HUMAN RIGHTS WATCH

"Forced to Leave"

Commercial Farming and Displacement in Zambia

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SUMMARY AND KEY RECOMMENDATIONS

Soybean field on a commercial farm in Central province, Zambia. Several rural communities in Serenje district have been forced off land they have always lived on and farmed to make way for commercial farming.

SUMMARY

The Zambian government regards agriculture as a "panacea" for rural poverty, and the country's leaders have been promoting agribusiness investments on huge swaths of land. However, flaws in the government's regulation of commercial agriculture, and its poor efforts at protecting the rights of vulnerable people, instead of helping people climb out of the poverty mire, are actually hurting them. Families that have lived and farmed for generations on land now allocated to commercial farms are being displaced without due process or compensation. Some have been left hungry and homeless.

(above) Excavator used to clear land on a commercial farm in Luombwa farm block, Serenje district, after long-term rural residents were displaced.

(opposite) In March 2017, Ruth Mwitwa was convicted of criminal trespass for being on land she has farmed all her life, now allocated to a commercial farmer. She was sentenced to three months' imprisonment and detained with her infant. "I was sent to prison for trespassing on the Muzungu's [white man's] land, when it is him who has entered the land where I and my children were born," said Mwitwa, mother of nine children.

Any one commercial agriculture project, whether a massive investment by foreign investors on tens of thousands of hectares of agricultural land, or smaller land deals on a few hundred to a few thousand hectares, may impact individuals and households. Without proper safeguards, they may have a tremendously negative cumulative impact on local communities. Rural people suffer when governments fail to properly regulate land deals, large or small, and the operation of commercial farms. That is precisely what is happening in some rural communities in Zambia.

In conducting research for this report, Human Rights Watch interviewed, in 2016 and 2017, more than 130 rural residents whose families had lived for years, and sometimes generations, in Serenje district, in Zambia's Central Province. We also interviewed officials at the district, provincial, and central levels of government, in addition to representatives of some commercial farms in the district, lawyers, analysts and other experts. Human Rights Watch examined the impact of six commercial farms on local communities in Serenje district. Four of these farms were fully operational, had cleared land of trees and

For more than four years, some residents in Kasenga have lived in tents after a commercial farmer forcibly evicted them from land in the Luombwa farm block, Serenje district.

most settlements, were in the process of clearing more land, and were cultivating. The other two commercial farms planned to start clearing fields as soon as they could get residents off the land. The farms that are fully operational grow soybeans and wheat, along with other crops, largely for export.

This report examines the human rights impacts of the activities of commercial farms on residents, including the distinctive impacts on women as a result of their social roles and status, and the fact that they have the least opportunity to negotiate and assert their rights. The report documents the displacement of long-term residents who lived and farmed land that has been leased to commercial farmers, and the negative impact of their displacement on their health, housing, livelihoods, food and water security, and children's education.

Women described enormous struggles to sustain their families after losing access to fertile land for cultivating

Residents displaced by commercial farms resort to building homes from scratch with sticks and mud on temporary land in Sasa area, Serenje district.

food crops, safe water for drinking and household use, and hunting or foraging grounds. Some complained about a lack of nutritious meals because they could no longer grow sufficient food, and what they could grow did not provide nutritive variety. Mothers described stretching out what would be a single meal into several portions throughout the day, offering only one meal a day, or going hungry so their children could eat. Many women said that after being displaced, they had to trek long distances to obtain water.

International human rights law does not bar Zambia's government from displacing people to make way for commercial farms or other projects. While many residents have long-term ties to the land and can assert legitimate tenure rights, some of the people being evicted may in fact have arrived recently and have few or no legitimate tenure rights to the land they occupy. However, in most of the cases we examined, evictions were carried out with little regard for the protections Zambian and international law

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(above) With little access to water after being displaced by commercial farms, some residents have resorted to digging simple wells, with a rope and bucket, on their temporary lands. These shallow wells dry up in the drier months, so the residents end up walking to distant streams.

(opposite) Two women displaced by commercial farmers from land in Luombwa farm block walk more than 40 minutes each day to fetch water for their families. They said before displacement, water was readily accessible. "I was six months pregnant when all this [eviction] was happening. Our previous place was good because the water source was near and I could use a bucket to get water and quickly go home, but here the water is so far," said Jane.

both require in terms of due process, resettlement, or compensation. Some were carried out with such flagrant disregard for residents' rights, and with so little real opportunity to contest their legality, that they amounted to forced evictions. Zambian law prohibits forced evictions, and international law requires the government to prevent them.

Human Rights Watch findings revealed that the situation in Serenje is not an aberration. Rather, the abuses related to commercial farming and the rights of residents are rooted in much larger failures of regulation, oversight, and rights protection on the part of Zambian authorities.

We focused on Serenje district because it represents both old (projects that have started production) and new agricultural ventures, providing an opportunity to examine human rights risks at all stages of investment. This district, in Zambia's fertile and water-rich Central Province, houses the Nansanga farm block, which is part of Zambia's "Farm Block Development Program," in which the government is investing in infrastructure and offering favorable terms to entice investors. The district also has older farm blocks, and ample experience with how commercial farming operations can help or hurt the communities around them.

When Felicia Kasenga and her family were forcibly evicted by a commercial farmer from land in Luombwa, they ended up homeless. Kasenga and her 10 children had to sleep in the open for several months.

As a district touted as a prime place for commercial farming, it should represent a best-case scenario, a model for how commercial agriculture can succeed while respecting the rights of rural residents. Instead, it illustrates broken promises, governance failures, and human rights abuses connected with commercial farming.

Esther Mambwe and her family were evicted from Kalengo section by a commercial farmer in 2016. "We didn't know anything about this [commercial] farm until one day we saw a *muzungu* [white man] carrying something and he said he was making a boundary," Mambwe said.

Lack of Meaningful Consultations

Zambian law requires that traditional chiefs—authorities recognized by government—consult with affected communities and obtain their consent before agreeing to convert lands under their control (known as customary areas) to state land that authorities can lease directly to investors. It also requires consultation with affected communities as projects that will impact them move forward.

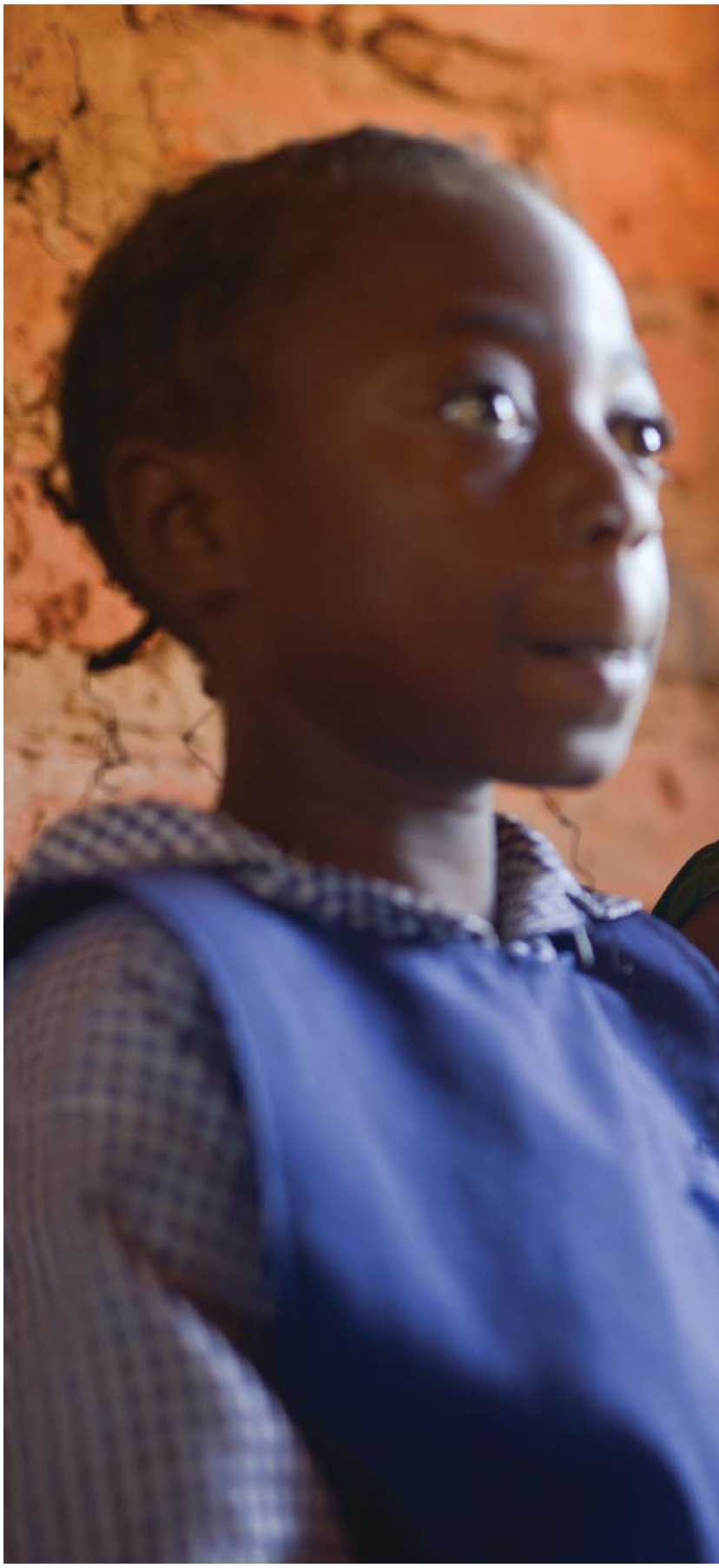
Residents on most farms said these consultations did not happen, or were so haphazard as to be meaningless. Officials said rural land in Serenje was converted from customary to state land over the past decades, often without the knowledge of local communities and through procedures that many question. Many residents were blindsided when commercial farmers arrived; their first inkling that the land had been leased was when a farmer

(above) Children at school in Luombwa farm block. Teachers here said they were worried that the school would shut down because of expanding commercial farming in the area, despite assurances from government officials and commercial farm operators that the school would not be shut.

(opposite) Girls in school in Ntenge section, Luombwa farm block. Some children's families have been forcibly displaced and moved far away from the area, and could no longer access schools.

appeared to survey the land. In many cases, any "negotiations" around compensation or resettlement were under duress, as commercial farmers threatened to bulldoze homes and crops if residents did not vacate their homes. Many women told Human Rights Watch that they did not participate in any negotiations, fearing violence.

Several commercial farmers told Human Rights Watch that they had expected the government to remove people living on the farm plots they acquired. Instead, they said they had to decide how to deal with the families they found on the land. Many commercial farmers regarded these residents as "squatters" who had no legitimate right to reside on the plots in the first place and as such were not entitled to any particular due process or compensation. Several told Human Rights Watch that they had no clue what Zambian law required of them. One commercial farm had a better track record than the others in terms of compliance and addressing impacts on residents, but even that farm would have benefitted from greater oversight and guidance from government officials.



Governance Failures

The government of Zambia has exercised very poor oversight and enforcement of legal requirements over commercial farms. It has generally failed even to verify whether basic requirements such as the conduct of environmental and social impact assessments and the issuance of mandatory permits and licenses have been met. Zambian laws say that environmental impact assessments (EIAs), which should also address some social impacts, should be conducted before a project starts, and that government agencies must monitor impacts. Some commercial farmers cleared land and started operations well before required licenses and permits were issued, and some had never submitted environmental impact assessments. Government officials told Human Rights Watch that due to resource constraints, they did little monitoring of commercial farms.

The government officials we interviewed generally acknowledged that commercial farming in Serenje has been handled poorly. Officials in multiple government agencies blamed other agencies—never their own—for poor monitoring and oversight. Officials are not being held accountable for failing to enforce Zambia's laws on land, the environment, agriculture, investments, and resettlement.

Displacement and Suffering

Rural residents in Serenje district have faced severe suffering over the past few years due to commercial farming. Some commercial farmers have burned or bulldozed homes, uprooted trees, and evicted residents with no compensation and no meaningful opportunity to contest their removal. Dozens of residents evicted by one commercial farmer in 2013 have spent the past four years in tents or shoddy housing in a forest area where they have little access to water, and were not given permission by local authorities to cultivate crops. At time of writing, they continued to live in deplorable conditions, hoping that the government would resettle them onto new land.

Legal Obligations

Human rights law prohibits forced evictions, and requires that governments respect, protect, and fulfill the rights to housing, health, a healthy environment, food, water, and education. It also establishes that people have the right to a remedy for rights violations. International standards establish that business enterprises, including commercial farmers, have a responsibility to identify, prevent, mitigate, and remedy human rights abuses linked to business operations. Zambia has ratified rights treaties and endorsed other relevant standards; it has no shortage of guidance on how to promote agricultural development while protecting human rights.

The Zambian government should take immediate action to safeguard the rights of rural residents in commercial farming areas. It should fully implement and ensure compliance with its policies on resettlement and compensation, including for people at risk of displacement due to commercial farming. It should work to ensure that government agencies have adequate staffing, resources, and training to enforce laws and monitor the activities of commercial farmers, and improve transparency concerning commercial agriculture. It should address policy gaps, including by adopting the long-awaited customary land administration bill and an updated national land policy. The government should also require that environmental and social impact assessments be conducted before approval is given for agricultural investments. It should effectively monitor commercial farming operations on an ongoing basis.

The Zambian government should uphold its human rights commitments by ensuring that rural residents in dire need of improved livelihoods are not left worse off by commercial agriculture.

Farm permit given to residents by their chief. Although many residents of Kalengo section have these permits allowing them to use the land from the traditional authority, these are not recognized by government bodies and commercial farmers.

KEY RECOMMENDATIONS

TO THE GOVERNMENT OF ZAMBIA

- **Provide immediate relief and take longer-term measures to remedy the harm suffered by rural residents of Serenje who were forcibly evicted from their homes or were displaced without adequate compensation.**
- **Ensure that rural residents at risk of displacement or eviction have access to affordable or free legal aid, and to remedies in subordinate courts or other judicial venues.**
- **Ensure that affected communities, including women on an equal basis with men, are able to meaningfully participate in any consultations concerning new or expanded commercial farming, about measures to avoid displacement, and about possible resettlement or compensation.**
- **Ensure that land laws, including any future law on customary land administration, clarify procedures for community consultations in the event of conversions or alienation of customary lands.**
- **Implement the National Resettlement Policy and Guidelines for the Compensation and Resettlement of Internally Displaced People (IDPs). Improve coordination among ministries and agencies responsible for activities related to land, agriculture, environment, and resettlement. Disseminate relevant policies and train officials on their implementation.**
- **Inform commercial farmers about all relevant policies and laws, including on resettlement and environmental protection, in advance of starting commercial farming activities. Enforce all statutory and regulatory requirements for environmental and social impact assessments in connection with commercial farming.**
- **Enhance regulation and monitoring of commercial farming, including by setting up environmental monitoring offices in all provinces and recruiting more inspectors.**
- **Conduct public awareness campaigns among communities that may be impacted by commercial farm development to inform them of their legal rights.**

TO COMMERCIAL FARMERS

- **Conduct environmental and social impact assessments addressing the full scope of risks from commercial farming. Make all such documentation available to the public, including women and marginalized populations, in understandable formats.**
- **Comply with all legal requirements to consult with, compensate, and/or resettle local residents affected by commercial farming. Ensure that women are equally included in any consultations or negotiations over compensation and resettlement.**
- **Ensure that individuals affected by commercial farming are able to lodge complaints directly with the commercial farming venture, including where appropriate through a formal grievance mechanism, and seek a fair resolution.**

Methodology

This report is based on research conducted between June 2016 and August 2017, including field visits to Zambia in August to October 2016, and March and June 2017. It is focused on Serenje district, Central Province, because it is the site of significant government and commercial investment into large-scale agriculture and farm blocks. The report examines the human rights impacts of the activities of these commercial farms, including the distinctive impacts on women and children in the district.

Human Rights Watch researchers interviewed 132 individual community members (70 men, 58 women, as well as 2 girls, 14 and 17 years old). We conducted these interviews in four communities in Luombwa farm block, in the Milumbe, Kalengo, Chishitu, and Ntenge sections. We also interviewed residents living in Nansanga farm block and the Munte/Bwande area in Serenje district.

We met with district, provincial, and central government officials from several ministries and bodies. These included officials from Serenje District Council, Ministry of Lands and Natural Resources, Ministry of Agriculture and Livestock, Ministry of Chiefs and Traditional Affairs, Ministry of Gender, Zambia Environment Management Agency, the Office of the Vice-President's Department of Resettlement, the Lands Tribunal, and a member of parliament representing the Serenje district. Human Rights Watch also interviewed a former official from the Zambia Development Agency (ZDA), and wrote two letters to ZDA seeking information and an interview, but received no response.

We requested interviews with representatives of six commercial farms in Serenje district. We interviewed officials from Silverlands farm in March and August 2017, and in June 2017 we met with eight commercial farmers in Serenje, a town in Serenje district. These eight farmers included representatives of three of the six commercial farms investigated in this report. We sent detailed letters to each of the six commercial farms, requesting information and sharing our findings. We received email responses from five commercial farms, and had a telephone interview with one. The responses are reflected in this report.

We interviewed independent human rights analysts, researchers, civil society organizations, activists, and lawyers working on land issues in Zambia. We met with other

informed community members, such as school headmasters, teachers, retired government officials, and agriculture extension workers in Serenje district.

Human Rights Watch conducted all interviews with community members in Bemba, a local language, with translation in English. Interviews with government officials, representatives of commercial farms, and civil society organizations were conducted in English.

We took measures to ensure that our investigation accurately reflected women's distinctive experiences with commercial farming. Such measures included working with female interpreters, interviewing women in private spaces, meeting with women individually and in groups to explain the aims of the research, and seeking advice from experts on gender and land in Zambia.

Most interviews were conducted privately, one-on-one, in quiet places within the communities, such as under trees or behind houses. We also conducted small group interviews with fewer than 20 people to confirm events and conditions in the communities. Individual interviews lasted one to two hours.

Human Rights Watch also reviewed secondary data sources, including laws, government documents, reports from nongovernmental organizations (NGOs) and research institutes, court rulings, and maps. We used satellite imagery to verify land use and community presence over the past decade.

Interviewees did not receive any compensation for participating in interviews. Respondents were informed of the purpose of the interview, its voluntary nature, and the ways in which the data would be used. They verbally consented to be interviewed. They were told they could decline to answer questions or could end the interview at any time. Where appropriate, Human Rights Watch provided contact information for organizations offering legal or other services.

We have used pseudonyms for community members we interviewed to protect their privacy. In some cases, further identifying details have been withheld to prevent possible reprisals.

For locations within farm blocks, we used names for "sections" used by local residents.

We use the terms "legitimate tenure rights" or "legitimate land tenure" in this report to refer to legally or socially recognized entitlements to access, use, and control land and related natural resources, in line with usage of this term in international guidelines on land governance and secure land tenure. Land tenure systems determine who can use land and related resources, in what way, for how long, and under what conditions. They may be established in formal laws, or recognized in customary practices.

I. Background

Commercial Agriculture in Zambia

With fluctuating and declining copper prices since 2011, the government of Zambia has intensified efforts to diversify its economy by promoting agricultural development and commercial farming.[1] Recently re-elected President Edgar Lungu and his Patriotic Front (PF) party have pledged to make agriculture the "main stay of Zambia's economy."[2] The government of Zambia has increased the proportion of the national budget dedicated to agricultural development,[3] and its national development plan includes foreign direct investment in agriculture as a primary objective.[4] Zambia is also committed to implementing the Comprehensive Africa Agriculture Development Programme (CAADP), Africa's policy framework for agricultural development.[5]

There is no reliable data on exactly how much land has been leased or is being developed for commercial farming in Zambia. The government has no comprehensive or disaggregated database on large farms in the country. According to the Land Matrix, a global land monitoring initiative, the pace of large-scale land acquisitions in Zambia has increased since

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[1] For information on copper price trends, see Nasdaq, Copper Prices, http://www.nasdaq.com/markets/copper.aspx?timeframe=10y (accessed June 5, 2017). In 2015 mining accounted for 12 percent of Zambia´s gross domestic product (GDP) and 70 percent of total export value. Copper accounted for 60 percent of total exports. See World Bank, "How can Zambia Benefit More from Mining," July 18, 2017, http://www.worldbank.org/en/news/feature/2016/07/18/how-can-zambia-benefit-more-from-mining (accessed July 10, 2017).

[2] Patriotic Front, "Manifesto 2016-2021," https://www.lusakatimes.com/wp-content/uploads/2016/06/PF-MANIFESTO-2016-2021__1_.pdf (accessed April 5, 2017), p. 21.

[3] The percent of funds committed to agriculture within the national budget was 6.5 percent in 2016 compared to 9.4 percent in 2017, a 77.2 percent increase. See Indaba Agricultural Policy Research Institute (IAPRI), "2017 Agricultural Sector Budget Analysis," slide 16, http://www.iapri.org.zm/images/Presentations/2017_Agricultural_Sector_Budget.pdf (accessed May 23, 2017).

[4] Ministry of Finance of the Republic of Zambia, "Revised Sixth National Development Plan (R-SNDP) 2013-2016," http://www.mofnp.gov.zm/index.php/economic-reports/viewcategory/88-sndp-2011-2015r-sndp-2013-2016 (accessed May 31, 2017), Table 10-7.

[5] Office of the Special Adviser on Africa, "Comprehensive Africa Agriculture Development Programme (CAADP)," http://www.un.org/en/africa/osaa/peace/caadp.shtml (accessed May 2, 2017).

2011.[6] The 2016 Land Matrix summary on Zambia highlights 34 land deals involving investors from 14 countries, with more than 390,074 hectares of land under contract.[7]
For more than a decade, the Zambian government has promoted its Farm Block Development Program (FBDP) as the centerpiece of its effort to promote agricultural growth. It says it has converted large swaths of land, or "farm blocks," in each of the 10 provinces into leasehold land available for commercial farmers.[8] Each farm block is supposed to have one core large-scale farm (core venture) of 10,000 hectares; one to three commercial farms (1,000-5,000 hectares); medium-scale farms (100-1,000 hectares); emergent farmers (50-100 hectares); and small-scale farmers (25-50 hectares). Crops grown in core venture farms are meant to be predominantly for export. The smaller farms have the option of working in out-grower arrangements with the core venture or using common processing facilities.

