	<b>TOTAL</b> 120 households <b>PHASE 1</b> 20 households <b>PHASE 2</b> unknown (none anticipated)	1 575ha
Lusaka South Multi-Facility Economic Zone	Lusaka/Kafue District	Urban/industrial development	<b>TOTAL</b> 247 households (1 221 people)	2 100ha

studies, only one project (AmatheonAgri) seemed to have a RAP that was publicly accessible. In addition, ZEMA does not appear to provide guidelines as to what constitutes an acceptable RAP, nor does it publish its criteria for assessing RAPs. In the absence of EIAs being published or conducted projects may still go ahead – in the Lusaka South Multi-Facility Economic Zone project.

The range of state institutions that play some role in land-based investments have overlapping and unclear jurisdictions. The Ministry of Agriculture and Livestock (MAL) is often consulted to provide valuations for compensation plans (Amatheon, KML, CIP) but without any explicit or consistent approach to valuation. Investing companies report that they find these valuations inadequate and often compensate above these valuations. Other bodies that have been involved in valuations are the Department of Valuations and the Ministry of Local Government and Housing. Thus far, resettlement processes have taken place on the initiative of the investor, rather than the government. They are also completely funded by investors, in private-driven investments, and are often initiated to comply with international guidelines, to satisfy international funders and shareholders.

### Who is eligible?

Investors report that their greatest resettlement challenge is to determine who is eligible for compensation. In three cases (Amatheon, KML, MFEZ), difficulties arose in determining which families were eligible for compensation and resettlement, as people seek to take advantage of resettlement opportunities despite not actually living in the area. This complicates the process by delaying resettlement. Investors have undertaken censuses, often without prior notice, to determine eligibility before notices of displacement are announced. While this may provide a more accurate snapshot of affected households, it also reinforces the impression that displacement occurs without consultation.

### What does compensation consist of?

Compensation plans primarily consist of providing housing, and sometimes also monetary component for the loss of crops and possessions. Investors who seek to comply with international guidelines also tend to address the livelihoods of those displaced, though it is too early to determine the degree of success in three of our case studies (Amatheon, KML, CIP). Investors have voluntarily provided compensation that is more substantial than the prescribed valuations from MAL; however, even these compensation packages do not go undisputed. Communities have found them to be insufficient, even though they seem to be better than what government advises.

Compensation plans that appeared to have the most support from communities were those which ensured that people would have secure land tenure in their resettlement areas (Amatheon, CIP) – an important criterion, since there are cases of people being displaced more than once. Timing is a key factor in

the success of a resettlement plan. This includes the speed with which the resettlement process can take place, as well as the timing within the agricultural season. Delays in the resettlement process, such as in the KML case, impact the most negatively on communities as they are/were unable to farm on the land from which they are being displaced and thus are unable to pursue their livelihoods pending finalisation of resettlement.

The case studies show that the decisions for displacement rarely involve the participation of the local communities. Consultation on resettlement and compensation only occurs at the EIA and RAP stage, after the decision has been made to displace. A worrying finding from the ZLA's research was that the only project that did not conduct a RAP was the one initiated by government (MFEZ), where there was no private sector investor. This suggests that, in the absence of state regulation, private sector interests lead to better practices than the state. Regulation should help to standardise these processes and bring them in line with international best practice.

The non-existence of a resettlement policy in Zambia shows that in incidences of resettlement, the compensation package and the success of resettlement processes are dependent on the initiative shown by the investor. This can be a positive sign, in that the ZLA was able to find cases where some community members were satisfied with the resettlement packages received, such as those in the CIP and AmatheonAgri. However, investors are also self-regulated and the degree of satisfaction with compensation packages, and community participation in decision-making, can vary widely. The ZLA noted that communities have little leverage over decision-making; often, this is the key step to ensuring a legitimate resettlement process.