For each farm block, the government has promised to provide basic infrastructure for agriculture, such as feeder roads, electricity, dams for irrigation, and communication facilities.[9] While government officials told Human Rights Watch that agencies have completed conversion of customary land to leasehold tenure under state control in the FBDP areas,[10] the government is far from completing the infrastructure or securing the major investors.[11]

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[6] The Land Matrix is a global and independent land monitoring initiative that promotes transparency and accountability in decisions over land and investments. Its Global Observatory is an open tool for collecting and visualizing information about large-scale land acquisitions.

[7] Land Matrix, "Large Scale Land Acquisitions Profile: Zambia," 2016, http://www.landmatrix.org/media/filer_public/91/17/911723b0-14eb-4ff1-b9e5-fdc7967fee35/7714_up_land_matrix_zambia_country_portfolio.pdf (accessed January 13, 2017).

[8] Zambia Development Agency (ZDA), "Agriculture Sector Leaflet," 2014, http://www.zda.org.zm/?q=download/file/fid/51 (accessed July 3, 2017), p. 1; "Zambia Agriculture, Livestock and Fisheries, Sector Profile, 2011, http://www.zda.org.zm/?q=content/agriculture (accessed July 3, 2017), p. 3-4; Ministry of Finance and National Planning of the Republic of Zambia, "Farm Block Development Plan 2005-2007," https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Ministry%20of%20Finance%20and%20Development%20Planning-Farm%20Block%20Development%20Plan.doc (accessed September 20, 2017).

[9] Ministry of Finance and National Planning of the Republic of Zambia, "Farm Block Development Plan 2005-2007," p. 1; "Zambia, National Report: Agriculture," http://www.un.org/esa/dsd/dsd_aofw_ni/ni_pdfs/NationalReports/zambia/Agric.pdf (accessed July 3, 2017), section 2.1 (19).

[10] Leasehold tenure refers to land managed by the state based on written policies and laws and customary tenure is land controlled by traditional authorities based on largely unwritten customs and practices.

[11] Human Rights Watch interview with Stanislaus M. Chisakuta, Deputy Director and Reynolds K. Shula, Lusaka, February 28, 2017.

The government's Second National Agricultural Development Plan, issued in 2016, reiterates that the FBDP remains a priority.[12] The ruling party promised in its 2016 manifesto to "continue and expand programing of opening up more agricultural land," using the farm block model.[13]

Rural Poverty and the "Panacea" of Agricultural Development

The Zambian ruling party's manifesto says that agriculture is a "panacea" for rural poverty in Zambia. The government's 2016 Second National Agriculture Policy, which promotes agriculture as a business, also aims for agricultural development to aid food and nutrition security, employment creation, increase incomes, and reduce rural poverty.[14] Its 2017 Seventh National Development Plan has a major focus on achieving a diversified and export-oriented agricultural sector in the period 2017-2021.[15]

This may be a noble idea, but after more than a decade of programs and policies to promote commercial agriculture, many promised benefits for rural Zambians have not yet materialized. The government's agriculture policy notes that performance of the agriculture sector "has not been sufficient enough to make a significant dent on poverty."[16] It also notes, "growth and gains made within the agriculture sector have not been inclusive but rather limited to large scale and medium scale or emergent farmers with little impact on the bulk of small scale farmers."[17]

Zambia's economy is growing, but poverty rates, especially in rural areas, have remained high.[18] The government's 2015 Living Conditions Monitoring Survey found that 54.4 percent

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[12] Ministry of Agriculture of the Republic of Zambia, "Second National Agricultural Policy 2016-2020," http://www.agriculture.gov.zm/index.php?option=com_jdownloads&Itemid=1576&view=viewcategory&catid=22 (accessed May 31, 2017).

[13] Patriotic Front, "Manifesto 2016-2021," p. 50.

[14] "Second National Agricultural Policy," p. 11.

[15] "Seventh National Development Plan 2017-2021," p. 61.

[16] Ibid., p. 8.

[17] Ibid.

[18] According to the World Bank, Zambia's economy grew by 2.9 percent in 2015 and 3.4 percent in 2016. World Bank, "Zambia Economic Brief: Reaping Richer Returns from Public Expenditures in Agriculture" (Washington, DC: World Bank Group, 2017), http://documents.worldbank.org/curated/en/130381498665479930/pdf/117003-WP-P157243-PUBLIC-World-Bank-9th-Zambia-Economic-Brief-June-2017-FINAL-WEB.pdf (accessed September 3, 2017), p. 1.

of the population lives below the national poverty line. Poverty is higher in rural areas (76.6 percent) than in urban areas (23.4 percent).[19]

World Bank documents project a growth rate of 4.1 percent in 2017, but said these economic gains might not be inclusive of rural populations.[20] According to one World Bank document, "coverage of programs targeted to help the poor and vulnerable [in Zambia] remain small relative to the need, as well as compared to regional and international standards."[21]

Villages Throughout "Available" Land

Many rural areas in Zambia are sparsely populated, but not vacant. Zambia has a rural population of close to 10 million people, or almost 60 percent of its population.[22] Rural communities in Zambia tend to live in dispersed settlements, with distinct kin-villages separated by "bush" for grazing and cultivating crops.[23] Many rural residents live on roughly the same lands as relatives going back generations, and often consider it their ancestral land. Some practice shifting agriculture (rotational farming where land is cleared, cultivated and then left to regenerate for a few years), and use surrounding areas for foraging in forests and grassland, tending livestock, and fishing. Rural settlements are often adjacent to water sources.[24]

Government officials and official documents sometimes exaggerate the extent to which rural land is available, idle, and ready for use by commercial agricultural investors.[25] Traditional chiefs have claimed that some occupied lands are vacant as they negotiate

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[19] Central Statistical Office, "Zambia: 2015 Living Conditions Monitoring Survey Key Findings," 2016, p. 9.

[20] World Bank, "Macro Poverty Outlook for Zambia," 2017, http://documents.worldbank.org/curated/en/173701491509631960/Macro-poverty-outlook-for-Zambia (accessed May 24, 2017), p. 2; World Bank, "Zambia Economic Brief: Raising Revenue for Economic Recovery" (Washington, DC: World Bank Group, 2016), http://documents.worldbank.org/curated/en/166021480932290112/pdf/110728-WP-P157243-PUBLIC-ZambiaEBRaisingRevenueforEconomicRecoveryDecember.pdf (accessed May 24, 2017), p. 26.

[21] World Bank, "Macro Poverty Outlook for Zambia," p. 2.

[22] World Bank, "Rural population," http://data.worldbank.org/indicator/SP.RUR.TOTL?locations=ZM (accessed May 2, 2017).

[23] For a presentation of human geography of Zambia, see Prithvish Nag, *Population, Settlement and Development in Zambia* (New Delhi: Concept Publishing Company, 1990), p. 71.

[24] Ibid., p. 67.

[25] For an analysis of the notion of available arable land in Zambia see Klaus Deininger and Derek Byerlee, *Rising Global Interest in Farmland: can it yield sustainable and equitable benefits?* (Washington, DC: World Bank, 2011), https://siteresources.worldbank.org/DEC/Resources/Rising-Global-Interest-in-Farmland.pdf (accessed September 20, 2017); and United Nations Conference on Trade and Development (UNCTAD), "An Investment Guide to Zambia: opportunities and Conditions 2011," (New York: United Nations Conference on Trade and Development, 2011), http://unctad.org/en/Docs/diaepcb201008_en.pdf (accessed May 21, 2017), p. 31.

land conversions.[26] The Deputy Director of the Ministry of Chiefs and Traditional Affairs told Human Rights Watch, "You would be amazed how it is done in some areas. I have gone to areas where there are lots of people living but the chief has said there are none! But we cannot visit every site."[27]

Government and Customary Land Governance

As in some other African countries, all land in Zambia is vested in the president.[28] However, the constitution and laws of Zambia protect property rights and recognize both customary areas and "state" land that can be alienated by lease (and is then considered land under "leasehold" tenure).[29]

Customary areas, commonly referred to as customary land, are administered by traditional authorities. The Lands Act provides that land held under customary tenure cannot be alienated by the president without taking into consideration local customary law, consulting with the chief and local authority in the area, and consulting with "any other person or body whose interest might be affected."[30] As of 1987, the government said that 94 percent of land in Zambia was customary land.[31] Experts have disputed this estimate, claiming that approximately 51–54 percent of land remains under customary tenure.[32] The Ministry of Lands is currently undertaking a land audit to establish how much land is customary and how much is state land.

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[26] Human Rights Watch interview with James Chileshe, Deputy Director, Ministry of Chiefs and Traditional Affairs, Lusaka, February 27, 2017.

[27] Ibid.

[28] Lands Act (Chapter 184 of the Laws of Zambia, 1995), art. 3(1).

[29] Constitution of Zambia (Amendment), *Government of Zambia*, No. 2 of 2016, http://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20%28Amendment%29%2C%202016-Act%20No.%202_0.pdf (accessed September 21, 2017), art. 254(1); Lands Act, arts. 2 and 3; Lands and Deeds Registry Act (2006); Lands Acquisition Act (1970).

[30] Lands Act, art. 3(4).

[31] Michael Roth, "Land Tenure, Land Markets, and Institutional Transformation in Zambia," Land Tenure Center Research Paper 124 (Madison: Land Tenure Center, University of Wisconsin, 1995). https://minds.wisconsin.edu/handle/1793/21877 (accessed August 10, 2017), table 1.2, p.6; Roth quotes data from Ministry of Lands and Natural Resources, "Ministerial Statement in Parliament on 4th August, 1987 on Land Alienation in Reserves and Trust Lands."

[32] J.N. Sitko, J. Chamberlin, and M. Hichaambwa, "The Geography of Customary Land in Zambia: Is development strategy engaging with the facts?" Working Paper 98IAPRI (Lusaka: IAPRI,2015), http://fsg.afre.msu.edu/zambia/wp98.pdf (accessed September 7, 2017).

The government can grant the right to use and benefit from state land to individuals or corporate entities, with leases of up to 99 years.[33] The Lands Act establishes consultative processes through which land can be converted from customary and placed under state authority. Once land is converted, there is no provision to convert it back. Chiefs should consult with and gain consent of local communities before agreeing to convert customary land, but as explained in the following sections, this does not always happen, and even if it does, women may be excluded from the consultations.[34] Some officials said that chiefs stand to benefit from land conversions and may be motivated by greed to avoid community consultations.

The government may also acquire land from current users when it deems it to be in the national interest.[35] A law on compulsory acquisition of land provides procedures for notice, valuation, and compensation to users before acquisition, and recourse after land is transferred.[36]

Even where agricultural land has been converted from having the status of customary areas to state leasehold land, customary laws and practices of communities on the land are still influential. Traditional chiefs continue to play a role in land matters, including in some cases designating alternative land for individuals evicted from land to make way for commercial farming. The customary practices of some communities give men greater authority over land, and women may have little say about securing alternative land when they face displacement.[37]

The government and other stakeholders have been discussing law and policy reforms that could clarify and improve protections for land governance and administration, including a customary lands administration bill and an updated national land policy.

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[33] Lands Act, arts. 6(1) and (2).

[34] Lands Act, art. 8 and Form II. Moreover, in the case of *Still Waters Limited v. Mpongwe District Council*, Appeal No. 90 of 2001, the Supreme Court ruled that a chief must consult and obtain consent of those who will be affected.

[35] Constitution of Zambia, art. 16; Lands Acquisition Act, art. 3.

[36] Lands Acquisition Act, part III (10). See also Agricultural Lands Act and Arbitration Act.

[37] This may be especially the case in communities with patrilineal inheritance and patrilocal marriage customs. But even in communities that have matrilineal and matrilocal customs, women rarely have full autonomy and power over land. Zambia's constitution exempts such practices from its nondiscrimination provisions through a customary law "carve-out." Constitution of Zambia, art. 23 (4) (c) and (d), prohibits discrimination, but does not apply to laws on devolution of property and other personal law matters, and to customary laws (with certain restrictions).

II. Commercial Farming in Serenje District

> Where will we go looking for land? There isn't any land left. Over here [Luombwa] they [officials] say all the land belongs to the white farmers, and on the other side, they've created Nansanga Farm Block.
>
> –Elisabeth K., 24-year-old mother of four, Ntenge Section, September 2016

Zambia's Central Province is well known for fertile soil and numerous water sources. It is a burgeoning commercial farming hub. Farms in the province produced an estimated 723,760 metric tons (MT) of maize in 2014, along with substantial amounts of wheat (99,758 MT) and soya beans (96,518 MT).[38] Agriculture in the province is mainly rain-fed, though large farms—with government support—are increasingly moving toward irrigation. The province has a number of farm blocks, both within the government's Farm Block Development Program and independent of that program.

This report focuses on commercial farming in Serenje district, Central Province. The district provides a valuable case study in several respects. It illustrates the tensions and confusion over customary land conversions and the rights of rural residents with long-standing ties to the land. The commercial farms examined also reveal the negative impacts of large-scale commercial agriculture on rural communities when operators do not comply with laws and the ventures lack proper government oversight.

Serenje district has a high concentration of commercial farms, owned both by foreign and domestic investors. Over the past decade, the government has been piloting its Farm Block Development Program (FBDP) with the Nansanga farm block in this district. The government has also facilitated commercial agricultural investments in other farm blocks in the district independent of the FBDP, including the Luombwa farm block. The government has promised, and to some degree has undertaken, infrastructure development to help commercial farming in the district, building access roads and bridges, installing electric lines, and constructing dams for irrigation.

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[38] Zambia Data Portal, Central Statistical Office, "Agriculture Statistics," 2014, http://zambia.opendataforafrica.org/ionawve/agriculture-statistics?regions=1000010-central-province (accessed May 20, 2017).

As a long-planned, concerted test case for the government's plans for commercial agriculture and farm blocks, Serenje district should represent a best-case scenario. It should be a place where the government demonstrates that its policies in support of commercial agriculture are compatible with the rights of rural people, and truly provide them with real benefits. Unfortunately, as the next sections show, the Serenje experiment is to a large extent failing local communities.

Land Conversions in Serenje District

Agricultural land in Serenje district is a mix of customary and state land. The history of the conversion of land from customary to state status in this district is murky and contested. Government officials say that the conversions of customary land to state land starting in the 1980s were legitimate, though it is virtually impossible to verify that official requirements were met since documentation is not available or accessible.[39] According to a Ministry of Agriculture and Livestock official, "chiefs gave land willingly" for the farm blocks in Serenje district, and the government did not acquire it through the compulsory land acquisition law.[40]

There are conflicting accounts on whether there were residents on the land prior to conversion. Several government officials acknowledge that land now used, or soon to be used, for commercial farming in Serenje was not vacant when it was converted, or when commercial farmers started operations. A Ministry of Agriculture and Livestock (MAL) official admitted that there is "no way a huge tract of land would not have villagers on it, and so there was a duty to consult with the residents whose interests might be affected."[41] Other government officials disagree, claiming that if there were people living or farming on the land when it was converted, the government would have resettled them, but said they had no evidence to back such claims. A provincial land surveyor told Human Rights Watch that all people living on land converted into farm blocks in Serenje would have been

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[39] Nelson Chembo testified in court that "Loumbwa farm block was created in 1980 and in 1990 it was allocated to the state," *Philip Jan Jackman (Trading as Kasary Kuti Ranch) F/11081/Serenje District v. Godwin Mintamwe and 11 others,* Subordinate Court of the First Class, Serenje, Case No. 3BL/01/15, judgment, September 16, 2015, p. J2, on file with Human Rights Watch.

[40] Human Rights Watch interview with Reynolds K. Shula, Principal Agriculture Specialist at Ministry of Agriculture and Livestock, Lusaka, October 10, 2016.

[41] Human Rights Watch interview with Stanislaus M. Chisakuta, Deputy Director and Reynolds K. Shula, Lusaka, February 28, 2017. See Lands Act, art. 3(4).

resettled, despite the absence of records to confirm this, and anyone now living on the land must be "squatters" and due no recourse.[42]

Many long-term rural residents in Serenje district say they were unaware that the land had been converted until commercial farmers started arriving. Many whose families lived in the area for decades or more told Human Rights Watch that no one discussed the conversion with their families, adding that they had no information about what conversion means.

There are also conflicting accounts on the issue of approval by traditional leaders for conversion of land. The farm blocks in Serenje were, or in the view of some, still are within the Muchinda chiefdom. The area's chief died in 2010, and there was a contest over who would be appointed the new Senior Chief Muchinda of the Lala people.[43] In 2016, a court appointed Evans Mukosha as successor to the throne. In September 2016, Mukosha and his representatives told Human Rights Watch that they believe the prior Chief Muchinda did not understand that chiefdom land was being permanently converted to state land to be used in farm blocks. Instead, they said he appeared to think it was a temporary lease, and that the land would remain under the control of the chiefdom. They did not have specific information about whether the chief was compensated, what documentation was signed, or whether there were consultations between the chief and the local people. Mukosha said the government promised the prior chief a tractor, a promise that was never honored.[44] Mukosha was murdered in May 2017, and no successor had been appointed at time of writing.

Some civil society groups and public interest lawyers have asserted that the land conversions were not done in accordance with law, and thus are invalid. They point to the

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[42] Human Rights Watch interview with Winston Mumba, Central Province provincial land surveyor, Ministry of Lands, Frank Jerem, Provincial Land Husbandry officer, Ministry of Agriculture and Livestock, and Wyclef Phiri, Planner, Dept. of Physical Planning and Housing, Central Province, Ministry of Local Government and Housing, Kabwe, March 3, 2017.

[43] Media report describes death of Chief Muchinda in 2010 and acknowledges that he had consented to conversion of 155 hectares of land for Nansanga farm block. "Zambia: RB Mourns Lala Chief Muchinda," *AllAfrica*, February 27, 2010, http://allafrica.com/stories/201003010151.html (accessed June 9, 2017). In Serenje district, there are six chiefdoms made up of the Lala people. Muchinda royal establishment has a Senior Chief, while the other five chiefdoms are controlled by Chieftainess Serenje and Chiefs Mailo, Kabamba, Chisomo, and Chibale.

[44] Human Rights Watch interview with Evans Mukosha, Senior Chief Muchinda of the Lala people, and Mr. Kharika Phiri, secretary, Serenje, September 21, 2016.

lack of evidence that legal procedures were followed, including with respect to consulting with and compensating residents.[45]

Human Rights Watch could not verify whether the land conversions complied with law or not, but the fact is that vast areas of land in Serenje are now being commercially farmed. The commercial farmers feel confident that they have, or will soon have, government authorization to farm there. Many residents told us that they were caught unawares by the land conversion, and at a loss for how to cope with losing land they and their relatives have cultivated for years, or in some cases, for generations.

Major Farm Blocks and Commercial Farms in Serenje District

Serenje district has five major farm blocks: Nansanga, Luombwa, Munte, Kasanka, and Ssasa. Other commercial farms in the district also benefit from the government's infrastructure investments, but are outside the bounds of the farm blocks.

This section describes six commercial farms in or near the Nansanga and Luombwa farm blocks, providing background on the farms and current activities. Chapters III (Evictions and Resettlement in Serenje District) and IV (The Human Costs of Commercial Farming in Serenje) describe the experience of residents affected by these commercial farms.

Nansanga and Luombwa Farm Blocks

The two most prominent farm blocks in Serenje district are Nansanga, which is part of the government's Farm Block Development Program, and Luombwa, which has the largest area under cultivation by commercial farmers.

Nansanga farm block is located 60 kilometers south of Serenje (district's administrative hub). It covers approximately 100,000 hectares of land, equivalent to about 122 soccer pitches. As noted above, the government's aim is for it to have a "core venture" farm of

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[45] Human Rights Watch interview with Brigadier Siachitema, lawyer, Southern African Litigation Center (SALC), Lusaka, February 8, 2017. Siachitema said that the taking of customary land without consent or compensation should be considered an illegal compulsory acquisition by the state. He said that in Serenje, he believes the steps and procedures outlined by the Lands Act and Lands Acquisition Act were not followed. See also Brigadier Siachitema, "Protecting Rural Zambian Communities from Displacement Resulting from Land-Based Investment," in *Goal 16 of the Sustainable Development Goals: Perspectives from Judges and Lawyers in Southern Africa on Promoting Rule of Law and Equal Access to Justice* (Johannesburg: Southern Africa Litigation Centre, 2016), http://www.southernafricalitigationcentre.org/1/wp-content/uploads/2017/01/GOAL-16-Book.pdf (accessed February 8, 2017).

10,000 hectares, several large commercial farms, and many medium, emergent, and small farms.

While the government has made progress on infrastructure to serve this farm block, including access roads and bridges, electric lines and a power substation, and dams for irrigation, it has struggled to secure a foreign investor for the Nansanga "core venture." Instead, in 2015 it designated a quasi-governmental company, the Industrial Development Corporation (IDC), as the core venture. As of July 2017, IDC was soliciting bids from agribusinesses and might parcel up the 10,000 hectares.[46] There are small and medium farms operating in Nansanga, but not on the scale that the government hoped for. In the coming years, it is likely that larger commercial farms will take up operations within Nansanga.[47]

There is conflicting information about how many people currently live on this land, or were present at various points in the past. A 2009 government document said 427 households were living within the Nansanga area after the land was converted from customary to state land.[48] A Ministry of Agriculture and Livestock official said that in 2002 there were 32 families needing relocation in the core venture area, and a 2014 government survey showed there were 100 families living there.[49] Meanwhile, local residents told Human Rights Watch they believed there were far more families living in the core venture parcel and the larger Nansanga land area, though they could not give a concrete estimate.[50]

Luombwa Farm Block is about 70 kilometers west of Serenje, bordered by the Nansanga Farm Block and Musangashi Forest Reserve. Human Rights Watch could not verify the total area of Luombwa farm block because this information was not available from government authorities. It is the most advanced farm block in the district in terms of infrastructure, with an electricity sub-station, some telephone network, gravel roads, and bridges.

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[46] Human Rights Watch interview with Stanislaus M. Chisakuta and Reynolds K. Shula, February 28, 2017.

[47] "ZDA Hails Investment in Nansanga Farming Block Project," Q FM Africa's Modern Radio, February 10, 2017. http://www.qfmzambia.com/2017/02/10/zda-hails-investment-in-nansanga-farming-block-project/ (accessed July 4, 2017).

[48] Nansanga Profile document, on file with Human Rights Watch.

[49] Human Rights Watch interview with Reynold K. Shula, Lusaka, October 3, 2017.

[50] Human Rights Watch interview with group of 37 residents in Nansanga Farm Block, September 24, 2017.

Zambian officials say the state acquired the Luombwa farm block from a farm development program in the 1990s.[51] The government demarcated the outer boundary in the mid-1990s, then designated parcels for individual farm plots. The Ministry of Lands issued title documents to commercial farmers for some of these plots. In some cases, farmers never started operations, and the government repossessed and reallocated the land.[52] Over time, new investors and farmers have come to Luombwa to take up commercial farming, sometimes obtaining land from the government and sometimes purchasing leasehold tenure rights from other private parties.

As far as Human Rights Watch could ascertain, there is no final Strategic Environment Assessment (SEA) for either the Nansanga[53] or Luombwa farm block as a whole (although there are environmental impact assessments (EIAs) for some activities on some farms within the blocks).[54] As described below, these assessments are important safeguards for sustainable environmental management and to mitigate adverse impacts.

Commercial Farms Operating in Serenje: Six Case Studies

Human Rights Watch investigated six commercial farms in Serenje district, ranging in size from 150 hectares to more than 5,000 hectares of land. Five of the farms are within Luombwa farm block and one is in the Nansanga farm block. These farms cover a broad spectrum from a corporate investor (Silverlands Zambia Limited) to family-run farms, registered as companies with the government, whose owners live on the farm and directly participate in the work.

The farm and section (location) names below reflect how local residents refer to the farms, often using names or nicknames of farmers rather than business names. In many cases,

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[51] Human Rights Watch interview with George Chisebuka, District Agriculture Coordinator, Donald Mwaba, Senior Agriculture Officer, and Nelson Chembo, Technical Officer for Land Husbandry, Ministry of Agriculture and Livestock, Serenje, October 3, 2016; also see *Philip Jan Jackman (Trading as Kasary Kuti Ranch) F/11081/Serenje District v. Godwin Mintamwe and 11 others,* Subordinate Court of the First Class, Serenje, Case No. 3BL/01/15, judgment, September 16, 2015, p. J2, para. 4, on file with Human Rights Watch.

[52] Ibid.

[53] For Nansanga, there was a draft. See Ministry of Agriculture and Cooperatives, Department of Field Services, "Report on the Environmental Impact Assessment Carried out for Development of Nansanga Farm Block in Serenje District," February 2006, https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Nansanga%20Draft%20EIA%20Report_0.doc (accessed September 20, 2017).

[54] Environmental Management Act (EMA), art. 23. Under this law, government projects such as farm blocks should have a Strategic Environment Assessment (SEA). See section "Environmental and Social Impact Assessments" for more details.

residents simply referred to farm owners or operators as "*Muzungu*" (white) farmers. According to residents, all commercial farmers in these case studies were white. Human Rights Watch was not able to confirm the nationality of all the farmers, but the five farms it could verify have owners from South Africa, Zimbabwe, the United Kingdom, and Brazil.[55]

The summaries below refer to numbers of residents (sometimes referred to as "settlers") on land acquired by commercial farms, primarily based on estimates in public documents or from government officials. In all cases, local residents told Human Rights Watch that there were more people living on the land than reflected in government or company documents.

Company name and informal designation	Known owners, and nationality according to government registry	Farm block	Farm area (hectares)	Project stage	Environmental and social impact assessments
Silverlands Zambia Limited (SZL) **Known as "Silverlands" in community**	Majority owner: Silverlands Ireland Holdings (Z) Limited (99% equity)	Luombwa	5,506 hectares	Incorporated in Zambia August 2012. Cleared land and cultivating soya, wheat, and maize.	Submitted two Environmental and Social Impact Assessments (ESIAs) to Zambia Environmental Management Agency (ZEMA), and received approval March 2015 and August 2015.
Rowe Farming Limited **Known as "Matthew's Farm" in community**	Matthew John Rowe (Zimbabwe) Kyrie Pauline Visser Rowe (Zimbabwe) Felicity Rose Ferriman (United	Luombwa	117.8 hectares	Incorporated in Zambia April 2014. Cleared land and began cultivation of soya.	According to ZEMA officials, Rowe submitted an Environmental and Social Impact Assessment (ESIA) for installing a water pump, but not for clearing land or

[55] Registration information with the Patents and Companies Registration Agency (PACRA), Ministry of Commerce, Trade and Industry, on file with Human Rights Watch.

	Kingdom)				other farm operations.
Nyamanza Farming Limited Known as "Sawyer farm" in community	John Lewis Sawyer (Zimbabwe) Jason Lewis Sawyer (South Africa) Leonard David Van Brenda (Zimbabwe)	Luombwa	996 hectares	Incorporated in Zambia June 2007. Cleared land and cultivating soya, wheat, and rice.	According to ZEMA officials, no Environmental and Social Impact Assessment (ESIA).
Billis Farm Limited Known as "Billis farm" in community	Abraheam Lodewikus Viljoen (Zimbabwe) Paulo Stavrou Billi (Brazil) Alexandre Stavrou Billi (Brazil) Idaro Ventures Limited	Luombwa	2071.4 hectares	Incorporated in Zambia December 2011. Cleared land and cultivating soya, wheat, and maize.	According to ZEMA officials, no Environmental and Social Impact Assessment (ESIA).
Kasary Kuti Ranch Known as "Jackman's farm" in community	Philip Jan Jackman (United Kingdom/Zambia)	Luombwa	263.7 hectares	Incorporated in Zambia in June 2014. Has not cleared land.	According to ZEMA officials, no ESIA.
Fairfield Farm Known as "Badcock's farm" in	Jeremy Badcock (Not verified) Greg Badcock (Not verified)	Nansanga	2,202.3 hectares	Incorporation information not available for this farm. Has cleared land to	According to ZEMA officials, no ESIA.

community				make roads.	

Sources: The information for this chart was assembled from a variety of public and private documents and interviews. We were not able to get confirmation from the companies for all data in this chart. The sources included documents from international financial institutions, Zambian ministries and agencies (including the Ministry of Lands, the Ministry of Commerce, Trade and Industry, court decisions, emails from and interviews with commercial farmers, interviews with district, provincial, and central government officials, and interviews with several traditional leaders. The text of this and the following chapters includes footnotes with exact sources.

"Silverlands Farm"

Silverlands Zambia Limited (SZL) is owned by SilverStreet Private Equity Strategies SICAR—Silverlands Fund through its subsidiary Silverlands Ireland Holdings (Z) Limited.[56] SZL is incorporated in Zambia, and Silverlands Fund is incorporated in the United Kingdom. Silverlands Fund secured roughly US$150 million in financing from the United States government's Overseas Private Investment Cooperation (OPIC) in 2011.[57] SZL registered as a Zambian company in 2012, and commenced operations in 2014 in Luombwa farm block. In 2017, it received reinsurance of $10.1 million from OPIC,[58] and $15.2 million from the Multilateral Investment Guarantee Agency (MIGA), a member of the World Bank Group.[59]

Silverlands acquired four neighboring farms, known as Vundu, Venturas, Sichilima, and Green Forestry Development/GFD (Sheriff) farms, from individual private owners in

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[56] Overseas Private Investment Corporation (OPIC), "Project Information Summary for the Public," https://www.opic.gov/sites/default/files/files/9000026044.pdf (accessed September 20, 2017); "OPIC Board Approves Nearly $500 Million for Five Renewable Resources Investment Funds," OPIC press release, June 28, 2011, https://www.opic.gov/press-releases/2011/opic-board-approves-nearly-500-million-five-renewable-resources-investment-funds (accessed May 24, 2017); and Multilateral Investment Guarantee Agency (MIGA), "Environmental and Social Review Summary (ESRS), Silverlands Zambia Limited, " March 28, 2016, https://www.miga.org/Documents/ESRS_Zambia_ SZL_final.pdf (accessed May 24, 2017).

[57] "OPIC Board Approves Nearly $500 Million for Five Renewable Resources Investment Funds," OPIC press release, June 28, 2011, https://www.opic.gov/press-releases/2011/opic-board-approves-nearly-500-million-five-renewable-resources-investment-funds (accessed May 24, 2017).

[58] OPIC, "Project Information Summary for the Public," https://www.opic.gov/sites/default/files/files/9000026044.pdf (accessed September 20, 2017); See also historical list of projects OPIC approved, https://www.opic.gov/opic-action/all-project-descriptions (accessed August 10, 2017).

[59] "MIGA Reinsures Agribusiness Investment in Zambia," Multilateral Investment Guarantee Agency press release, May 22, 2017, https://www.miga.org/Lists/Press%20Releases/CustomDisp.aspx?ID=533 (accessed July 3, 2017).

Luombwa Farm Block. It consolidated these farms into a single large farm (5,506 hectares), where it grows food crops (maize, soya, wheat, and potatoes) and livestock (cattle).[60]

Two environmental and social impact assessments (ESIAs) were prepared for the Silverlands farm, which the government approved in 2015.[61] One covers the project on the land formerly known as the Vundu, Venturas, and Sichilima farms and the other covers the change from forestry to row cropping on the former Green Forestry Development land.[62]

One of the ESIAs stated that 14 households[63] were living on the land, and one other document said that four gravesites on the land would not be disturbed.[64] As of February 2017, one family had been resettled. In June 2017, after several years of seeking alternative land to resettle residents living on the farm, the company's board decided that the residents would not be resettled, and instead the company would adopt a livelihood restoration plan for residents, who would be able to remain in their homes on the farm block.[65]

"Matthew's Farm"

A farm operated by Rowe Farming Limited, commonly referred to as "Matthew's Farm" by local residents, is located in the Chishitu section of Luombwa Farm Block. The company was officially registered in April 2014.[66] The owner, Matthew John Rowe, started the process to acquire a certificate of title for 118 hectares of state land from the Commissioner of Lands in 2016 by paying a plot premium of 17,500 Zambian Kwacha (US$1,897) and land application fee of 250 Kwacha ($27).[67]

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[60] Silverlands Zambia Limited, "Luwombwa Block Agriculture Project, Serenje District, Central Province, Zambia, Final Environmental and Social Impact Assessment (ESIA), Environment Impact Statement," August 2014, p. 3, on file with Human Rights Watch.

[61] MIGA, "Environmental and Social Review Summary (ESRS): Silverlands Zambia Ltd.," https://www.miga.org/Documents/ESRS_Zambia_SZL_final.pdf (accessed September 20, 2017), p. 11.

[62] Ibid., p. 3.

[63] Silverlands Zambia Limited, "Luwombwa Block Agriculture Project, Serenje District, Central Province, Zambia, Final Environmental and Social Impact Assessment (ESIA), Environment Impact Statement," August 2014, executive summary p. V. and p. 77, on file with Human Rights Watch.

[64] MIGA, "Environmental and Social Review Summary (ESRS): Silverlands Zambia Ltd.," p. 2.

[65] Letter from Colin Huddy, Managing Director, Silverlands Zambia Limited, to Human Rights Watch, July 17, 2017, on file with Human Rights Watch.

[66] Registered with the Patents and Companies Registration Agency (PACRA), Ministry of Commerce, Trade and Industry, and listed as Farm No. F/11079.

[67] Serenje District Council, "Offer of Farm No. F/11079 (11) in Luombwa Farm Block," January 14, 2016, on file with Human Rights Watch.

According to Zambia Environmental Management Agency (ZEMA) officials, the company submitted an environmental impact assessment (EIA) to the government to install a water pump, but not about clearing the land or undertaking commercial farming.[68] Nonetheless, as of October 2016, Rowe had already started clearing the land, and planned to cultivate.

In terms of residents on the land, the 2016 District Council offer letter states that Rowe Farming Limited had to submit a resettlement plan for five "settlers" on the farm.[69]

"Sawyer Farm"

The farm run by Nyamanza Farming Limited, called "Sawyer Farm" by locals, falls within Kalengo and Chishitu sections of Luombwa Farm Block.[70] John (father) and Jason (son) Sawyer own the company.[71] The owners registered the farm in 2007, and sought to acquire land starting in 2014. In 2015 the company asked the District Council to re-plan 1,000 hectares of a farm into smaller parcels,[72] then asked to reduce the farm to 996 hectares[73] to enable them to process title deeds. The council granted the request in September 2015.[74]

ZEMA officials told Human Rights Watch that they had no EIA on file for "Sawyer Farm."[75]

There is conflicting information in government documents about whether there are currently residents on the farm. One government document from October 2015[76] reported that there were no settlements, but at least two government documents Human Rights

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[68] Human Rights Watch interview with Constantino Wembela, Principal Inspector EIA, and Mulala Mulala, Inspector, Zambia Environment Management Agency, Lusaka, March 2, 2017.

[69] Serenje District Council, "Offer of Farm No. F/11079 (11) in Luombwa Farm Block," January 14, 2016, on file with Human Rights Watch.

[70] Listed as Farm No. F/11080 (12); also referred to as Kingsfield Farm in a few documents Human Rights Watch obtained from Serenje District Council.

[71] Human Rights Watch was unable to confirm their nationality, but residents said they believe they are from Zimbabwe.

[72] Serenje District Council, "Application for Re-planning of Farm No. 12 Luombwa," March 16, 2015, obtained from Serenje District Council, on file with Human Rights Watch.

[73] The procedure governing land alienation is simpler for plots smaller than 1,000 hectares. According to a 2012 "Report of The Committee On Lands, Environment And Tourism," the Minister of Lands, Natural Resources and Environmental Protection approves alienation of land between 250–1,000 hectares before the Commissioner of Lands can issue a certificate of title, whereas alienation of land greater than 1,000 hectares has to be approved by the President before the Land Commissioner can issue a certificate of title, http://www.parliament.gov.zm/node/278 (accessed June 8, 2017), p. 4.

[74] Based on Minutes from the meeting of the Plans, Works, Development and Local Services Committee held September 24, 2015.

[75] Human Rights Watch interview with Constantino Wembela and Mulala Mulala, March 2, 2017.

[76] Serenje District Council, "Farm Inspection Report for Nyamanza Farming Limited," October 15, 2015, obtained from Serenje District Council on October 7, 2016, on file with Human Rights Watch.

Watch viewed recognized that at least five families resided there.[77] Residents told Human Rights Watch that at least 21 villages, with about 45 families, lived on the land.[78]

"Billis Farm"

Billis Farm Limited is in the Milumbe area of Luombwa Farm Block, near the Mulembo River.[79] It appears to be co-owned by three foreign nationals.[80] They registered the company in 2011, and purchased the farm from another private corporation in 2012.[81] The farm covers 2,071 hectares.[82]

ZEMA officials told Human Rights Watch that they had no EIA on file for "Billis Farm."[83]

Human Rights Watch did not find any government records of the number of families living on this land before Billis Farm Ltd. acquired farm. However, Human Rights Watch interviewed families displaced by the owners of this commercial farm who said that at least 11 villages and some 65 or more people had been on the land before the company evicted them in 2013.

"Jackman Farm"

Kasary Kuti Ranch, known as "Jackman Farm" after its owner, Philip Jan Jackman, is a 264-hectare farm in the Ntenge section of Luombwa farm block.[84] The Serenje District Council approved Jackman's farm application in 2014,[85] and the Ministry of Lands issued an offer letter on May 5, 2015.[86] The Ministry of Lands issued a certificate of title to the owner in

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[77] Serenje District Council, "Minutes of Technical Committee Meeting on the Preparation of Resettlement Planning for F/11080," December 15, 2015, and Serenje District Council, "Report on the Inspection Farm No. 11080 in Luombwa Farm Block Belonging to Nyamanza Farming Limited," December 24, 2015. In the "Report on the Inspection," these settlers were called "opportunists." These documents were obtained through an anonymous source at the Serenje District Council and are on file with Human Rights Watch.

[78] Human Rights Watch group interview with 15 families evicted from Sawyer's farm, Serenje district, September 20, 2016.

[79] Surveyed as Farm No. F/9597, certificate of title No. 148726, on file with Human Rights Watch.

[80] PACRA registration for Billis Farm Limited says that it is owned by Abraheam Lodewikus Viljoen, who is a Zimbabwe national, Paulo Stavrou Billi and Alexandre Stavrou Billi, both Brazil nationals.

[81] Information PACRA online business verifier https://www.pacra.org.zm (accessed September 20, 2017).

[82] Certificate of Title on file with Human Rights Watch.

[83] Human Rights Watch interview with Constantino Wembela and Mulala Mulala, March 2, 2017.

[84] Farm No. F/11081, registered at PACRA in June of 2014.

[85] Letter from Serenje District Council to Philip Jan Jackman, "Re: Application for Farm No. F/11081 Luombwa Farm Block," December 17, 2014, on file with Human Rights Watch.

[86] Copy of offer letter from Ministry of Lands on file with Human Rights Watch.

May 2016.[87] A ZEMA official told Human Rights Watch that there is no environmental impact assessment on file with the agency.[88]

Human Rights Watch could not find any official documents indicating how many people resided on this farm when Jackman started the acquisition process. But on May 6, 2015, Jackman submitted a handwritten note to the District Council asking, "can you advise when the squatters will move from the farm as I have the 'offer letter' from Ministry of Lands."[89] This establishes that Jackman knew that the property was not vacant, and that he considered that the people residing there had no legal right to remain. District officials said that Jackman did not submit a resettlement action plan.[90] As described in the following chapter, Jackman applied to the Serenje district subordinate court to get an eviction order against the residents, which was granted in 2015. Residents appealed the decision.

"Badcock Farm"

Fairfields Farm, as its owner Jeremy Badcock calls it, falls within the Bwande section of Serenje district, in the eastern part of the Nansanga farm block. Local residents refer to it as "Badcock farm."[91] Badcock purchased the land from a private owner, a member of the traditional council for the area.[92]

A ZEMA official told Human Rights Watch that the agency has no EIA on file for Fairfield farms.[93]

Human Rights Watch is not aware of any government document indicating the number of residents on this land. Badcock admitted to Human Rights Watch via email that there were "a few families living on the farm. Five families at the time of purchase."[94] According to a

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[87] Email from Phil Jackman to Human Rights Watch, June 29, 2017.

[88] Human Rights Watch interview with Constantino Wembela, March 2, 2017.

[89] Handwritten letter from Philip Jan Jackman, owner of Kasary Kuti Ranch to Serenje District Council, "Re: Squatters on F/11081 Luombwa Farm Block," May 6, 2015, on file with Human Rights Watch.

[90] Human Rights Watch interview with Frank Mupesha, Director of Works, Serenje District Council, Serenje, October 7, 2016.

[91] Registered as Farm No. 10906 and covers 2202 hectares, with certificate of title No. 226256, on file with Human Rights Watch.

[92] Email from Jeremy Badcock to Human Rights Watch, December 7, 2016.

[93] Human Rights Watch interview with Constantino Wembela, March 2, 2017.

[94] Email from Jeremy Badcock to Human Rights Watch, December 7, 2016.

traditional authority for the area, 22 families were living on the land as of 2016.[95] At time of writing, Badcock had not submitted a resettlement action plan to Serenje district council or the Department of Resettlement. He told Human Rights Watch that he believes the prior owner is responsible to relocate and reimburse the families.[96]

[95] Human Rights Watch interview with Evans Mukosha, Senior Chief Muchinda of the Lala people, and Mr. Kharika Phiri, secretary, Serenje, September 21, 2016.

[96] Email from Jeremy Badcock to Human Rights Watch, December 7, 2016.

III. Evictions and Resettlements in Serenje District

> There are lots of promises by the government. They used to tell us, "These people [farmers] are coming. It will be great for you." But the farms are white elephants.... People are not happy about how things have gone on. They feel they have been cheated.... The rich are getting more land. The poor get nothing.
>
> —Allan C., school official, Serenje district, September 2016

In Serenje district, long-term residents have been evicted, sometimes forcibly, or fear displacement from land to make way for commercial farmers. This has often had a devastating impact on the community members, with distinctive impacts on women due to their social roles and status. Local residents and advocates told Human Rights Watch that hundreds of individuals have already been forced out of their homes and lands due to commercial farming in the district. Several thousand more may be at risk of being pushed out of their homes without compensation and into deeply precarious situations as the government pursues further agricultural development.[97]

Forced Evictions from "Billis Farm" Billis Farm Limited is co-owned by three foreign nationals and a corporate interest.[98] They purchased the 2,071-hectares farm from another private corporation in 2012.[99] Abraheam Lodewikus Viljoen, one of the owners, lives and works on the farm with his family.

Families told Human Rights Watch that they were forcibly evicted by employees of this farm and that that at least 11 villages and more than 65 people had been on the land before the company evicted them in 2013.

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[97] Human Rights Watch meeting with civil society representatives including Gabriel Mailo, Civic Forum on Housing and Habitat; Eugene Kabilika, Caritas; Nsama Nsemiwe, Zambia Land Alliance; Emmanuel Mutamba, Green Living Movement; Ceasar Katebe, Zambia Alliance of Women and Agnes Mumba, Caritas Lusaka, Lusaka, March 4, 2017. See also Fahmida Miller, "Zambia land grab: Chiefs' land sale sparks national outrage," video report, *Al Jazeera English*, May 28, 2017, http://www.aljazeera.com/video/news/2017/05/zambia-land-grab-chiefs-land-sale-sparks-national-outrage-170528165536955.html (accessed June 1, 2017).

[98] Patents and Companies Registration Agency (PACRA) registration for Billis Farm Limited say that it is owned by Abraheam Lodewikus Viljoen, Paulo Stavrou Billi and Alexandre Stavrou Billi.

[99] Certificate of Title on file with Human Rights Watch.