## 4. EVALUATING THE PROPOSED NATIONAL RESETTLEMENT POLICY

Currently, Zambia does not have a finalised National Resettlement Policy in place to guide processes of resettlement and compensation. In an effort to address this gap, the government drafted a National Resettlement Policy (NRP) in 2013, a process spearheaded by the OVP. It has also published 'Guidelines for the Compensation and Resettlement of Internally Displaced Persons' in an attempt to domesticate the African Union's Convention of 2012 for the Protection and Assistance of Internally Displaced Persons (IDP) in Africa (the Kampala Convention). The NRP and the Kampala Convention itself recognise development-induced displacement as one of the sources of internal displacement. Perhaps because the NRP is meant to address IDPs in general, it does not specifically focus on displacement prompted by development initiatives, which remains the largest current source of displacement in Zambia. While the government's move to draft the NRP should be celebrated, the value of this policy must be

measured against its effectiveness in addressing Zambia's own displacement and resettlement problems, which arise largely from state-sanctioned land-based investments.

### **Capacity of government to implement the policy**

The first criterion to be considered when assessing the NRP is whether or not it is implementable – specifically, whether government has the capacity to implement it. Our case study of the Lusaka South MFEZ shows that a lot of support, capacity and experience will be required to build the Office of the Vice President's ability to oversee resettlement. It also demonstrates that the focus of the OVP on resettlement schemes does not adequately address the issue of compensation and resettlement. The Amatheon, KML and CIP projects demonstrate that, although initiated by private companies, their resettlement packages were a lot more amenable to input from local communities and appropriate to their needs than the government resettlement plans, particularly with regards to the location of resettlement.

### **Assessment of resettlement plans**

The second criterion for evaluating the RAP is to understand how it proposes that resettlement plans should be assessed. Presently, the RAPs that investors develop remain the only means by which resettlement plans can be assessed, but at present the draft NRP does not make RAPs mandatory. Effectively, this makes resettlement of displaced people optional. The final version of the NRP must ensure that formal RAPs are mandatory in any process of resettlement, and made publicly available so that civil society, communities and the general public can assess and evaluate all plans and compensation packages to a minimum standard. The process of developing a RAP should include a census, a socio-economic survey, a report on consultations conducted with affected people and their responses, and plans for monitoring and evaluation. It should also indicate where people will be resettled, a description of resettlement assistance and restoration of livelihood activities, a description of agreed institutional responsibilities, provision for redress of grievances and dispute resolution, as well as an implementation schedule.

### **Conforming with international guidelines**

There are already a number of international standards that can be used as guidance for the NRP and for evaluating RAPs. These include, among others, the Food and Agriculture Organization's (FAO) Voluntary Guidelines on Responsible Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), the World Bank's Operational Policy on Involuntary Resettlement and the International Finance Corporation's (IFC's) Guidance Note 5. The World Bank and IMF guidelines are both already referenced widely by investors in their RAPs in Zambia, such as in the Amatheon, KML and CIP cases – while the FAO guidelines are not well

known or used at all in our experience. The applicability of such international standards must consider the Zambian context and its peculiarities, and the NRP should provide an authoritative interpretation of these global frameworks.

While the NRP provides the first initiative to address the gaps in displacement and resettlement, it still has a long way to go. The origins of the NRP as a way to domesticate the provisions of the Kampala Convention means that it downplays the first important measure for dealing with development-induced displacement. The Kampala Convention states that all incidents of displacement must be avoided or alternatives sought before DID can be considered. This principle must still be addressed in the NRP.

There are important differences among these frameworks. The NRP acknowledges the rights of those who do not hold formal legal title to land for resettlement and compensation. However, both the World Bank and IMF guidelines are more comprehensive. They indicate that resettlement processes must be oriented towards the needs of the communities themselves. They both consider the role of the government as a third party to mediate between investors and communities, while the NRP places the onus on the investors themselves to facilitate and enact the process. While investors often use the World Bank and IMF guidelines on their own initiative in resettlement processes in Zambia, unless those investors receive financing from these sources, there is nothing that binds compliance, both in the writing of any RAPs or in the adherence to RAPs following resettlement. Therefore, the NRP must be improved to ensure that this gap in guidelines is addressed.