Residents said Viljoen, an owner of "Billis farm", told them to leave, but there was no meaningful consultation, formal notification, compensation, provision of alternative housing, or chance to seek a legal remedy. Residents told Human Rights Watch that employees of "Billis farm" told them they had two weeks to move out of the land. They said that on June 4, 2013, Viljoen and his workers arrived with bulldozers and demolished residents' homes, leaving residents to hurriedly grab their belongings.[100] One of the evicted residents, Mody C., described the scene: "He [Viljoen] came with two bulldozers with long chains tied to each other … which had started pulling down trees, houses, and everything along [the] way."[101]

Viljoen told Human Rights Watch by phone that he had indeed displaced families in June 2013, but disputed that he used force to get residents to move. He stated that he told the families in January 2013 that they had six months to uproot their crops and move, acknowledging that his workers used two bulldozers with a chain to clear the land, and that stumping and razing the land started in June 2013. He mentioned that when "chaining" started in June, "stragglers" took him seriously, moving off the farm quickly. He started tearing down residents' buildings in June and got to their crop fields in August.[102]

Some residents said Viljoen ordered his workers to transport them in a tractor off of the farm. The workers left the residents by the roadside some distance away. These families lived out in the open with no shelter during the coldest months (June-August) of the year. The government's Disaster Management and Mitigation Unit provided them with tents and some food assistance.

They have spent the past four years in these tents or shoddy housing (using rudimentary materials such as plastic or fertilizer bags, sticks and mud) in a forest area where they have little access to water, and are not supposed to cultivate crops. At time of writing, they continued to live in deplorable conditions, hoping the government would resettle them onto new land.

ZEMA officials told Human Rights Watch that they had no environmental impact assessment on file for "Billis Farm."[103] Viljoen admitted that his farm had no such assessment, and believed this was a new requirement. He blamed government bodies for poor guidance. "Government should make farmers aware on what is required…. ZDA should inform every investor that they need an EIA if planning to clear more than 50 hectares," he said. [104]

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[100] A media report described the eviction. See "Retired teachers accuse Central Province Minister Philip Kosamu of abandoning electorates," *Lusaka Times*, August 16, 2013, https://www.lusakatimes.com/2013/08/16/retired-teachers-accuse-central-province-minister-philip-kosamu-of-abandoning-electorates/ (accessed August 3, 2016).

[101] Human Rights Watch interview with Mody C., and Felix K., Kasenga, September 25, 2016.

[102] Human Rights Watch telephone interview with Abraheam Lodewikus Viljoen, Billis Farm Limited, August 4, 2017.

[103] Human Rights Watch interview with Constantino Wembela and Mulala Mulala, March 2, 2017.

[104] Human Rights Watch telephone interview with Abraheam Lodewikus Viljoen, Billis Farm Limited, August 4, 2017.

Disregard for Long-Term Land Use and Historic Ties

> Where will we go? This is where I was born, my parents were born here and died here. Where can we go? I have ten children and my sister has six, where do I take them if they remove me from this farm?
>
> —Melanie M., Chishitu section, September 20, 2016

Human Rights Watch interviewed many rural residents of Serenje district who said they were baffled at being stripped of their land, which they had occupied and farmed for generations, with no consultation, compensation, or decent alternatives when commercial farmers arrived. Only a handful of the 132 residents Human Rights Watch interviewed in Serenje who had been displaced or were threatened with displacement experienced the kind of meaningful consultations that Zambian law requires with chiefs, company representatives, or government officials.[105]

Many rural residents in Serenje said this was their ancestral land going back many generations, and others say it had been family farmland for decades, allocated to them by past chiefs. For example, John M., 61, said:

> We used to be in Munte Farm Block area and they [officials] displaced us, and that's how we came here [Chishitu area, or "Matthew's farm"]. When we came here the chief gave us land in 1996. I've farmed so much—beans, cassava, and sweet potatoes. It isn't time to harvest the latest crop yet and we've been told to vacate. What about everything I've planted? …We have not been shown any alternative site. We were told to go look for another place to live ourselves. We will lose everything we have.[106]

Esther M., a 50-year-old mother of nine children, said she has lived in Kalengo section (now called "Sawyer farm") before 1984. "My parents came and settled here…. I was about

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[105] Meaningful consultation involves actively seeking and then taking into account the views of people who have an interest in the land, before making a decision. It depends on community members having adequate relevant information and time to consider it.

[106] Human Rights Watch interview with John M., Chishitu section, September 20, 2016. The land was part of Luombwa farm block, which according to local authorities was transferred from Tazara Corridor Farm Development to the state in the 1990s. The Land Act was enacted in 1995, making it possible to convert from customary to leasehold from then.

18 years old then. I remember my age because I used to fall sick often those days and they used to take me to the clinic. And in the clinic they used to ask me my age."[107]

Gerard M., a father of six children, told Human Rights Watch he had lived on the land now claimed by commercial farmer Philip Jan Jackman his entire lifetime: "My parents were from here [Muchinda chiefdom], my father lived here. I was born here in 1964."[108]

It is extremely uncommon for rural residents in Zambia, including Serenje district, to hold formal land title. Zambia's policies recognize that it is unreasonable to expect that rural residents in this context would have the financial means or knowledge to formalize customary land use rights and obtain a title. The National Resettlement Policy recognizes this, and applies to people holding land under customary or other recognized tenure systems (not only individuals holding title to state land).[109]

That said, many people do have some degree of evidence of long-term land use, such as farming permits issued by the chief. But the judiciary and other Zambian authorities pay little regard to such documents. The Serenje District Commissioner emphasized that farm permits issued by the chief "are not the same as title."[110] He noted that the permits are temporary and can be withdrawn.[111]

One group of families tried to defend their land use rights in court when the owner of Jackman farm sued them (see section on evictions below). The families submitted to the court land occupancy documents issued by Senior Chief Muchinda. The judge found in favor of the commercial farmer, and ordered that "the squatters" be evicted and compensated 1,000 Kwacha (US$100) per family.[112]

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[107] Human Rights Watch interviews with Esther M., Chishitu section, September 17 and September 30, 2016.

[108] Human Rights Watch interview with Gerard M., Ntenge section, September 23, 2016.

[109] National Resettlement Policy (NRP), 2015, Section 7.7.2 (xviii).

[110] Human Rights Watch interview with Francis Kalipenta, District Commissioner, Serenje, February 24, 2017.

[111] Ibid.

[112] *Philip Jan Jackman (Trading as Kasary Kuti Ranch) F/11081/Serenje District v. Godwin Mintamwe and 11 others,* Subordinate Court of the First Class, Serenje, Case No. 3BL/01/15, judgment, September 16, 2015. On file with Human Rights Watch.

Two residents told Human Rights Watch that commercial farmer Jason Sawyer told them he would not compensate or resettle them because they did not "pay anything to council [property tax]," and had "no title deed."[113]

District council and provincial officials claim that people residing on land allocated to commercial farmers must have, at some point, knowingly moved onto the land unlawfully. One said, "even if they have been there for ten years, they knew they were squatters."[114] An official in Kabwe blithely asserted that every last person on the land is a "squatter" who arrived recently.[115] The use of the term "squatter" has become commonplace in referring to residents on land who have no formal, documented legal title to it. But the use of the term in this situation is deeply misleading, and ignores legitimate tenure rights of long-term rural residents. In fact, government has no systematic process for identifying who has been on what land and for how long.

Many of the people displaced or impacted by commercial farming have real, deep ties to their homes and land and a legitimate expectation of secure land tenure rights; they are not mere squatters. Many have lived on and used the land for generations without any formal title, though many have documentation that reflects their occupancy and use.

The Ministry of Lands' Chief Lands Officer acknowledged that the situation in Serenje has been handled poorly, saying, "Even after land has been converted and leased… government has to ensure that there are no people before re-assigning these parcels."[116]

Lack of Compensation and Inadequate Resettlement

> We were brought near here, there was nothing here, it was just a bush, they just left us here.
>
> —Evelyn K., a 59-year-old widow, Kasenga, June 2016

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[113] Human Rights Watch interview with Charles K., traditional authority, Kalengo section, and Oliver K., Chishitu section, September 20, 2017.

[114] Human Rights Watch interview with Winston Mumba, Central Province provincial land surveyor, Ministry of Lands, Kabwe, March 3, 2017.

[115] Human Rights Watch interview with Winston Mumba, Central Province provincial land surveyor, Ministry of Lands, Frank Jerem, Provincial Land Husbandry officer, Ministry of Agriculture and Livestock, and Wyclef Phiri, Planner, Dept. of Physical Planning and Housing, Central Province, Ministry of Local Government and Housing, Kabwe, March 3, 2017.

[116] Human Rights Watch interview with Chazya Silwimba, Chief Lands Officer, Ministry of Lands—Lusaka, and Mr. George Sindila, Copperbelt Province Chief Lands Officer, Ministry of Lands—Ndola, Lusaka, February 28, 2017.

Most Serenje residents Human Rights Watch interviewed received little or no compensation for their losses when displaced by commercial farmers.

Protections on Paper for Displaced Persons

On paper, Zambia has some protections against displacement, and safeguards for those who are unavoidably displaced. The 2015 National Resettlement Policy (NRP) affirms that investors are responsible for resettlement and compensation of displaced persons, including those displaced by "investment development."[117] Zambia's 2013 Guidelines for the Compensation and Resettlement of Internally Displaced Persons (Compensation Guidelines), which apply to people "displaced due to investment or development projects," confirm that "the absence of a formal legal title to land by some affected groups shall not be a hindrance to compensation."[118]

The process of determining whether individuals have legitimate tenure rights to the land they live on and to what extent is inherently complex. The strength of ties and of rights claims to the land varies from one person to another. For many, this is the only home they have ever known, while others may put down stakes just before a commercial farmer starts operations. The NRP provides that a "promoter/investor" planning to displace residents should have a cut-off date by which they should identify and record residents and assets affected by the project for resettlement or compensation,[119] and a "resettlement committee" consisting of government agencies and traditional leaders are supposed to verify displaced persons to be resettled.[120] In Serenje, government officials and most commercial farmers did not systematically document who the residents were and what tenure rights they had, nor conduct an asset inventory prior to commencing operations.

The NRP recognizes development-induced displacement and protects persons or households adversely affected by acquisition of assets or change in use of land due to an investment project.[121] The NRP establishes that compensation in cases of involuntary

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[117] NRP, section 7.7.2 (v) and 7.3.2 and Guidelines for the Compensation and Resettlement of Internally Displaced Persons (IDP Guidelines), 2013, guideline 18 (ii—iii) and guideline 19 (i).

[118] IDP Guidelines, guideline 19 (iii).

[119] NRP, section 7.7.2 (xiii) and (xvii).

[120] NRP, section 7.6.2.

[121] NRP, section 7.3.2 (ii); Its Working Definition of IDPs includes development projects as a source of displacement, p.6.

resettlement must take place before the onset of the project. Compensation for assets or resources that are acquired or affected should be based on the market or replacement cost, whichever is higher, including transaction costs.[122] It also says that resettlement as a result of investment projects "should be conceived as an opportunity for improving the livelihoods of the affected people and undertaken accordingly by the investor." It requires that the investor, in consultation with the government, engage with affected communities through a process of informed consultation and participation, and that it disclose pertinent information in suitable languages. Resettlement must be to a site that the individuals or communities can legally occupy.[123]

Zambia's National Resettlement Policy (2015)

- Recognizes development-induced displacement.
- States that investors are responsible for resettlement or compensation of people displaced by their operations.
- Requires investors planning to resettle to have a cut-off date by which they should identify and record affected residents and their assets.
- Requires that compensation in cases of involuntary resettlement take place before the onset of the project.
- Requires that compensation of assets be based on market or replacement cost, whichever is higher, including transaction costs.
- States that resettlement "should be conceived as an opportunity for improving the livelihoods of the affected people."
- Requires that resettlement be to a site that the individuals or communities can legally occupy.
- Requires investors to disclose pertinent information in suitable languages.

The Reality of Displacement in Serenje

The reality for families displaced by commercial agriculture in Serenje, or facing imminent displacement, looks nothing like what is stated in policies on displacement and resettlement. Human Rights Watch interviewed dozens of residents about their experience

[122] NRP, section 6(c) (ii). In contrast, international guidelines on land governance state that "policies and laws related to valuation should strive to ensure that valuation systems take into account non-market values, such as social, cultural, religious, spiritual and environmental values where applicable." See UN Food and Agriculture Organization (FAO), *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT) (Rome: Food and Agriculture Organization of the United Nations, 2012), section 18.2.

[123] NRP, section 7.7.2(xix).

of displacement. Virtually none of them knew that the government had policies on displacement and resettlement, and none had experienced protections anything like what the National Resettlement Policy or Compensation Guidelines call for. In most cases, the farmers had offered only paltry sums, if anything, to get residents off the land.

Company name and informal designation	Estimated number of families displaced or at risk of displacement	Resettlement and compensation, if any	Property destruction, other problems
Silverlands Zambia Limited (SZL) Known as "Silverlands" in community	One family resettled.	One family (grandparents, 6 children, 14 grandchildren) resettled in 2015. In June 2017 the company decided to halt resettlement plans for remaining families, and instead to develop a livelihood restoration plan.	No property destruction.
Rowe Farming Limited Known as "Matthew's Farm" in community	Some 24 families at risk. Some displaced in 2016.	Compensated five families between 5,575 Kwacha (US$618) and 7,575 Kwacha ($840).[124]	Destroyed homes, trees, and other property of residents.
Nyamanza Farming Limited Known as "Sawyer farm" in community	Forcibly evicted approximately 45 families in 2015 and 2016.	No compensation or resettlement assistance.	Destroyed homes, trees, livestock, crops and other property of residents.
Billis Farm Limited Known as "Billis farm" in community	Forcibly evicted 46 families in 2013.	No compensation or resettlement assistance.	Destroyed homes, trees, crops and other property of residents.

[124] Resettlement Agreements obtained from Serenje District Council, on file with Human Rights Watch.

Kasary Kuti Ranch Known as "Jackman's farm" in community	Some 12 families affected by court-ordered eviction; most remain on the land and have appealed.	Court ordered compensation of 1,000 Kwacha.	Several arrests of residents, resulting in prison terms of three to four months for criminal trespass. Threatened to destroy homes, trees, and other property of residents.
Fairfield Farm Known as "Badcock's farm" in community	22 families at risk of displacement.	No compensation or resettlement as of June 2017.	Threatened to destroy homes, trees, and other property of residents.

Some residents said that commercial farmers made no effort to discuss resettlement or compensation. Instead, several farmers started destroying crops and trees, threatening to report residents for criminal trespass. Esther M. told Human Rights Watch:

> Sawyer [commercial farmer] started causing fights. [He] started uprooting trees wherever there were settlements. And he would uproot even the ones near our homes. We lost all our fruit trees—mulberry, mango, guavas, bananas. We used to have 25 mango trees, 13 guava trees, and 5 mulberry trees. I used to even sell that fruit. My husband went to the white farmer [Sawyer] and asked for compensation. He refused, saying they bought it from the government. What could we do?[125]

In one case government officials discouraged a commercial farmer from participating in a meeting with officials and residents facing displacement. Court documents show that the Council secretary told Philip Jan Jackman not to attend such a meeting, but rather to "leave everything in the hands of the council and district commissioner."[126]

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[125] Human Rights Watch interview with Esther M., September 30, 2016.

[126] *Philip Jan Jackman (Trading as Kasary Kuti Ranch) F/11081/Serenje District v. Godwin Mintamwe and 11 others,* Subordinate Court of the First Class, Serenje, Case No. 3BL/01/15, judgment, September 16, 2015, p. J2.

Residents said that government officials sometimes made vague promises about compensation they could expect from commercial farmers, but then did next to nothing to help displaced residents. Esther M. said that in November 2015 District Council officials directed her husband to talk with the Sawyers, and he had asked for 19,000 Kwacha ($1,900) as compensation. "The council people said we should wait for Sawyer to give us money before we move," she said. She said that a year later, the commercial farmers threatened them, saying they had to move. She and others said that the farmers had offered them a pittance—1,000 Kwacha ($100) per family—to leave the land. They refused the offer.[127]

In response to Human Rights Watch inquiries about these findings, Jason Sawyer said that at no time did they ask residents to vacate, offer them money, or harass them to get them to leave. Rather, the representative said that residents moved on their own when hired laborers started clearing the land.[128]

In Chishitu section ("Matthew's farm"), 61-year-old John M., had a similar story:

> Sometime in December last year [2015], Matthew and four others from the [District] Council came to my house and said this area is for the white farmer. They [officials] said, "He [white farmer] bought this land and it's his to farm. You have to negotiate with him. Don't cause any confusion when he comes here to start his work. He will compensate you when he displaces you."
>
> When Matthew and his [farm] supervisor came, they counted buildings and saw my land and what I have. And he wrote 4,000 kwachas ($400). The council said we should determine the money we should get, but over here Matthew just tells us how much he's going to give.[129]

Matthew Rowe, the owner of Rowe Farming Limited, acknowledged that he, accompanied by a member of the district council, went around the villages on the land six months prior to displacing people to inform residents that the land was in a commercial farming block, and that they would be relocated. He stated that farm representatives had discussions

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[127] Human Rights Watch interviews with Esther M., September 30, 2016.

[128] Letter from Jason Sawyer, Nyamanza Farming Limited, to Human Rights Watch, August 3, 2017.

[129] Human Rights Watch interview with John M., Chishitu section, September 20, 2016.

with the residents and gave them the choice to get paid and find land themselves, or have the council find land for them. He said all villagers chose to be compensated. On compensation, Rowe Farming stated that "discussions were had on how much compensation each villager would receive," without elaborating.[130]

The National Resettlement Policy says that the Government Valuation Department is supposed to carry out the valuation for compensation or validate it if done by a private valuer.[131] A circular issued under the Lands Act also says that district officials should inspect lands before proceeding with an application for title, and should confirm that settlements and other persons' interests have not been affected.[132]

But most residents Human Rights Watch interviewed were not aware of any valuations or inspections, or said what was done was incomplete. Human Rights Watch interviewed residents in Chishitu section ("Matthew's Farm") and Kalengo section ("Sawyer Farm") who said the District Council had not done an inspection or valuation to assess how these commercial farms would affect their interests.

Other residents on "Matthew's farm" told Human Rights Watch that Matthew Rowe "was going around with a book, and as he told people [they would have to move], he was writing something in his book." They did not know whether or how their assets had been valued. When residents complained about their uprooted trees, they said he told them "those are not important."[133] One resident said Rowe had offered his family 4,000 Kwacha ($400) as compensation, which did not adequately compensate his family, and he refused to accept it. Jeffrey K., 74, also said:

> I got seven hectares from the chief in 1996, and we cultivate some of it. Also have mango, banana, and guava trees. [Matthew] said he would give us 1,200 kwachas ($120) to go start farming somewhere else, 1,500 kwachas for a house, 600 kwachas for digging a well. And also said he would provide us transport to wherever it is that we said we wanted to go settle.

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[130] Letter from Matthew Rowe, Director, Rowe Farming Limited, to Human Rights Watch, July 21, 2017.

[131] NRP, section 7.7.2 states that the Government Valuation Department (in the Ministry of Local Government and Housing) is to carry out this duty.

[132] Administrative Circular No. 1, section 4(D)(VI).

[133] Human Rights Watch interview with John M., Chishitu section, September 20, 2016.

> We are not satisfied with this offer. We are waiting for them to come again, and we want to sit and negotiate. And now they are spreading rumors that we have agreed to take 4,000 kwachas. We didn't agree. We don't want to leave. We are being forced to leave.[134]

Some residents on "Matthew's Farm" said "the *Muzungu*" proposed an arbitrary amount to each family after a quick on-the-spot "valuation" of their dwelling. Some, despite having no meaningful choice, signed "Resettlement Agreements" with Rowe for amounts between 1,000–6,000 Kwacha ($100-$600).[135]

Zambia's policies state that compensation shall be at market value or full replacement cost, whichever is higher, for losses of livelihoods, assets and loss of access to the assets attributable directly to the project.[136]

Matthew Rowe did not elaborate to Human Rights Watch how compensation was determined, but stated that he had discussions with residents concerning how much each would receive. Rowe explained, "I gave them all the money they had asked for to build a house, clear 1 Ha [hectare] of land, spending money as well as fertiliser to start their first season."[137] He stated that all the residents compensated by Rowe Farming Limited were happy with what they had, which was the reason they signed the agreements and thanked him, continually saying "May God bless you, you are a good man and have done good for us."[138]

Residents in other areas said commercial farmers or officials recorded some, but not all, assets they would lose. In Ntenge section ("Jackman Farm"), 63-year-old Renee M. said that a district official "asked me how many pigs I have.... The only thing he asked [recorded] is how many children and pigs I have."[139] Five other Ntenge residents confirmed this.[140]

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[134] Human Rights Watch interview with Jeffrey K., Chishitu section, September 20, 2016.

[135] Resettlement Agreements obtained from Serenje District Council, on file with Human Rights Watch.

[136] NRP, Section 6 (ii); and Guidelines for the Compensation and Resettlement of Internally Displaced Persons, 2015, Guideline 19.

[137] Letter from Matthew Rowe, Director, Rowe Farming Limited, to Human Rights Watch, July 21, 2017.

[138] Letter from Matthew Rowe, Director, Rowe Farming Limited, to Human Rights Watch, July 21, 2017.

[139] Human Rights Watch interview with Renee M., Ntenge section, September 29, 2016.

[140] Human Rights Watch interviews with Lydia C., Sabina M., Dorothy M., Susan K., and Gloria K., Ntenge section, September 29, 2016.

Silverlands: A Better Example of Corporate Responsibility

The Silverlands farm has handled consultations and compensation better than the other five farms investigated by Human Rights Watch. However, even this farm has made mistakes that could have been averted with proper guidance and oversight from government. In June 2017 it decided to halt plans to resettle residents, and instead to adopt a "livelihood improvement plan" for them. Handled correctly and informed by the right kind of consultation, this could be a positive approach.[141]

In 2014, when Silverlands started operations, each family signed an agreement which stated that "If we need to move, to make way for development, Silverlands Zambia Limited will give sufficient time for this."[142] In June 2016, Silverlands told residents that they would have to move within three to four months, but changed course again in September 2016, saying the move would not happen for some time.[143] Residents complained about the conflicting information, and said it hampered cultivation and upkeep of homes.[144]

In March 2017, Silverlands representatives said that the company had gotten almost no guidance from government on resettlement and compensation.[145] In June 2017, Silverlands decided it would not resettle the families remaining on the land, and would instead work in consultation with residents to develop a plan that would allow residents to remain in their homes, working the same land, while seeking to improve the community's overall wellbeing.[146]

In an August 2017 letter Silverlands explained their frustrations about lack of government guidance, claiming that there is a disconnect between different government offices, and between government bodies and traditional authorities.[147]

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[141] Letter from Colin Huddy, Managing Director, Silverlands Zambia Limited, to Human Rights Watch, July 17, 2017, on file with Human Rights Watch.

[142] Letter from Silverlands Zambia Limited titled "2017 08 11 – HRW Appendix 1 – SZL Comments," to Human Rights Watch, August 14, 2017.

[143] Human Rights Watch interview with Roland C., Milembo section, April 21, 2017.

[144] Human Rights Watch interview with a group of 20 residents, Milembo section—Silverlands farm, April 21, 2017.

[145] Human Rights Watch interview with Sharon Mwelwa, Central Human Resources and Environmental, Social and Governance (ESG) Manager, Silverlands Zambia Ltd., and Julia Wakeling, ESG Manager, SilverStreet Capital, Lusaka, March 1, 2017.

[146] Letter from Colin Huddy, Managing Director, Silverlands Zambia Limited, to Human Rights Watch, July 17, 2017, on file with Human Rights Watch.

[147] Silverlands' Response to Human Rights Watch's Preliminary Findings and Request for Additional Information, Responses to Request for Additional Information, p. 6-7, August 14, 2017. On file with Human Rights Watch.

Women's Exclusion from Compensation and Resettlement Discussions

Women Human Rights Watch interviewed said their participation in rare discussions with commercial farmers about compensation was minimal, and they were concerned that even the limited compensation they might get will go to men, not women, and may not reflect assets and losses specific to women.

For example, women who lived in Chishitu section said the discussions with Matthew Rowe were between Rowe and mainly male residents. Residents said that if they are compensated, Rowe would give the payments to men considered the "head of the household." Women said they would not receive compensation.[148] Agnes M. said: "My parents will receive the payment, not me. Matthew will give [pay] one person in each 'village.' [This will be] the head, my father."[149]

A Serenje district official acknowledged that one woman complained about her family's compensation going to her husband, saying that he had spent it all on alcohol.[150]

Widows and divorced women may be worse off in compensation negotiations. Laura M., a widow, said, "If you are married, the husband is the one that will ask for money or land. For a woman like me with no husband, the headman will have to talk for me."[151]

Women said they worried that the amounts paid would not reflect losses they would feel more acutely than men, such as losing access to water sources or to forest products typically gathered by women.

Many women also expressed concern about displacement disrupting caregiving and support networks, which would impact their agricultural work and other activities. In Serenje, multiple households typically live on one piece of land, collectively farming it. Women relatives rely on each other for childcare during agricultural work, and for cooking and fetching water, especially when sick or immediately after childbirth.

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[148] Human Rights Watch interview with nine female long-term residents of "Matthew's Farm," Chishitu section, October 4, 2016.

[149] Human Rights Watch interview with Agnes M., Chishitu section, October 4, 2016.

[150] Human Rights Watch interview with Frank Mupesha and David Sakala, Water Supply and Sanitation Coordinator, Serenje District Council, February 24, 2017.

[151] Human Rights Watch interview with Laura M., Chishitu section, September 20, 2016.

Six women from an extended family living in Ntenge section ("Jackman farm") told Human Rights Watch:

> We have six to eight hectares of land all together. And all the women work on their lands. Sometimes we all go together, or sometimes we split up. Some of us will go work while the other women will stay behind and take care of the children.[152]

They were concerned that being separated from other female relatives would mean losing caregiving support, risk increasing their burden of household work, and reduce time available for agricultural work for subsistence. Rose M., a mother of three children who is separated from her husband, said:

> If someone has taken their child to the clinic or has something else to do, then one of the other women will do the chores in their house also. We'll go and cook, help farm, bathe the children, wash dishes, clean the house. How will we do all this if they separate us and make us find our own land?[153]

Fear of violence deters some women from participating in efforts to secure compensation from commercial farmers. Felicia K. from Milumbe section ("Billis farm") said, "We were scared as women. Sometimes the discussions would turn physical and the men were ready to get physical at any time, while women were not."[154] Similarly, women in Munte/Bwande section ("Badcock farm") told Human Rights Watch that discussions between Badcock and residents were heated, and the potential for violence was high.[155]

Destruction of Assets

Some families said they feared for their safety, or that they might lose all their belongings, when commercial farmers started pressuring them to leave. Instead of waiting for

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[152] Human Rights Watch group interview with 26 female long-term residents of "Jackman's Farm," Ntenge section, September 29, 2016.

[153] Human Rights Watch interview with Rose M., Ntenge section, September 29, 2016.

[154] Human Rights Watch interview with Felicia K., Kasenga, June 5, 2016.

[155] Human Rights Watch interview with a group of 11 female long-term residents of Badcock farm, Bwande section, September 24, 2016.

compensation and resettlement, some fled. When they returned, many found their homes, crops, and belongings destroyed. They said they now have virtually no hope of securing any compensation or assistance.

For example, several residents displaced from Kalengo section ("Sawyer farm") said after Sawyer threatened them and expanded land clearing, they decided to move their belongings out of their homes.[156] Nine residents said they were gone overnight because they feared for their safety, and when they returned the next day, their houses were burnt, crops were destroyed, and fruit trees were uprooted. Benson K., 40, said:

> We had left our home in the farm and come out looking for land. When we went back to collect the rest of our things, we found our home burned down. They had taken all my belongings—clothes, two jackets, pots, other kitchen things and vessels, hoes.[157]

The displaced residents moved into nearby forested areas, where they had no housing or food reserves, and no permanent right to reside.

Representatives of Sawyer farm disputed that they had burnt or destroyed houses and crops. Instead they stated that as their contractors cleared land, families left of "their own volition as they were well aware they were not supposed to be on the property."[158] Sawyer asserted that "in all the cases except for one (where there was a death) these houses were in fact used by his contractors and in some case nearly up to two years later!—an impossible task if they were burned down!"[159]

Evictions

Forced Evictions

Human Rights Watch documented forced evictions on "Billis farm" and "Sawyer farm" in 2013 and 2016 respectively, actions that violate Zambian and international law.

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[156] Human Rights Watch interview with 15 community members displaced from Kalengo section (Nyamanza Farming Limited or "Sawyer farm"), September 20, 2016.

[157] Human Rights Watch interview with Benson K., Chishitu section, September 30, 2016.

[158] Letter from Jason Sawyer, Nyamanza Farming Limited, to Human Rights Watch, August 3, 2017.

[159] Ibid.

Regional and international human rights laws prohibit forced evictions, meaning "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."[160] Governments are prohibited from conducting forced evictions, and are obligated to ensure that other parties do not carry out forced evictions.[161] These procedural obligations apply regardless of whether residents are legally entitled to reside on the land they occupy.

The 2013 eviction of residents who had long lived on land that is now part of the "Billis farm," as described by many of the people who were displaced, appears to have constituted a forced eviction. Residents said Viljoen, an owner of "Billis farm," told them to leave, but there was no meaningful consultation, formal notification, compensation, provision of alternative housing, or chance to seek a legal remedy, as prescribed by regional and international standards. On June 4, 2013, Viljoen and his workers arrived with bulldozers and demolished residents' homes, while they hurriedly grabbed their belongings.[162] One of the evicted residents, Mody C., described the scene: "He [Viljoen] came with two bulldozers with long chains tied to each other … which had started pulling down trees, houses, and everything along [the] way."[163] According to Felix K., Viljoen came *Ukupuminkisha,* forcing them to move as if under the threat of being shot.[164]

One of the owners of Billis Farm Limited told Human Rights Watch by phone that they had indeed displaced families in June 2013, but disputed that he used force to get residents to move. Viljoen stated that they told the families in January 2013 that they had six months to uproot their crops and move. He acknowledged that they used two bulldozers with a chain in between to clear the land, and that stumping and razing the land started in June 2013. He mentioned that when "chaining" started in June, the "stragglers" took him seriously,

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[160] UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7 on the right to adequate housing: forced evictions, U.N. Doc E/1998/22, Annex IV (1997).

[161] See below, Text box titled "Guidance to States to Avoid Forced Evictions."

[162] A media report described the eviction. See "Retired teachers accuse Central Province Minister Philip Kosamu of abandoning electorates," *Lusaka Times*, August 16, 2013, https://www.lusakatimes.com/2013/08/16/retired-teachers-accuse-central-province-minister-philip-kosamu-of-abandoning-electorates/ (accessed August 3, 2016).

[163] Human Rights Watch interview with Mody C., and Felix K., Kasenga, September 25, 2016.

[164] Ibid.

moving off the farm quickly. He started tearing down residents' buildings in June and got to their crop fields in August.[165]

Residents from about 11 villages said Viljoen ordered his workers to transport them in a tractor off of the farm. The workers left the residents by the side of the road some distance away.

They went to a protected forest area, the Musangashi Forest Reserve, having nowhere else to turn. They had few belongings, and none of the materials from their destroyed houses. They had few tools for building new homes, and indeed are not supposed to build in the forest area. They slept out in the open for several months during the cold season. Eventually, the government's Disaster Management and Mitigation Unit gave them tents and meager food assistance, consisting of mealie meal. Felicia K.'s family of eleven was given two 50-kilogram bags of mealie meal over a two-year-period, one bag in 2013 and another in 2014.[166] Then Serenje District Commissioner Charles Mwelwa asked them to stay in the tents while the government identified alternative land for them. That never happened.

As of August 2017, more than four years later, many of these families still lived in tents or temporary shelters in the forest, and had virtually no information about what would happen to them. As described in the next section, they have struggled with food and water insecurity, ill health, bad housing, a lack of livelihood options, and no public services.

District Commissioner Francis Kalipenta, who took office in 2016, told Human Rights Watch that he was shocked that these residents were still waiting on the government for land. But he said his office had no capacity to find land for them, and instead, they should talk to their chief.[167]

As described by displaced former residents, the actions of the owners of "Sawyer farm" also amounted to forced evictions. Former residents told Human Rights Watch that owners failed to give notice of eviction, compensate residents, arrange for resettlement, or do anything to avoid the residents becoming homeless. Instead, residents said, the farm

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[165] Human Rights Watch telephone interview with Abraheam Lodewikus Viljoen, Billis Farm Limited, August 4, 2017.
[166] Human Rights Watch interview with Felicia K., Kasenga, June 5, 2016.
[167] Human Rights Watch interview with Francis Kalipenta, District Commissioner, Serenje District, February 25, 2016.

owners threatened residents repeatedly. The residents said they became so afraid for their safety that they were forced to leave. They left at different times in 2016, some when the farmer uprooted their trees, and others when the farmer burnt their homes. A few residents left with their belongings, planning to return the next day and hoping to negotiate. Instead, they saw that the commercial farmers had burned their houses, uprooted their trees, and started clearing the land for cultivation.[168] Residents said the owners burnt down a total of 14 houses.[169]

Joseph C., a resident who said his home was burnt, explained, "First [Sawyer] demarcates the land, secondly he brings his workers to uproot all trees in the area, including fruit trees around homes. They leave nothing standing. Then when you leave your house, they burn it."[170]

The residents scattered to other locations, building their houses from scratch, with inferior livelihood options and without secure rights to remain on the alternate land. Their living conditions plummeted. Jane M., 24, said, "I used to live in a house with burned bricks. Now I live in a temporary shelter made of sticks. The wind blows the house. It's very cold inside. There's not enough water, so we can't even make proper walls."[171]

Three residents said Sawyer threatened them that he would send the police to beat them if they did not move.[172] Two women Human Rights Watch interviewed said they were pregnant when the owners of "Sawyer farm" forced them to move.[173] As described above, Sawyer denies all of these allegations.

Court-Ordered Eviction

In 2015, farmer Philip Jan Jackman went to court to have 12 families living on his farm plot evicted and restrained from interfering with surveying his farm. Some of these residents had

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[168] Human Rights Watch interview with Joseph C., Chishitu section, September 20, 2016.
[169] Human Rights Watch interview with 15 residents, Kalengo section, September 20, 2016.
[170] Human Rights Watch interview with Joseph C., Chishitu section, September 20, 2016.
[171] Human Rights Watch interview with Jane M., Chishitu section, September 30, 2016.
[172] Human Rights interviews with Harry N., Joseph C., and Boyd M. Chishitu section, September 20, 2016.
[173] Human Rights Watch group interview with Stephanie M. and Jane M., Kalengo section, September 17, 2016.

national registration cards (NRC), which are identification documents, with information dating as far back as 1984 stating that they were born there, in Ntenge section.[174]

A resident said:

> Jackman and his men didn't come to count anything on our property [for valuation]. They just came and told us to leave. No one else came here or did any [inventory]. He came [in July 2015] with the police—two policemen were with him. He came here to scare us and the police just stood and watched.[175]

Residents told Human Rights Watch about the hardships they faced to raise money for transportation to visit the *Boma* for court appearances. Some had to sell goats, chickens and food crops to pool resources to have a delegation represent the 12 families. One resident said, "Each one of us found a way to get money to pay for transportation to go to the *Boma* for the court case."[176] They sold more livestock for every court hearing, about seven times, before judgment was passed.

The court ordered in September 2015 that the residents vacate the land or be evicted, and ordered Jackman to pay compensation of 1,000 Kwacha ($100) per family.[177] The families lodged an appeal in January 2017, but had to pay 4,000 Kwacha ($400) before the appeal could be processed, an amount that was difficult for them to raise. Most remained on the land and appealed the judgment in January 2017.

In October 2016, police arrested three individuals (two females and one male) at Ntenge section ("Jackman farm" area), and, according to the residents, charged them with aggravated assault and attempted murder.[178] Jackman told Human Rights Watch that three residents threatened to kill his family, friends, and staff, and to throw their children and

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[174] National Registration Cards (NRCs) on file with Human Rights Watch.

[175] Human Rights Watch interview with Elisabeth K., Ntenge section, September 29, 2016.

[176] Human Rights Watch interview with Ruth M., Ntenge section, September 23, 2016.

[177] *Philip Jan Jackman (Trading as Kasary Kuti Ranch) F/11081/Serenje District v. Godwin Mintamwe and 11 others,* Subordinate Court of the First Class, Serenje, Case No. 3BL/01/15, judgment, September 16, 2015. On file with Human Rights Watch.

[178] Human Rights Watch interviews with Ruth M., Jesinta K., Gloria K., and Innocent M., Ntenge section, June 16, 17, and 19, 2017. Residents said these charges were later changed to criminal trespass when the police could find no evidence to substantiate the charges.

dogs under the wheels of his vehicle.[179] He said he felt it was an "extremely aggressive and threatening attack." When the residents and their headman did not show up at the magistrate's office to discuss these threats, Jackman was advised by court officials to press charges.[180] The residents denied the accusations in court, and in interviews with Human Rights Watch.

Jackman told Human Rights Watch that the charges were changed to criminal trespass, a lesser charge because he and the prosecutor were lenient on the residents, so they would not serve lengthy sentences.[181]

The subordinate district court found that these individuals had confronted Jackman while he was on the land, threated to kill him if he continued to come back to the land, and threatened that they would rather he ran over their children and dogs with his vehicle [than have him take the land from them]. The court found them guilty of criminal trespass, and sentenced to three months of imprisonment.[182] Two women were detained with their infant children at Serenje Prison; one of the two was also pregnant.[183]

Jackman told Human Rights Watch that he had contacted the chiefdom's Insaka Yelala (traditional council), Serenje Council, District Agriculture Coordinator, and District Commissioner, to assist him with the relocation of the families but got little help. Because of the threats to his life, family's and staff's, the court was the "only channel left to discuss the relocation, where everyone had a voice, and could be heard, and our lives were not at risk."[184]

This case instilled fear in residents around the Luombwa farm block. Rightly nor not, residents perceived the charges as an act of retaliation for residents' efforts to fight their eviction in court. Residents living on other farms, for example on "Matthew's farm," told Human Rights Watch that the conviction prompted them to accept meager compensation

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[179] Email from Phil Jackman, Kasary Kuti Ranch, to Human Rights Watch, June 29, 2017.

[180] Ibid.

[181] Emails from Phil Jackman to Human Rights Watch, June 29 and August 14, 2017.

[182] *The People v. Mwape Welington, Chune Kalunga, and Priscilla Mambwe*, Subordinate Court of the First Class, Serenje, Case No. 1B2/85/2016, Substituted Indictment, March 23, 2017, on file with Human Rights Watch.

[183] Human Rights Watch interviews with Ruth M., Jesinta K., Gloria K., and Innocent M., Ntenge section, June 16, 17, and 19, 2017.

[184] Emails from Phil Jackman to Human Rights Watch, June 29 and August 14, 2017.

offered by the farmers that in no way compensated for their losses.[185] One resident said, "We don't know what to do. Government is not saying anything. People come and tell us to leave. We refuse and we are summoned to court and even arrested."[186]

[185] Human Rights Watch follow-up interview with five former residents of Chishitu section who had signed a "Resettlement of Village Agreement" document with M. Rowe, Kabundi, February 23, 2017.

[186] Human Rights Watch interview with Eugene M., Milumbe section, April 21, 2017.

IV. The Human Cost of Commercial Farming in Serenje District

> I was pregnant when we were told to leave. The white man [commercial farmer] couldn't care about our physical condition.
>
> —Steph M., 25, Kalengo section, September 2016

The government of Zambia touts commercial farming as good for communities, but in Serenje district, some commercial farming is having a direct, harmful impact on residents.[187] Families that have lived on and farmed land for generations are being displaced without regard for policies meant to ensure that their rights are respected. This has had devastating impacts on their livelihoods, food and water security, health, and education. Their inability to access redress is compounding the devastation.

As commercial farming expands in Serenje district, the risks are growing. Some residents have been displaced several times, exacerbating the negative impacts. Bridget M., from Kalengo section, explained, "At first he [Sawyer, a commercial farmer] moved us to one side. When we moved there he came and said he also wants to use that part of the land and we should move. We moved again. People used to pass through the land where we had moved to, using a shortcut. [Sawyer] said you who is living on my land you are the one allowing people to pass here. He said I should move again. Now I have nowhere to go."[188]

Human Rights Watch found that women face distinctive costs of eviction or displacement since the burdens of securing food and water and providing family caregiving fall mostly on women. Women also described significant barriers to accessing any form of redress.

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[187] Ministry of Agriculture of the Republic of Zambia, "Second National Agricultural Policy 2016-2020," http://www.agriculture.gov.zm/index.php?option=com_jdownloads&Itemid=1576&view=viewdownload&catid=22&cid=70 (accessed September 20, 2017). The latest National Development Plan 2017-2021 (7NDP) has a major focus on achieving a diversified and export-oriented agriculture sector with farm block development as a strategy to improve production and productivity. 7NDP, p. 62, http://www.mndp.gov.zm/download/7NDP.pdf (accessed September 22, 2017).

[188] Human Rights Watch interview with Bridget M., Kalengo section, September 20, 2016.

Food Insecurity

> Back then [before displacement for a commercial farm] we could eat even in the morning. In the mornings we would eat sweet potatoes, maize, groundnuts, pumpkins. In the afternoon we would eat *nshima* [cornmeal porridge] and a relish like fish. And in the evening we would also eat *nshima*. We used to eat things that we did not need to buy, we grew it. Now that we are not growing anything we have to work, get money, and buy food we have to eat.
>
> —Bridget M., Kalengo section, September 2016

Commercial farming in Serenje district has jeopardized food security for many long-term residents. The irony is that these farms produce large amounts of food crops, often for export, while displaced residents go hungry. Paltry food aid provided by some commercial farmers or district officials after evictions has in no way resolved the food insecurity resulting from residents' loss of land.

Displaced residents Human Rights Watch interviewed said they had sufficient food before they had to vacate their land for commercial farmers. Food was not always abundant, they said, but they farmed on fertile land, used shifting agriculture to grow food sustainably, and had easy access to forest products and water sources. Most said that traditional leaders had allocated them plots, and that cultivation was coordinated among families in dispersed villages.

These residents said being displaced by commercial farms harmed their food security. Some said they ended up on less fertile land that is unsuitable for farming, in some cases in a forest area that had poor soil and cultivation is forbidden. They said they lost access to water sources for irrigation, which harmed their ability to cultivate food crops and reduced harvests. Many also lost access to forest products, fish, and game that was part of their diet.

For example, long-term residents evicted from Mulembo section ("Billis farm") and Kalengo section ("Sawyer farm") told Human Rights Watch that they were forced off productive land, and ended up with little land to cultivate in areas with poor soil. Bridget M., evicted from "Billis farm," said the soil on the land she used to farm was "very good,

and we never needed fertilizers, unlike in Kasenga, where we have moved. The soil here needs fertilizer and we have no money to buy fertilizer."[189] Esther M., a former resident of Kalengo section added, "Over there the soil was very fertile…. This is sandy soil and doesn't hold water. Over there the soil is *muchanga* (more loamy). We could produce crops there without using *inkande* (fertilizer), and now we can't grow crops without fertilizers, and they are expensive."[190]

Residents who were forcibly evicted from "Billis farm" received short-term food aid from the district government: 50-kilogram bags of maize, delivered twice over the course of three years, at unpredictable times.

All residents interviewed by Human Rights Watch, whether displaced or not, said commercial farmers' fences blocked their access to forests they had formerly used for hunting and foraging. If they entered fenced areas, they risked arrest and imprisonment. In some cases, such as on Sawyer's and Billis' farms, forests were lost entirely when commercial farmers cut them down. Residents also said they had lost income from sales of forest products, such as roots, leaves, fruits, barks, seeds, mushrooms, rats, caterpillars, and fish.

Some residents said that government officials told them to stop cultivating food crops on family farms, in anticipation of having to vacate when commercial farmers arrived. The residents complied, and sometimes the commercial farms never came. They were left in limbo, uncertain of whether they could resume farming. For example, long-term residents of land within the Nansanga farm block said the District Commissioner told them not to plant crops in about 2015 because they would have to relocate when commercial farms arrived.[191] By late 2016, the commercial farms still had not arrived, but officials never said they could resume farming. Ministry of Agriculture and Livestock officials in Lusaka expressed shock at this, acknowledged that it was improper, and said residents "should have ignored" the order.[192]

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[189] Ibid.