## **5. CONCLUSION**

The displacement of rural Zambians is on the increase due to growing investor interest in Zambian land – whether for mining projects, agricultural projects or infrastructure projects. All these contribute to Zambia's wider economic growth, but do not necessarily translate into benefits for Zambia's poor or those directly affected. In order for rural communities to benefit from such projects, a number of policy measures need to be instated to adequately govern displacement, resettlement and compensation. The reforms required include a comprehensive legal and policy framework on land rights and land administration, as well as resettlement and compensation, coupled with enforcement and monitoring. Strengthening processes and procedures of land acquisitions or allocations is equally important in upholding land rights of vulnerable communities. An inclusive approach in decision-making on land allocation and acquisitions is paramount to ensure that those communities most affected are not left out.

The experience of the ZLA's four case studies demonstrates that there is inadequate delineation and coordination of the roles of various government bodies. This requires further clarification in the NRP. This includes roles played by ZEMA,



which has de facto played a regulatory role but lacks any political authority to exert influence over decisions.

The most important finding from the ZLA's research has been that in most cases, regardless of resettlement and compensation measures, communities are not consulted and are not able to take part in key decision-making processes prior to the decision for their displacement. This is because such meaningful consultation is not needed as residents of customary land (and even state land) do not have tenure that is secure in law or in practice. Thus, the question of land tenure security, particularly on customary land, needs to be addressed before any resettlement policy can be considered sufficient.

Displacement of people from their land, which they hold through custom and often over many generations, should be avoided. It should only be considered when their rights are acknowledged and an adequate and implementable legal and policy framework is in place. Only under these circumstances can the displacement of rural Zambians in the name of national development be considered fair and just.

## 6. RECOMMENDATIONS

- 1 The re-drafting and finalisation of the NRP should be a participatory process that includes consultations with civil society, community members and other key stakeholders.
- 2 The Lands Acquisition Act, which provides that land may be acquired compulsorily by the president, needs to be amended to make compulsory the development of a Resettlement Action Plan.
- 3 The NRP should provide for the monitoring and evaluation – by ZEMA and the ZDA – of instances of development-induced displacement and ensure compliance with RAPs and international guidelines.
- 4 RAPs, EIAs and leases or concessions for large-scale land transactions should be made publicly available and accessible to rural communities, CSOs and traditional leaders.
- 5 Resettlement and compensation provisions in RAPs must extend beyond monetary compensation and provision of alternative housing, to address development opportunities and mitigate the intergenerational impacts of loss of land.
- 6 ZEMA should be made more autonomous to ensure lack of political interference in its oversight of both public and private land-based investments.

### ACRYONMS

Chiansi Irrigation Project **(CIP)**

Chanyanya Smallholders Cooperative Society **(CSCS)**

Civil-society organisation **(CSO)**

Development Induced Displacement **(DID)**

Disaster Management and Mitigation Unit **(DMMU)**

Department of Resettlement **(DoR)**

Environmental Impact Assessment **(EIA)**

Food and Agriculture Organization **(FAO)**

Foreign Direct Investment **(FDI)**

First Quantum Minerals **(FQM)**

Internally Displaced Persons **(IDP)**

International Finance Corporation **(IFC)**

Kalumbila Minerals Ltd. **(KML)**

Lusaka South Multi-Facility Economic Zone **(LS MFEZ)**

Ministry of Agriculture and Livestock **(MAL)**

National Resettlement Policy **(NRP)**

Office of the Vice President **(OVP)**

Resettlement Action Plan **(RAP)**

Voluntary Guidelines on Responsible Tenure of Land, Fisheries and Forests in the Context of National Food Security **(VGGT)**

Zambia Development Agency **(ZDA)**

Zambia Environmental Management Agency **(ZEMA)**

Zambia Land Alliance **(ZLA)**

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