[190] Human Rights Watch interview with Esther M., Chishitu section, September 30, 2017.

[191] Human Rights Watch group interview with Lane C., Adel M., Roland M. and Dora M., Nansanga core venture area, September 19, 2016.

[192] Human Rights Watch interview with Stanislaus M. Chisakuta and Reynolds K. Shula, February 28, 2017.

Other residents stopped planting food crops when commercial farmers told them that they would be evicted. Elisabeth K., a 24-year-old mother of four, said:

> After Jackman [commercial farmer] came and threatened us, we have stopped farming many things because we are scared we'll lose it all. We haven't grown cassava or tomatoes or rape [plants]. And we buy these things from other people. We have less money now because we have to buy relish to eat with our *nshima*.
>
> We used to take the extra money [income from sales of crops and fruits] to school or we would take more maize to make it into mealie meal. Before we used to take four tins to make mealie meal from the maize. But now we take only one tin because we don't have enough maize or money—and we eat smaller portions.[193]

As noted above, residents on land that is now the Silverlands farm struggled with growing crops due to the company's varying estimates for when they would be resettled. One woman said:

> They [Silverlands] have strictly restricted our activities; we are not allowed to expand our field. This is [a] big problem because the old field is no longer fertile and we are unable to access fertilizer from cooperatives. This has affected *ifyakulya ifyakumanina* [food security] and worsened our poverty.[194]

At time of writing, Silverlands had recently decided to not resettle remaining families and instead said it would prepare a livelihood improvement plan (a plan to improve the households' existing condition) for the affected community.[195] In a meeting with Human Rights Watch, the company said that the basic idea would be to help these families obtain

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[193] Human Rights Watch interview with Elisabeth K., Ntenge section, September 29, 2016.

[194] Human Rights Watch interview (name withheld), April 21, 2017.

[195] Letter from Colin Huddy, Managing Director, Silverlands Zambia Limited, to Human Rights Watch, July 17, 2017 and "Silverlands' Response to Human Rights Watch's Preliminary Findings and Request for Additional Information," August 2017, on file with Human Rights Watch.

legal title to all of the land they now occupy and farm, and also to undertake various projects aimed at improving their quality of life beyond what it was before Silverlands came.[196]

In the communities Human Rights Watch visited, whose members largely follow traditionally defined gender roles, women bore the burden of managing meager food reserves. Many women told Human Rights Watch that the disruption caused by commercial farms in their area and resulting food shortages made it difficult to maintain adequate family nutrition. Before displacement, they cultivated and ate maize, wheat, cassava, sweet potatoes, beans, groundnuts, and green leafy vegetables. After displacement, many families had only milled corn flour for every meal on most days. Gloria K., a 34-year-old mother of three, said:

> We are scared that they [commercial farmers] can come and throw us out any time. My family hasn't farmed this season because they came and told us we needed to leave. So we have been buying from the others who are farming.... It's been very hard.[197]

For breastfeeding mothers, adequate nutrition is particularly important. Mary M., living in Kalengo section, was breastfeeding a 3-day-old baby when interviewed by Human Rights Watch. She said, "Even if I eat only once in a day, I still have to breastfeed."[198]

Some residents who had livestock, including goats and chicken, told Human Rights Watch that these were lost or died during evictions. Boyd M., a long-term resident displaced by the "Sawyer farm," explained, "When we moved from there we left chickens there. When I went back to get the chickens I found that they had died. Their necks had been [wrung]."[199] Esther M. also said, "I also lost all my livestock. The goats had nothing to eat. I had six of them." Her goats had wandered into the "Sawyer farm," she said, and his dogs killed them. She said she also lost four chickens when she fled her home, fearing for her safety.

Joan K., displaced by "Billis farm," told Human Rights Watch:

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[196] Human Rights Watch meeting with Gary Vaughan-Smith, Chief Investment Officer, SilverStreet Capital, New York, August 7, 2017.
[197] Human Rights Watch interview with Gloria K., Ntenge section, September 29, 2016.
[198] Human Rights Watch interview with Mary M., Kalengo section, September 30, 2016.
[199] Human Rights Watch interview with Boyd M., Chishitu section, September 20, 2016.

> Because we don't have enough water, we can't make our gardens. So we don't have any radish [vegetables] to eat with *nshima*. Nobody around here has a garden. Mostly we go to Kabundi [clinic and school area] to get vegetables and small fish—and we have to buy that. So our costs [of] living here have gone up.... When we lived on the farm, we could get by for more than a month without going to the market. Now we have to spend more than 100 kwachas (US$10) per month.[200]

Some residents we interviewed had taken temporary, low-paid jobs on the commercial farms, such as cutting down trees and digging out stumps with rudimentary tools. They used the little money they made to buy food, or in some cases were paid in kind with maize or fertilizer.

Water Insecurity

Displacement due to commercial agriculture has resulted in many residents losing water access. After having to move away from rivers and streams, or having access cut off by fences or commercial farm boundaries, residents struggled to obtain water for drinking, farming, and household uses. Women in particular took responsibility for collecting water, and had to walk long distances to alternate water sources.

The boundaries for the Luombwa farm block ensure that commercial farmers will have access to waterways for irrigation and other farm use. These are the same waterways that residents long relied on for drinking, farming, and household uses. Some residents told Human Rights Watch that they believed commercial farms were polluting some of the water sources they rely on—concerns they had no realistic way of verifying. There is no official report documenting impacts on water quality and quantity in the district since the government is not systematically monitoring or publishing information about commercial farms' water use or pollution.[201] Human Rights Watch asked the owners of the six

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[200] Human Rights Watch interview with Joan K., Kasenga, September 25, 2016.

[201] Human Rights Watch interviews with Alexander Museshyo, Senior Information and Documentation Officer, Zambia Environment Management Agency (ZEMA), Serenje, September 21, 2017, and Dickson Kabwe, Inspector, ZEMA, Lusaka, June 9, 2016. See also government document assessing the effectiveness and efficiency of regulatory bodies such as ZEMA in the mining sector but also relevant to commercial farming, "Report of the Auditor General on the Management of Environmental Degradation Caused by Mining Activities in Zambia," July 2014

commercial farms covered in this report for information on possible sources of pollution from their farms and for other environmental information. None responded with detailed information on this topic.

Residents evicted by the owner of "Billis farm" said that before the eviction they had access to water from the Mulembo stream and River Luombwa for household and farm use. They lost this access when they were evicted and moved onto land with no nearby river or stream. This impacts families' ability to maintain good hygiene, as they do not have sufficient water for basic cleaning and washing. Majesty K., a 42-year-old woman with 10 children, said, "We are dirty because we don't have water, we need water to wash our clothes, even our dishes are dirty because we need to have enough water for us to clean ourselves."[202]

Jeffrey K., 74, said that the owner of "Matthew's farm" was threatening to evict his family, and he worried most about water:

> What are we to do about water? Now we have the Luombwa River next to us—it's about 50 meters from us. We use the river water for cooking, washing, bathing. They want to use the Luombwa River to irrigate the center-pivot [on the commercial farm], and that's why they want us to go. But what about us? Don't we need water?[203]

Other residents facing eviction from Ntenge section ("Jackman farm") were also afraid of losing water access. Lydia C., a 52-year-old widow, said, "We are all worried about water. We have seen how the others who have moved are suffering because there is no water."[204]

Some residents have dug simple wells, with a rope and bucket to get water out of the wells, on their temporary lands after displacement. These are unreliable, especially in the dry season, so they end up walking to distant streams. They may also be susceptible to

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http://www.ago.gov.zm/reports/Special/2014/OAG%20Management%20of%20Environmental%20Degradation.pdf (accessed July 13, 2017), p. 35-36, monitoring is "ineffective and does not meet the information requirements of the country's environmental monitoring objectives." It also said that ZEMA lacked adequate staff to carry out effective monitoring and evaluation; had to rely on bi-annual reports from investors for monitoring operations; and detection of pollution could possibly happen much later after submission of a biannual report.

[202] Human Rights Watch interview with Majesty K., Kasenga, September 25, 2016.

[203] Human Rights Watch interview with Jeffrey K., Chishitu section, September 20, 2016.

[204] Human Rights Watch interview with Lydia C., Ntenge section, September 29, 2016.

contamination. One widow said she had hired three men to dig a well, but they dug deep and never struck water.[205] Esther M. said,

> The water in the shallow well is getting over [used up], so we're very worried. More than 10 households use the same water. And this is just the beginning of the dry season. By mid-October it will be totally dry. So we will have to go to the Luombwa River and see if we can get water from there. It is very far from here. I don't even know how we will go there. Or maybe we will try the Ssasa stream. Even to get to the Ssasa stream it will take us more than two hours to go and get water.
>
> Where we used to live [the "Sawyer farm" area] it took us five minutes to fetch water—even our children could run and get water. Now it is very difficult to get water. If we go to Kabundi to the doctor or to the market to buy anything, then we come back late—on those days we don't have the time to go fetch water, and sometimes we sleep hungry and thirsty—we can't cook without water. This has happened especially during school days. There is no one big enough to fetch water when we have gone to Kabundi, and then the little ones cry. They are hungry—there's no *nshima* to eat.[206]

Women and girls more often than men have to walk long distances, sometimes multiple times a day, to fetch water for cooking and cleaning. Women in a group meeting complained about trekking long distances to fetch water, several times a day, sometimes amounting to more than 15 kilometers a day.[207] This can take as much as four hours per day, a significant increase from the time burden for fetching water when it was easily available. Johanna K. explained that water challenges "weigh more on women especially because we have to walk long distances to get water on our heads. It's a very long distance."[208]

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[205] Human Rights Watch interview with Evelyn K., Kasenga, June 5, 2016.
[206] Human Rights Watch interview with Esther M., Chishitu section, September 30, 2016.
[207] Human Rights Watch group interview with residents evicted from Billis farm Limited, Kasenga, June 5, 2016.
[208] Human Rights Watch interview with Johanna K., Kasenga, June 5, 2015.

Girls are also impacted by water insecurity caused by commercial farming and displacement. One woman told Human Rights Watch that sometimes she pulls her daughters out of school to fetch water.[209]

Residents' water insufficiencies also represent barriers to proper sanitation and hygiene. Several residents who were evicted by the "Billis farm" owner said they sometimes have to go long periods without bathing or washing clothes, especially during the dry season.[210] Women and girls face unique health implications and challenges in managing menstruation without sufficient water.

Concerns About Health

Residents told Human Rights Watch that the conditions they faced after being displaced to make way for commercial farms, or the operations of commercial farms near their homes, had jeopardized their health. While it is plausible that evictions and commercial farming have had a negative impact on the health of residents, it is impossible to confirm whether—or to what extent—that has been the case on the basis of Human Rights Watch's research and in the absence of appropriate epidemiological studies.[211] That said, the health concerns raised by the residents are important and point to a need for robust government efforts to examine the issue. The failure of state authorities to properly monitor the impacts of commercial farming ventures is a root cause of communities' uncertainty and fear, and is in and of itself an important human rights concern.

Residents said water shortages and poor-quality water in wells, which they had to resort to after losing access to prior water sources, may be making their families sick. Esther M. explained:

> Over there we were getting water from the Kalengo stream, and here we get water from a shallow well—it's stagnant water. I feel like we have all been getting diarrhea more often here and have to keep going to Kabundi (health

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[209] Human Rights Watch interview with Melanie M., September 20, 2016.

[210] Human Rights Watch group interview with residents evicted from Billis farm Limited, Kasenga, June 5, 2016.

[211] For a global analysis of the impacts of commercial agriculture on water quality see "Water Pollution from Agriculture: A Global Review" (Rome: Food and Agriculture Organization of the United Nations, 2017), see also "Water Quality," http://www.fao.org/land-water/water/water-management/water-quality/en/ (accessed September 20, 2017), and "Farming: Pollution," http://wwf.panda.org/what_we_do/footprint/agriculture/impacts/pollution/ (accessed September 20, 2017).

> center). When we lived on the farm, only children would sometimes get diarrhea, and about twice a year. Now even the adults get it, and we experience it about two or three times a month. We walk to Kabundi health center, and takes us two hours to walk there.[212]

Residents believe that land clearing, liming (treating soil with lime to reduce acidity and improve fertility), and significant fertilizer and pesticide use by commercial farms generates contaminant runoff into rivers and streams, contaminating the water sources they use for drinking and cooking.[213] Jim K., the headman of Luombwa bridge village said, "sometimes water [river] looks brown from dirt, and sometimes white with fertilizer from [commercial] farms."[214] They said they suspected this was making their children sick. The gastrointestinal symptoms they described could also be related to poor hygiene at their new location due to lack of water.

Silverlands measured water quality at points of entry and exit of their farm in August 2014, December 2016, and June 2017. These studies monitored a wide range of contaminates including fertilizer inputs, metals, acidic/basic levels, and coliforms (bacteria from human waste). A report completed in July 2017 stated that "none [of the fertilizer related compounds] approached the [World Health Organization] limits and the levels actually declined as the river passed through the farm."[215]

The living conditions for families evicted by the owner of "Billis farm" plummeted, and families reported increasing numbers of health problems since their eviction. The families lived for months, during the cold season, in the open air before district officials provided tents.[216] After that, they remained in tents or temporary shelters for about four years, all the while waiting for government officials to fulfill on the promise to resettle them. Many residents reported increasingly frequent health problems, especially among children. Felicia K., a 52-year-old widow, described how her family suffered:

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[212] Human Rights Watch interview with Esther M., Chishitu section, September 30, 2016.

[213] Human Rights Watch observed that water drawn from a mudhole in Chishitu section for household use had a whitish tint, June 18, 2017.

[214] Human Rights Watch interview with Jim K., headman Luombwa bridge village, Kabundi, September 21, 2016.

[215] Silverlands' Response to Human Rights Watch's Preliminary Findings and Request for Additional Information, 3. Environmental impact: Summary of Water Quality Report and Data, August 14, 2017.

[216] Morning and evening temperatures during coldest months (May-August) range between 6 to 10 degrees Celsius (42.8-50 degrees Fahrenheit), "Climate," http://www.zambiatourism.com/about-zambia/climate (accessed July 11, 2017).

> We slept out in the open air like wild animals. Our children fell sick because of the cold and open air where we spent the night…. We had not put up any proper structures; we were using leaves, and a makeshift [structure] on which we could put things.[217]

Inaccessible Education

Displacement and the threat of displacement by commercial farmers has disrupted children's education. Residents interviewed by Human Rights Watch said that small children evicted along with their families from "Billis" and "Sawyer" farm areas stopped going to primary school during and after the evictions. Older children missed substantial amounts of school, and struggled with the greater distance to schools from where they moved. Residents facing impending eviction on "Jackman" and "Matthew's" farm area said they stopped their children's school attendance because they anticipated having to move soon. Residents said that on one farm a community school was shut down by a commercial farmer after he leased the land.[218] Benson K., 44-year-old father of seven, told Human Rights Watch:

> There used to be a community school—the Kalengo Community School—and it used to be located on Sawyer's farm. It hasn't restarted yet…. My children used to go to that school. It all stopped. Sawyer just refused to let us run the community school. He said everyone needed to leave.
>
> The school was a brick structure. They broke it down. There were about 45 children in each class. And the school used to have grades 1 to 4. Everyone used to go to the community school because none of the children were going to the Ntenge School from there. That's very far—about 10 kilometers walking. The teacher who used to work in the community stopped coming. He started working in another school on Roger's Farm. That school is only

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[217] Human Rights Watch interview with Felicia K., Kasenga, June 5, 2016.

[218] These schools are created through community action with financial and material support from nongovernmental organizations (NGOs), economic partners and the state. Community schools are recognized under the Education Act of 2011 and account for almost 20 percent of total enrollment in primary schools in Zambia. See Ministry of Education, Science, Vocational Training and Early Education, "Zambia: Education for all 2015 National Review," http://unesdoc.unesco.org/images/0023/002315/231573e.pdf (accessed June 30, 2017).

for the workers on his farm. When parents started leaving these areas, the children's schooling also started getting disrupted.[219]

In a letter to Human Rights Watch, Sawyer farm asserted that there was never a school on their farm, and that "it was next door on Billis farm." They explained that the school was closed down by Billis, and not their farm.[220] The "Billis farm" owner did not comment on whether there had been a school on his land; residents evicted from the "Billis farm" area did not mention a school on that land.

Some parents could no longer afford costs related to attending school (described as "user fee" by teachers in the district) after displacement and losing their livelihoods. The headmaster of a school near the farm blocks told Human Rights Watch that some parents withdrew their children because of financial hardships and fears of eviction. Victoria M., a 16-year-old student facing displacement from Ntenge section ("Jackman farm" area) said, "I kept going to school [Ntenge Primary school] even after we were told to leave. But my friends stopped coming. I know five of them who stopped coming to school, so I used to go alone."[221]

Some parents have found alternate land and no longer live within walking distance of any school. They said they pulled younger children out of school rather than risk more than an hour trek to school.[222] Several women said they feared that their children will be at risk of displacement in the future, after having lost their chance at education.[223]

"We've lost a good number of children from schools," said a school official. "These were people who were living around the school. In the last two years about 100 children have gone farther away from the school and have stopped coming. They are from Ssasa village, Ntenge Village, Shosho village in Luombwa."[224] Officials at other schools in the area echoed this.[225] One said:

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[219] Human Rights Watch interview with Benson K., Chishitu section, September 30, 2016.
[220] Letter from Jason Sawyer, Nyamanza Farming Limited, to Human Rights Watch, August 3, 2017.
[221] Human Rights Watch interview with Victoria M., Ntenge section, September 29, 2016.
[222] Human Rights Watch interview with Felicia K., Kasenga, June 5, 2016.
[223] Human Rights Watch group interview with nine residents evicted from Billis farm Limited, Kasenga, September 25, 2016.
[224] Human Rights Watch interview with Allan C., Serenje district, September 19, 2016.
[225] Human Rights Watch interviews with headmasters of Muchinda, Ntenge, Mutale, and Lupiya Primary Schools, September 19, 23, 24 and 27, 2016.

> Yesterday we were supposed to have a PTA [parent teacher association] meeting, and it failed. No people. About 50 children have been withdrawn from school. We are being chased from our lands. Why should people send their children to school?[226]

Inability to Seek Redress

In rural Serenje, it is extremely difficult for residents to access remedies when their rights are at risk or violated due to commercial farming.

Formal grievance mechanisms, such seeking remedies through a district court, are a day's walk or hours of driving away from Serenje's commercial farming areas, under the best of circumstances. The time and cost of traveling to them, or hiring a lawyer, is prohibitive for most residents. Zambia's "Lands Tribunal," in the capital, is entirely inaccessible to rural residents of Serenje. One commercial farmer also complained about distance and cost of accessing courts and legal representation.[227]

Of the 132 individuals Human Rights Watch interviewed, all had complaints about how commercial farming was jeopardizing rights, but none believed court was a realistic option for them. Some residents said they perceived Jackman's charges and the prosecution of residents in Ntenge section as a form of retaliation, and this deterred them from seeking remedies in court.

Instead, residents often seek help from traditional authorities, such as headmen and chiefs, even though the farm block land is no longer considered customary land, and is instead under the authority of the state.

Most residents interviewed by Human Rights Watch had complained to with their village headman. Headmen are traditional authorities of lower rank than the chief, and who are well respected and usually within walking distance. Some of these headmen are also facing eviction by commercial farmers. Two headmen from Kalengo section complained that, "the headman cannot stop the evictions, he is also being evicted."[228]

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[226] Human Rights Watch interview with Allan C., Serenje district, September 19, 2016.
[227] Email from Phil Jackman to Human Rights Watch, August 14, 2017.
[228] Human Rights Watch interview with Charles K. and Bonaventure M., Headmen, Kalengo section, September 20, 2016.

As for senior chiefs, they have substantial authority in the eyes of rural residents, and some residents may seek their help. But in areas that the government, and the chiefs themselves, now consider "state" land, they have little leverage. Chiefs might assert pressure on commercial farmers or government officials, or be a source of alternative land for displaced people, but they have no direct authority over commercial farms. In some cases, the chiefs themselves may stand to gain from the arrival of commercial farming operations, and as noted above, they may play a role in displacement of residents.

In Serenje, the role of traditional authorities in agreeing to land conversion and allocation of alternative land for displaced residents is murky, and complicated by the fact that the chief who appears to have agreed to conversion of customary land for farm blocks died. His successor, who was appointed in 2016, would not give residents facing displacement from commercial farms new land until an audit of customary land in his chiefdom had been done. A resident explained to Human Rights Watch how a commercial farm had difficulties negotiating with their chief for land to resettle, "the last time we had a meeting [with the commercial farm] was around October 2016. The meeting was about buying land from the chief. They even took us to see the land, which is a forest.… However, they [commercial farm] did not agree with the chief over the [costs] of the land on which they wanted to relocate us to."[229]

District officials should be another option for residents seeking redress. A 2016 government document noted that the district commissioner was the "focal person" for a "Provincial Anti-Illegal Land Allocation and Wrangles Committee," which was supposed to investigate illegal land allocations, then submit complaints to the provincial permanent secretary in Kabwe.[230] Officials of district councils also act as agents of the Commissioner of Lands in processing applications for certificate of title over land. They could refuse to recommend a commercial farmer's application for land title if they have reason to believe that the farming operations would violate laws and the rights of local residents.

Residents told Human Rights Watch that they had reported complaints to the District Commissioner (who represents the Office of the President in the district), but they received

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[229] Human Rights Watch interview with Chilekwa C., Milembo section, April 21, 2017.

[230] Memorandum from Francis Kalipenta, District Commissioner, Serenje district administration, Office of the President, to members of the Public, December 6, 2016. On file with Human Rights Watch.

very little help. Some communities that had problems with commercial farmers had formed delegations that invested time and money to visit the district offices in the *Boma* to report grievances to the District Commissioner, Council Secretary (who heads the District Council), and other government officials.[231] They asked for help preventing evictions, negotiating compensation, valuing assets, finding alternative land, and dealing with housing, food and water crises after eviction. But residents said they received little or no help from government offices.

Most of the commercial farms in Serenje district are family-run and have no established policies or procedures to deal with complaints from residents who are impacted by their operations. Residents do not feel that they have any viable way to communicate grievances to the farmers. The only exception is Silverlands, which established a Stakeholder Committee in 2016, with representation from the company, government officials, residents and a civil society organization.[232] Silverlands told Human Rights Watch that the committee had a total of 25 minuted meetings with stakeholders between May 2016 and May 2017.[233]

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[231] Human Rights Watch interview with Bonaventure M., Kalengo section, September 20, 2016.

[232] Multilateral Investment Guarantee Agency (MIGA), "Environmental and Social Review Summary (ESRS)," March 28, 2016.

[233] Silverlands' Response to Human Rights Watch's Preliminary Findings and Request for Additional Information, Appendix 3: Key Engagements with the Families Residing on SZL Land, August 14, 2017.

V. Regulatory and Governance Failures

> Even with strong guidelines, investors take shortcuts. They talk with the President and Ministers. The intentions behind guidelines are good, but implementation is a problem. Most investors know the guidelines, but when in Africa they buy their way.
>
> —Former official with the Zambia Development Agency, Serenje, June 2016[234]

Zambia has laws and policies intended to regulate environmental and social impact assessments, land transfers and consultations with affected people, and resettlement and compensation. But some of these laws and policies have serious gaps, others are badly implemented, and coordination between government agencies is abysmal.

Key public institutions have broadly failed to oversee and regulate firms and individuals investing in commercial agriculture in Serenje district, leading to human rights abuses. Human Rights Watch interviewed officials from relevant government agencies, and without fail, officials from one would point fingers at another for failing to protect local communities. Virtually all acknowledged problems with regulation and the existence of abuses, but did not take any responsibility for preventing or addressing them.

Environmental and Social Impact Assessments and Monitoring

Zambia's 2011 Environmental Management Act affirms that every person living in Zambia has the right to a clean, safe and healthy environment. It states that projects[235] cannot be undertaken without the written approval of the Zambian Environmental Management Agency (ZEMA).[236] It requires ZEMA to review environmental impact assessments (EIAs), provide information to stakeholders and the public, maintain a public register of licenses

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[234] Human Rights Watch interview with a retired Zambia Development Agency (ZDA) official (name withheld), Serenje, June 8, 2016.

[235] Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations of 1997 (EIA regulations), Part 1(2) para. 16: "'Project' means any plan, operation, undertaking, development, change in the use of land, or extensions and other alterations to any of the above and which cannot be implemented without an authorisation licence, permit or permission from an authorising agency or without approval from a line ministry before entry into a project implementation programme."

[236] Environmental Management Act (No. 12), 2011, art. 29.

and approvals, and monitor compliance.[237] It has specific requirements for agricultural schemes or other activities likely to discharge pollutants or contaminants.[238]

The Environmental Management Act and its regulations set out requirements for environmental impact assessments and mitigation plans.[239] The Act defines an EIA as a "systematic examination conducted to determine whether or not an activity or project has or will have any adverse impacts on the environment." It is a process by which potentially adverse impacts can be identified prior to a commercial farm starting operations, and mitigation plans can be made. Under the EIA regulations, agricultural projects with land clearance of 50 hectares or more are required to submit an EIA.[240]

Unfortunately, the EIA process, under law and in practice, is flawed. First there is no formal registration or certification system for environmental consultants, which poses the risk that consultants preparing EIAs will lack expertise. ZEMA has complained about "the poor quality" of environmental reports being submitted.[241] It has urged consultants to submit their qualifications, area of expertise, and other information for review.[242] This is a step in the right direction, but a formal, mandatory certification process would be better.

Second, the government is not systematically tracking the failure of companies to submit EIAs. Of the six farms investigated by Human Rights Watch, according to ZEMA officials only one (Silverlands farm) had submitted an EIA concerning land clearance and cultivation, though all of them were cultivating or planned to cultivate more than 50 hectares. "Matthew's Farm" submitted an EIA, but only with respect to a water pump. The owners of "Sawyer" and "Billis" farms told Human Rights Watch in June and August 2017 that they were initiating EIA procedures now, and said that they were previously unaware of the requirement.[243] ZEMA could not confirm whether any of the other farms had

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[237] Ibid., arts. 82 and 90.

[238] Ibid., art. 36.

[239] Ibid., art. 30; and EIA regulations.

[240] EIA regulations, second schedule, Regulation 7 (2) and (6) (a) and (d).

[241] "Call For Submission Of Profiles From Environmental Consultants And/Or Firms," Zambian Environmental Management Agency (ZEMA) press release, February 21, 2017, http://www.zema.org.zm/index.php/zambia-environmental-management-agency-press-release-for-immediate-release-lusaka-23rd-march-2017-puma-energy-zambia-plc-and-spectra-oil-corporation-limited-served-with-compliance-and-cessation/ (accessed September 20, 2017).

[242] Ibid.

[243] Jason Sawyer confirmed he had not submitted an Environmental Impact Assessment (EIA) to ZEMA and had contracted with a consultant to start EIA procedures in a meeting of June 20, 2017. Abraheam Lodewikus Viljoen confirmed in a

submitted EIAs or were issued official authorizations.[244] While the ZEMA office in Lusaka has piles of reports stacked up in its office, and a public registry, the reports are not fully catalogued or systematized. The ZEMA website has just a small number of EIAs online.

Third, ZEMA appears to have limited capacity even to ascertain whether a particular project has an EIA on file with it, let alone monitor for compliance with its terms. The Environment Management Act lays out ZEMA's monitoring function. [245] "ZEMA is present in only four locations and Zambia is a vast nation … so we rely on the public to notify us of these things," a ZEMA official told Human Rights Watch.[246] ZEMA officials said that the agency is understaffed and has inadequate resources to carry out site visits.[247]

Finally, the Act does not directly state that EIAs must include an assessment of social and health impacts, though the regulations require that projects should not impair human health, and impact assessments should include "the socio-economic impacts of the project such as resettlement of the affected people."[248] Both the Act and regulations refer to public consultations and hearings, with the implication that EIAs should address social impacts.[249] The few EIAs that do exist for commercial farms in Serenje do not sufficiently address social impacts such as displacement.

Moreover, ZEMA has little guidance on what should be included in a resettlement action plan (RAP). The EIA regulation provides that an environmental impact "statement," which is the precursor to a full environmental impact assessment, should include expected socio-economic impacts, including resettlement of affected people, but it does not explain what would constitute an acceptable resettlement action plan.[250] There are no other processes that take account of these impacts, which is why it is critical that they are included in all environmental impact statements and assessments.

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telephone interview on August 4, 2017, that Billis farm Limited had not submitted an EIA to ZEMA and said he had also contracted a consultant to start the EIA process.

[244] Human Rights Interview with Constantino Mwembela, Lusaka, March 2, 2017.

[245] EMA, art. 102, saying that ZEMA "shall monitor all environmental phenomena … or the operation of any industry, project or activity with a view of determining its immediate and long-term effects on the environment."

[246] Human Rights Watch interview with Constantino Mwembela, March 2, 2017.

[247] Human Rights Watch interview with Irene Lungu Chipili, Public Relations Officer, ZEMA, Lusaka, September 15, 2016; and Human Rights Watch interview with Constantino Mwembela and Mulala Mulala, March 2, 2017.

[248] EIA regulations, 1997, part II, art. 11 (h).

[249] Ibid., part II, art. 10 (on public consultation), and arts. 17, 18, 19 (on public hearings).

[250] Ibid., part II, arts. 4 (g) and 11 (h).

Beyond the EIA requirements for commercial farmers, there is a parallel requirement that strategic environmental assessments (SEAs) be carried out to assess "the positive and adverse effects or impact that the implementation of a policy, programme or plan has or is likely to have on the protection and conservation of the environment or on the sustainable management of the environment."[251] Such assessments should be done for government-supported programs such as creating or changing farm blocks. ZEMA acknowledged to Human Rights Watch that there was no SEA for Luombwa or Nansanga farm blocks, or many of the major farm blocks in Serenje district and other parts of Zambia.[252] A ZEMA official claimed there are "no specific regulations or provisions to guide the SEA process," but the Act itself describes the SEA process.[253]

Operation without Licenses or Certificates

Zambian law requires government permission prior to undertaking certain commercial farming activities. The permission may take the form of licenses, certificates, approved plans, or other authorizations.

For example, the Environmental Management Act requires licenses for the use of pesticides and toxic substance, emitting pollutants or contaminants, and managing waste and discharging effluents.[254] The Lands Act and regulations set out procedures for transferring land, converting land from customary to leasehold status, issuing letters of offer, and payment of lease fees, all of which should be complete before occupying and developing the land.[255] The National Resettlement Policy (NRP) requires that when investments involve resettlement, the investor must prepare a resettlement action plan and submit a resettlement agreement to the Attorney General for approval.[256]

Some officials acknowledged that there is an enforcement gap. The Director of Resettlement, Manford Mulongo, admitted to Human Rights Watch that, "at the moment

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[251] EMA, art. 23.

[252] Human Rights Watch interview with Constantino Mwembela, March 2, 2017.

[253] Ibid.

[254] EMA, art. 32.

[255] Lands Act, arts. 5, 8, and 9; Administrative Circular No. 1, 1985, section B (vii) states: "No District Council shall have authority in any case to permit, authorise or suffer to permit or authorise any intending developer to enter upon or occupy any stand unless and until such developer shall have first received the letter of offer, paid lease fees and the development charges, and has obtained planning permission from the relevant planning authority."

[256] National Resettlement Policy (NRP), 2015, sections 7.0 (xix) and 7.7.2 (xiii).

there is no way for the Department of Resettlement to hold investors accountable. There is a need for legal instruments because now we just wait for the goodwill of the investor."[257]

It is generally difficult to verify whether such authorizations have been granted in the context of any one project. Human Rights Watch sought confirmation of environmental, land, and resettlement authorizations for the six farms it investigated, but regulatory officials said they could not confirm their existence for each of these farms.[258] ZEMA officials asserted that none of the commercial farms, except Silverlands, had obtained an EIA approval from the agency.[259] We obtained some information on land title certificates through Ministry of Lands, and district officials said that titles and other authorizations had not yet been issued for all farms.

With or without the required authorizations, commercial farmers in Serenje have started farming, and have displaced long-term residents. Three (Sawyers, Matthews, and Billis) of the six farms Human Rights Watch investigated appeared to be clearing land as of 2013, installing irrigation systems, and farming well above 50 hectares of land without all the government permits required.

Lack of Transparency

Although the government is championing farm blocks, including through the Farm Block Development Program, it is telling the public very little about agriculture initiatives.

Public information on the boundaries, sizes, and uses of land in agricultural blocks is limited. Even government officials said they relied on a kind of patchy and informal institutional memory to understand how Luombwa farm block was created, the boundaries, and other information. For the more recently created Nansanga farm block, more information is available, but even that is not complete or easily accessible to the public.

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[257] Human Rights Watch interview with Manford Mulongo, Lusaka, February 28, 2017.

[258] See Chapter II, section titled "Commercial Farms Operating in Serenje: Six Case Studies," for details on each farm.

[259] Jason Sawyer, Mathew Rowe, and Phil Jackman, confirmed they had not submitted EIAs to or obtained EIA approval from ZEMA in a meeting of June 20, 2017 and through separate emails. Abraheam Lodewikus Viljoen confirmed in a telephone interview on August 4, 2017, that Billis farm Limited had not submitted an EIA to ZEMA.

A Central Province land surveyor told Human Rights Watch that officials just "find a person in the area" who can give them information about the farm blocks.[260] There is no comprehensive database on farm blocks.[261]

Even when government registries exist, public information may be inaccessible. Human Rights Watch sent multiple information requests to government registries, and most did not respond. Our search at the Ministry of Lands' Survey Department for maps and other farm block information in September 2016 revealed that the folder ("jacket") titled "Luombwa farm block" was empty.

Zambia does not have a law on freedom of or access to information, but a bill on this issue has been pending since 2002.[262]

Lack of Coordination and Monitoring

Under Zambian laws and regulations, several agencies should play a coordinating role when it comes to commercial agriculture and its impacts on local communities, including the Department of Resettlement and Zambia Development Agency. They have not done so effectively.

The Department of Resettlement, within the Office of the Vice President, is supposed to coordinate agencies when there are voluntary or involuntary resettlements, including of people displaced due to investments. The National Resettlement Policy outlines its responsibilities, as well as those of investors and other government agencies.[263]

The Zambia Development Agency (ZDA) is supposed to facilitate and coordinate investment in Zambia, and "[p]rotect the interests of industries, employees, consumers and the community that are likely to be affected by [investments]."[264] It is supposed to assist investors in obtaining any license, permit, certificate, or authorization needed, and

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[260] Human Rights Watch interview with Winston Mumba, Frank Jerem, and Wyclef Phiri, March 3, 2017.

[261] Human Rights Watch interview with Reynolds K. Shula, February 28, 2017.

[262] "MISA Zambia Welcomes Justice Minister's Pronouncement on ATI; Calls for a Roadmap for the Process," *MISA*, February 10, 2017, http://misa.org/featured-on-home/misa-zambia-welcomes-justice-ministers-pronouncement-ati-calls-roadmap-process/ (accessed July 11, 2017).

[263] NRP, 2015, Section 7.0.

[264] "Zambia Development Agency: Functions," http://www.zda.org.zm/?q=content/zda-functions (accessed May 21, 2017).

maintain a public registry of such authorizations. Its board is supposed to review environmental impacts as it considers applications.[265]

Multiple other government agencies and authorizing bodies should play a role in regulating commercial farming, but their efforts are barely coordinated, resulting in poor enforcement of laws and virtually no monitoring of investors' compliance. These agencies include ZEMA, District Councils, the Ministry of Lands, Environment and Natural Resources, and the Ministry of Agriculture and Livestock, among others.[266] Government officials at the national, provincial, and district levels all play a role. Yet in interviews with Human Rights Watch, officials across the board appeared confused about their responsibilities, often claiming some other agency or level of government was responsible.

For example, national, provincial, and district officials had conflicting views on which agencies should regulate commercial farms and farm blocks. A central government official in the Ministry of Agriculture and Livestock said that the provincial governments are in charge of farm blocks outside the Farm Block Development Program, and that district councils are charged with creating new farming areas.[267] But a provincial government official claimed the central government is responsible for farm blocks, including tracking whether there are long-term residents who might need resettlement. A Central Province land surveyor said, "Provincial officials don't have a list of people who were there when the farm block was created. It would only be at headquarters. They should have it. If not, then it is a shame that headquarters would behave that way."[268] The Serenje District Agriculture Coordinator told Human Rights Watch that their office plays a limited role in allotting farms, and has no authority over commercial farms in their district.[269]

Nonetheless, in Serenje district, commercial farming is vaulting ahead with little government oversight, and agencies that should coordinate have only sporadic contact with commercial farmers and residents, if at all.

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[265] Zambia Development Agency (Amendment) Act, 2012, arts. 2(3)(a) and 69(1)(e).

[266] Environmental Management Act (No. 12) of 2011, art. 9, ZEMA functions include: review environment impact assessments, monitor trends, request information, "advise stakeholders on projects, programmes, plans and policies for which environmental assessments are necessary," and publicize information and facilitate public access to information on the environment.

[267] Human Rights Watch interview with Reynolds K. Shula, February 28, 2017.

[268] Human Rights Watch interview with Winston Mumba, Frank Jerem, and Wyclef Phiri, March 3, 2017.

[269] Human Rights Watch interview with George Chisebuka, Donald Mwaba, and Nelson Chembo, October 3, 2016.

Many government agencies interviewed by Human Rights Watch complained about other agencies failing to coordinate. One ZEMA official said that the Ministry of Lands does not inform them about land title applications even for land that will be used for large-scale commercial farming, which entails environmental and social impacts.[270] Another ZEMA official said the Ministry of Agriculture and Livestock does not share information about farm blocks and other commercial farming.[271] An official at the Department of Resettlement said the Ministry of Lands does not inform them about titling applications that will require resettlement or compensation of residents, nor does the Ministry of Agriculture and Livestock inform them of farm block designations that would result in displacement.[272]

Problems with Decentralizing Authority to District Councils

A number of Zambian laws and policies, including the Lands Act, decentralize authority, giving substantial powers to district councils. These councils play an important role in land transactions. They are supposed to verify whether land is vacant before a conversion from customary to state land, and if not vacant, ensure that settlements and persons with interest in the land in question have not been affected by the conversion.[273] They should also assess applications for land alienation,[274] make recommendations about land transfers to the Commissioner of Lands,[275] and facilitate resettlements.[276] The Serenje Director of Works told Human Rights Watch that the council created a District Technical Committee in 2015 to look into situations in which long-term residents are on "numbered" plots (demarcated for commercial farming), mediate with farmers, and prevent residents from becoming "destitute."[277]

In the case of the six commercial farms Human Rights Watch investigated in Serenje, the District Council performed these functions in only the most superficial ways, if at all, and

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[270] Human Rights Watch interview with Irene Lungu Chipili, September 15, 2016.

[271] Human Rights Watch interview with Constantino Wembela and Mulala Mulala, March 2, 2017.

[272] Human Rights Watch interview with Manford Mulongo, Director, Department of Resettlement, February 28, 2017.

[273] Administrative Circular No. 1, section 4(D)(VI). "In each case recommended to the Commissioner of Lands, the recommending authority shall certify that it has physically inspected the land applied for and confirm that settlements and other persons' interests and rights have not been affected by the approval of the application."

[274] Ibid., section B(iii) and E(ii).

[275] Ibid., section B(iv) and E(iii).

[276] Lands Act, part II, art. 3(4).

[277] Human Rights Watch interview with Frank Mupesha, February 25, 2017.

none of the residents mentioned any contact with the technical committee. For some of the six farms, it appears that the Serenje District Council recommended that the Commissioner of Lands approve issuance of land title certificates without flagging that there were families living and farming on the land, and without first requiring the commercial farmers to submit resettlement action plans.[278]

The Serenje District Council was aware that there were residents living on the land alienated to commercial farms, though some of their documents ignore this or appear to undercount the residents. For example, with respect to the Kalengo section ("Sawyer farm"), two district documents obtained by Human Rights Watch mention five and four families were residing there.[279] Residents told Human Rights Watch that at least 13 families lived there. But another district document from October 2015 reported that there were no settlements at all on the 996-hectare farm.[280] Resident Bonaventure M. said when District Council officials came to conduct a census on the farm, he told them "nine villages had been forced to leave already," and the officials said they "are not here to talk about people who have left, just the people still here."[281]

It appears that Council authorities may also have undercounted the residents on the land offered to commercial farmer Matthew Rowe. A district letter to Rowe dated January 2016 noted that there were five "settlers" living on the land.[282] In a letter to Human Rights Watch, Matthew Rowe also supported the council's claim.[283] In September 2016, residents said there were more families living there.

Philip Jackman, who had initially been allocated the farm now known as Rowe farm (farm no. 11 or F/11079), noted to Human Rights Watch that Nelson Chembo (Dept. of Agriculture) and David Sakala (Serenje District Council) said he was reassigned a different farm (farm no. 27 or F/11081) in January 2015 "because there were too many families on farm no. 11

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[278] Human Rights Watch meeting with eight commercial farmers, Serenje, June 20, 2017. Jason Sawyer acknowledged that he was the only farmer who had done a resettlement action plan (RAP).

[279] Serenje District Council, "Minutes of Technical Committee Meeting on the Preparation of Resettlement Planning for F/11080," December 15, 2015, and Serenje District Council, "Report on the Inspection of Farm No. 11080 in Luombwa Farm Block Belonging to Nyamanza Farming Limited and Subsequent Stakeholders Meeting," February 11, 2016.

[280] Serenje District Council, "Farm Inspection Report for Nyamanza Farming Limited," October 15, 2015, obtained from Serenje District Council, on file with Human Rights Watch.

[281] Human Rights Watch interview with Bonaventure M., Kabundi, October 1, 2016.

[282] Serenje District Council, "Offer of Farm No. F/11079 (11) in Luombwa Farm Block," January 14, 2016, on file with Human Rights Watch.

[283] Letter from Matthew Rowe, Director, Rowe Farming Limited, to Human Rights Watch, July 21, 2017.

and only four (4) families on farm no. 27, now F/11081." He also stated that there were twelve families on the farm he was assigned and not four as these government officials had mentioned.[284]

The populations may have changed over time, but these discrepancies suggest that district authorities are not thoroughly validating the number of residents that may be impacted by commercial farming.

The Ministry of Lands uses remote sensing with satellite imagery to verify settlement patterns before approving land acquisitions.[285] But Ministry of Lands officials told Human Rights Watch that this is ineffective if district officials have allowed commercial farmers to clear the land before even applying for approvals, and before the images are recorded.[286] The Ministry of Lands issued an offer letter to the owners of "Badcock farm" in 2015 and land title to Jackman farm, though in both cases there were settlements on the land that could be detected with satellite imagery.

Some central and provincial government officials told Human Rights Watch that they suspect that district officials are misrepresenting the situation on the ground. For example, the Director of Resettlement said, "Land is converted using the District Council. If they are not genuine enough to indicate that there are people on the land, the Ministry of Lands will pass title."[287] The Chief Lands Officer of the Ministry of Lands and his counterpart from the provincial government complained about district councils providing misleading information.[288] "Because of [lack of] resources, we have to rely on these institutions on the ground. But some of them cannot be trusted. We have been misled by the councils before," said Mr. Sindila.[289]

Failure to Provide Information to Commercial Farmers

All commercial farmers interviewed by Human Rights Watch said they had very little guidance from government bodies on how to proceed if there are residents on their leased

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[284] Email from Phil Jackman to Human Rights Watch, June 29, 2017.
[285] Human Rights Watch conversation with Ministry of Lands officials, Lusaka, October 6, 2016.
[286] Ibid.
[287] Human Rights Watch interview with Manford Mulongo, February 28, 2017.
[288] Human Rights Watch interview with Chazya Silwimba and George Sindila, February 28, 2017.
[289] Ibid.

land. Matthew Rowe said, "there is no streamlined system, we did the best we can."[290] Phil Jackman said that he was left with no other option but to go to court when he got little or no guidance from district officials and the local traditional authority. "No information or suggestion was offered regarding a Relocation [resettlement] Action Plan for the occupants of the land. We would have done one had we known about it."[291]

Jacky Jackman, a representative of Kasary Kuti Ranch, said, "there is protocol in place but nobody is willing to give the right information on how to move forward. Nobody seems to know what they [commercial farmers] are supposed to do. We are walking around in square circles."[292]

Some commercial farmers said they had written letters and organized meetings with government officials and community members, but they have a lot of uncertainties and questions unanswered. "There is confusion on boundaries. What is chief's and what is farm block," one said.[293] "There are two types of people, long-term residents and new arrivals who were seeking work. Do they all get to be treated the same [during resettlement]?" Jason Sawyer added.[294]

Several commercial farmers singled out agencies that should be key sources of information for commercial farmers. Jason Sawyer said, "We seek advice. ZDA is a big one. There is no clear-cut procedure in place on how resettlement needs to be done. We get different advice from different people and need to decide on whose to follow."[295] Phil Jackman stated, "We were told we did not need one [environmental impact assessment] by WARMA [Water Resources Management Authority] and Ministry of Lands because we are small scale emergent farmers."[296]

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[290] Human Rights Watch interview with Matthew Rowe, Rowe Farming Limited, Serenje, June 20, 2017.
[291] Email from Phil Jackman to Human Rights Watch, June 29, 2017.
[292] Human Rights Watch interview with Jacky Jackman, Kasary Kuti Ranch, Serenje, June 20, 2017.
[293] Human Rights Watch interview with commercial farmer (name withheld), Luombwa farm block, Serenje, June 20, 2017.
[294] Human Rights Watch interview with Jason Sawyer, Nyamanza Farming Limited, Serenje, June 20, 2017.
[295] Ibid.
[296] Email from Phil Jackman to Human Rights Watch, June 29, 2017.

VI. Human Rights Obligations and Responsibilities

This report describes how some commercial farming ventures in Serenje district have forcibly evicted families from their homes. Under international law, the Zambian government is obliged not only to refrain from carrying out forced evictions, but to prevent private actors from doing so as well. It has woefully failed to live up to that responsibility.

More broadly, the Zambian government has a duty to effectively regulate commercial farms and other business ventures to ensure that they respect human rights in their operations. Instead, key government agencies have been almost entirely absent from the scene, with the practical effect of leaving commercial farmers to their own devices in deciding how to deal with the communities they find living on the farm plots they leased. Not only has the government failed to enforce laws and regulations meant to ensure that farms assess and mitigate the likely social and environmental impacts of their operations, but it appears not even to be taking basic steps to monitor whether commercial farming ventures are complying with the law.

The human rights impact of these displacements has, for many people, been devastating. Families have been displaced from their homes and into levels of insecurity and poverty many had never experienced before. Often, this privation includes interference with families' enjoyment of human rights protected under international law—not only the right to housing but also the rights to food, water, health and education. Even in situations that may not amount to forced evictions, the Zambian state has often left families on their own to negotiate relocation packages with farmers who have acquired or applied for title to the land they live on. In these deeply uneven negotiations, many families lose their livelihoods along with much of what they own and receive only paltry and inadequate compensation. As this report describes, the compensation many receive has been nowhere near adequate to the task of fully replacing everything that is taken from them when they are made to move, let alone starting a new life somewhere else.

For their part, the commercial farmers who are directly responsible for displacing many families out of their homes have a responsibility to respect the human rights of people living on the farm plots they take title to. Even in the absence of effective government oversight, these farmers should take effective steps to identify and mitigate the negative

human rights impacts of their operations. They should make sure that displaced families are adequately compensated, and that compensation packages are developed in close consultation with the people concerned. Instead, in the cases we documented, some commercial farmers were taking advantage of the regulatory vacuum they encounter on the ground to push people aside without regard for their basic human rights.

Zambia's government needs to take dramatic and rapid action to ramp up the enforcement of its own laws and regulations, and to ensure that displaced families are able to secure a remedy for human rights abuse. At the same time, it is important to acknowledge that the Zambian government is confronted with a complex task in appropriately managing the human rights impacts of commercial farming ventures, and this is made more difficult still by the government's own institutional weaknesses. However, a range of voluntary guidelines, which are non-binding but influential and informed by global consultative processes, provide ample guidance towards elucidating the government's responsibilities and the practical steps it should take to meet them.[297]

Rights to Housing and Property

International law protects rights related to land and security of tenure, including the rights to housing and property.[298] African regional human rights instruments embrace

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[297] See, for example, UN Food and Agriculture Organization (FAO), *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT) (Rome: Food and Agriculture Organization of the United Nations, 2012); Committee on World Food Security, *Principles for Responsible Investment in Agriculture and Food Systems*, 2014, http://www.fao.org/fileadmin/templates/cfs/Docs1314/rai/CFS_Principles_Oct_2014_EN.pdf (accessed June 7, 2017); United Nations, *Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge,* December 28, 2009 (A/HRC/13/33/Add.2); UN, *Basic principles and guidelines on development-based evictions and displacement* (A/HRC/4/18, annex I); Guiding Principles on Business and Human Rights: Implementing the "Protect, Respect and Remedy" Framework (A/HRC/17/31) endorsed by Human Rights Council March 2011; UN, Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements, December 19, 2011, (A/HRC/19/59/Add.5); FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (Rome: Food and Agriculture Organization of the United Nations, 2005), http://www.fao.org/3/a-y7937e.pdf (accessed September 21, 2017); United Nations, *Principles for Responsible Contracts: Integrating the Management of Human Rights Risks into State–Investor Contract Negotiations: Guidance for Negotiators*, (new York and Geneva: United Nations, 2015), (A/HRC/17/31/Add.3).

[298] The International Covenant on Economic, Social and Cultural Rights guarantees the right to adequate housing as an aspect of the right to an adequate standard of living. International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 11(1). The Universal Declaration of Human Rights refers to the right to property, stating, "Everyone has the right to own property, alone as well as in association with others and no one shall be arbitrarily deprived of his or her property," Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 17. The African Charter on Human and Peoples' Rights (Banjul Charter) also guarantees the right to property, and a right to economic, social, and cultural development. African [Banjul] Charter on

these rights explicitly and also emphasize the rights of women in particular with respect to these rights.[299]

Importantly, neither international nor regional human rights protections on housing or property hinge on individuals holding formal title to land or property. In the case of *COHRE v. Sudan,* the African Commission found that "[i]t doesn't matter whether they had legal titles to the land, the fact that the victims cannot derive their livelihood from what they possessed for generations means they have been deprived of the use of their property under conditions which are not permitted by Article 14 [right to property]."[300] The UN Committee on Economic, Social and Cultural Rights (CESCR) also emphasizes that rights protections apply whether or not individuals hold formal title. It notes in its General Comment No. 4 that legal security of tenure "takes a variety of forms, including … occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats."[301]

Prohibition of Forced Evictions

Under international law, a "forced eviction" is the involuntary removal of a person from their home or land, when that person does not have access to appropriate forms of legal or other protection. Everyone should have the right, and a meaningful opportunity, to challenge the legality of an eviction. International law prohibits forced evictions, considering them gross violations of human rights.[302] African regional human rights instruments reinforce this prohibition.[303]

Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, arts. 14, 20, 21, 22.

[299] The Protocol to the African Charter on the Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) also provides that "States shall promote women's access to and control over productive resources such as land and guarantee their right to property." Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, September 13, 2000, CAB/LEG/66.6, entered into force November 25, 2005, art. 19(c). The African Charter states that in case of dispossession, the affected "people shall have the right to the lawful recovery of its property as well as to an adequate compensation." Banjul Charter, art. 21(2).

[300] *African Commission on Human and Peoples' Rights: Center on Housing Rights and Evictions (COHRE) v. Sudan*, Communication No. 296/2005, July 29, 2009, para. 205.

[301] UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4, The Right to Adequate Housing (Sixth session, 1991), U.N. Doc. E/1992/23, annex III, art. 114 (1991).

[302] The International Covenant on Civil and Political Rights (ICCPR) provides that "no one shall be subjected to arbitrary or unlawful interference with his … home," and everyone is entitled to protection from such interference. International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52,

This report describes forced evictions carried out by commercial farmers. The Zambian government has a responsibility not only to refrain from carrying out forced evictions, but to prevent private parties including commercial farmers from doing so. As noted by the Committee on Economic, Social and Cultural Rights, forced evictions may happen in the course of "clearing of land for agricultural purposes," and that states should "refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions."[304]

U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 17. The ICESCR provision on the right to housing has been interpreted by the CESCR, in its General Comment No. 7, to prohibit forced evictions. CESCR, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV, art. 113 (1997).

[303] The African Commission on Human and Peoples' Rights has also called for an end to forced evictions, both by states and third parties, including for development purposes. African Commission on Human and Peoples' Rights, "Resolution on the right to adequate housing and protection from forced evictions," 2012, http://www.achpr.org/sessions/52nd/resolutions/231/ (accessed July 21, 2016); see also African Commission on Human and Peoples' Rights, "Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights," 2010, para. 55 (a). Similarly, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) provides, "Everyone has the right not to be forcibly evicted from his or her housing, land and property and shall be protected against arbitrary displacement." African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted October 22, 2009, ratified by Zambia January 14, 2011, entered into force December 6, 2012, art. 4.

[304] CESCR, General Comment No. 7, para. 7.

Guidance to States to Avoid Forced Evictions

To guide states on avoiding forced evictions, and the parameters for legitimate evictions, CESCR General Comment No. 7 provides:

> States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.
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> ...
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> In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality.
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> ...
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> The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.
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> ...
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> Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

The UN Special Rapporteur on adequate housing has also developed a set of "Basic Principles and Guidelines on Development-Based Evictions and Displacement."[305] Those principles detail practical measures that states can take prior to, during, and after evictions to ensure that the rights of affected people are respected.[306] The African Commission has similar guidance to states under its Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights.[307]

It may well be true that some families have moved onto farm plots in Serenje district only recently, and are so lacking in any bona fide claim to a right to reside there that farmers are within their rights to seek an eviction. In those cases, it is imperative that the government take steps to ensure that people in question have a meaningful opportunity to contest their removal. Participation in a court case can, for many rural families, be a bewildering and prohibitively expensive undertaking, and they should have access to free legal aid services.

Rights to Food, Water, Health and Education

Zambia is required to guarantee the rights to an adequate standard of living (including the rights to food and water), to health, and to education. The forced evictions and threatened displacement in Serenje district jeopardized all of these rights for long-term rural residents.

International and regional human rights law guarantees the right to available, accessible, and adequate food.[308] The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the right to food as an aspect of the right to an adequate standard of living.[309] The Maputo Protocol also requires states to take appropriate measures to provide

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[305] Human Rights Council, "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari: Basic Principles and Guidelines on Development-Based Evictions and Displacement," A/HRC/4/18, February 5, 2007, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement (accessed October 11, 2017).

[306] Ibid.

[307] African Commission on Human and Peoples' Rights, "Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights," para. 79 (x) and (y).

[308] The right to food is recognized under art. 25 of the UDHR; under art. 11 of the ICESCR as interpreted by the UN CESCR, General Comment No. 12, Right to Adequate Food (Twentieth session, 1999), U.N. Doc. E/C.12/1999/5 (1999), and under the Maputo Protocol.

[309] ICESCR, art. 11; CESCR, General Comment No. 12 on the right to food.

women with the means of producing nutritious food.[310] When commercial farmers or government officials forced rural residents off their land in Serenje district or told them to stop cultivating food crops in advance of displacement, they undermined food security in these communities. The meager food aid some families received (a couple of bags of maize over two years) was sporadic and insufficient.

International and regional human rights law also protects the right to water.[311] The right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, such as drinking, sanitation, bathing, washing clothes, and cooking.[312] The Maputo Protocol provides that states must take appropriate measures to provide women with access to clean drinking water.[313]

International and regional law also recognize the right to health. The ICESCR, for example, obligates states to recognize and take steps to fulfill "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."[314] The African Charter on Human and Peoples' Rights also obliges states to take necessary measures to protect the health of their people.[315]

Residents also have a right to access information relevant to their rights to food, water, health, and a healthy environment. This includes information on pollution of their water sources by commercial farming, other environmental and health risks, and how this may

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[310] Maputo Protocol, art. 15 (a); *African Commission on Human and Peoples' Rights in The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96, 27 May 2002, para. 64, also found implicit rights to food within the right to life (art. 4), the right to health (art. 16), and the right to economic, social and cultural development (art. 22 of the African Charter).

[311] ICESCR art. 11 (1); CESCR, General Comment No. 15: The Right to Water, U.N. Doc. E/C.12/2002/11, adopted January 20, 2003; UN General Assembly, "The human right to water and sanitation," Resolution 64/292 (2010), http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E (accessed April 26, 2017); Human Rights Council, "The human right to safe drinking water and sanitation," Resolution 18/1, (2007), http://www.un.org/es/comun/docs/?symbol=A/HRC/RES/18/1&lang=E (accessed April 26, 2017); Banjul Declaration of the 59th Ordinary Session of the African Commission on Human and Peoples' Rights under the theme "Women's Rights: Our Collective Responsibility," adopted March 4, 2017, Part Two (E), para. 39, http://www.achpr.org/instruments/banjul-declaration/ (accessed June 29, 2017); The African Charter on the Rights and Welfare of the Child also requires that states take measures to ensure that children are provided with safe drinking water, African Charter on the Rights and Welfare of the Child, adopted July 11, 1990, entered into force November 29, 1999, art. 14(2)(c).

[312] CESCR, General Comment No. 15: The Right to Water, U.N. Doc. E/C.12/2002/11, adopted January 20, 2003, para. 2.

[313] Maputo Protocol, art. 15 (a).

[314] ICESCR, art 12.

[315] Banjul Charter, art. 16.

affect their health.[316] African regional human rights law also includes the right to information,[317] and the African Commission's guidelines on implementation of the African Charter state, with respect to the minimum core obligations of the right to health, state that governments should "provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them."[318]

International and regional laws, including the ICESCR, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, and the African Charter, also address the right to education.[319] The Committee on Economic, Social and Cultural Rights views education as "the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities."[320]

Responsibilities of Commercial Farmers

International human rights law does not impose obligations on private businesses, but it does recognize that they have human rights responsibilities that they should live up to even when governments fail in their duty to mandate this. The United Nations Guiding Principles on Business and Human Rights[321] provide that businesses have a responsibility to exercise due diligence to identify their impact on human rights, avoid causing or contributing to human rights abuses through their operations, avoid complicity in abuses, and ensure that any abuses are remedied.[322] In most cases documented in this report, the

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[316] ICCPR, art. 19, para 2; Banjul Charter art. 9, para 1; African Commission on Human and Peoples' Rights, "Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights," paras. 60-64.

[317] Banjul Charter, art. 9.

[318] African Commission on Human and Peoples' Rights, "Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights," para. 67 (e) and (m).

[319] ICESCR, arts. 13 and 14; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, art. 10; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 28 and 29; and Banjul Charter, art. 17.

[320] CESCR, General Comment No. 13, para. 1.

[321] Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie: Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, March 21, 2011, U.N. Doc. A/HRC/17/31), principle 25.

[322] UN Commission on Human Rights, "Report of the Special Representative of the Secretary-General, Annex, I.A.1," March 2011, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed July 6, 2017);

commercial farmers came nowhere near meeting this standard, and seem to have made little pretense of trying.

Some commercial farmers in Zambia are also subject to standards required by financial institutions involved with their investments, for example through loans. Among the commercial farms covered by this report, only Silverlands was subject to such standards. Commercial farmers should be aware of the requirements of relevant financial institutions or intermediaries. These might include the International Finance Corporations performance standard on land acquisition and involuntary resettlement, or the World Bank's environmental and social framework and related operational policies and procedures, for example.[323]

Organisation for Economic Co-operation and Development (OECD)/FAO, *OECD-FAO Guidance for Responsible Agricultural Supply Chains*,(Paris: OECD Publishing, 2016), http://dx.doi.org/10.1787/9789264251052-en (accessed September 21, 2017).

[323] IFC, "Performance Standard 5: Land Acquisition and Involuntary Resettlement," 2012; and World Bank, "Environmental and Social Safeguards Policies," http://www.worldbank.org/en/programs/environmental-and-social-policies-for-projects/brief/environmental-and-social-safeguards-policies (accessed September 3, 2017).

Recommendations

To the Government of Zambia

Central, provincial, and district government officials should provide immediate relief and take longer-term measures to remedy the harm suffered by rural residents of Serenje who were forcibly evicted from their homes or were displaced without adequate compensation. They should develop these remedies in consultation with local residents, ensuring meaningful participation by women and girls. They should:

- Take any necessary steps to ensure that displaced people have near-term access to adequate housing, food and water, as well as access to basic services including primary and secondary school and health services.
- Ensure that victims of forced evictions have meaningful access to legal remedies.
- Ensure that any compensation packages or resettlement plans take into account the assets and interests of women that were lost or otherwise materially affected by displacement.

The Department of Resettlement, the Ministry of Lands and Natural Resources, the Ministry of Agriculture and Livestock, the Zambia Environmental Management Agency, and the Zambia Development Agency should enforce existing laws and policies relevant to commercial farming and protection of rural communities. They should:

- Implement the National Resettlement Policy and Compensation Guidelines. This includes publicizing and disseminating copies of the policy and guidelines, and training relevant government officials at central, provincial, and district levels to ensure coordination between these bodies.
- Ensure that affected communities, including women on an equal basis with men, are able to meaningfully participate in any consultations concerning new or expanded commercial farming, about measures to avoid displacement, and about possible resettlement or compensation.
- Ensure that resettlement plans take into account the loss of access to water sources and foraging areas and the potential negative impact of disrupting family caregiving networks, especially for women, and community cohesion.
- Conduct public awareness campaigns among communities that may be impacted by commercial farm development to inform them of their legal rights.

- Take effective steps to inform commercial farmers about all relevant policies and laws, including on resettlement and environmental protection, in advance of starting commercial farming activities.
- Enhance regulation and monitoring of commercial farming, including by setting up environmental monitoring offices in all provinces and recruiting more inspectors. Ensure that commercial farmers do not start operations without required permits, licenses, and certifications. Where appropriate, impose meaningful penalties in response to violations.
- Enforce all statutory and regulatory requirements for environmental and social impact assessments in connection with commercial farming.
- Improve coordination among ministries and agencies responsible for activities related to land, agriculture, environment, and resettlement. Disseminate relevant policies and train officials on their implementation.
- Ensure that information in public registries, including registries related to land and the environment, is accessible and complete. Improve online access to public documents in these registries and other databases.
- When delineating boundaries of any future farm blocks, or revising those of existing blocks, ensure that rural residents who remain on land in the affected area retain access to waterways, adequate farmland, and public infrastructure (including roads) and services. Take into account women's use of land and water, and their livelihood and caregiving responsibilities.
- Institute ongoing monitoring of all commercial farms and release information on environmental monitoring to the public, especially to affected communities, in accessible formats and local languages.
- Take effective steps to inform rural communities about environmental and health risks posed by commercial farming operations that may impact them, and any mitigation measures that have been put in place (such as water quality alerts and provision of alternative water).

The Ministry of Justice and Ministry of Lands should take steps to better ensure access to judicial and non-judicial complaint mechanisms and access to remedies for people impacted by commercial farming ventures, and increase scrutiny of land transfer recommendations. They should:

- Undertake more rigorous reviews of land alienation recommendations from district councils, including from the Serenje District Council, related to commercial farms.
- Improve accessibility of the Lands Tribunal, including through mobile proceedings in rural areas.

- Ensure that rural residents at risk of displacement or eviction have access to affordable or free legal aid, and to remedies in subordinate courts or other judicial venues.

Zambia's parliament, and responsible ministries, should improve legal and policy protections related to commercial farming and rural communities. They should:

- Develop and pass land legislation that clarifies rights for people residing on customary and state land, and provides sufficient protections for residents on customary lands.
- Amend the Lands Act or issue regulations to clarify criteria for valuation of assets and losses in the event of displacement (from state or customary land), and to facilitate fair and timely compensation.
- Ensure that land laws, including any future law on customary land administration, clarify procedures for community consultations in the event of conversions or alienation of customary lands.
- Adopt an updated national land policy, and ensure that it elaborates and protects the rights of long-term rural residents, whether living on customary or state lands.
- Amend the Environmental Management Act to require that impact assessments in advance of projects or investments cover environmental and social impacts, and to strengthen provisions on community consultations (requiring not just public hearings, but also individual and small group meetings, with women and men).
- Adopt regulations requiring that parties submitting environmental and social impact assessments also prepare summaries in plain, non-technical language, comprehensible for residents with limited education, illustrated, and translated into local languages. Require dissemination of these summaries in affected communities, including to women and marginalized populations.
- Adopt a law on access to information, and ensure that it facilitates public access to information on land transactions and commercial farming.

To Commercial Farmers

- Ensure that farming practices comply with environmental laws, and do not threaten impacted people's right to a healthy environment.
- Conduct environmental and social impact assessments addressing the full scope of risks from commercial farming. Make all such documentation available to the public, including women and marginalized populations, in understandable formats.

- Comply with legal requirements to consult with, compensate, and resettle local residents affected by their operations. Ensure that women are equally included in any consultations or negotiations over compensation and resettlement. Work closely with community members, the Department of Resettlement, and civil society organizations to draw up resettlement plans when resettlement is necessary.
- Ensure that people residing on land allocated to commercial farming ventures are not forcibly evicted from their homes.
- Ensure that individuals affected by commercial farming are able to lodge complaints directly with the commercial farming venture, including where appropriate through a formal grievance mechanism, and seek a fair resolution.

To International and Regional Financial Institutions

- Require that all commercial agriculture projects benefitting from funding, reinsurance, or guarantees from international or regional financial institutions meet environmental and social standards, including those on involuntary resettlement.
- Support increased transparency of information about land-based investments, including commercial agriculture, such as by publishing contracts, resettlement documents, and environmental assessments.
- Produce annual reports demonstrating compliance with human rights standards in each funded or supported project.

To Bilateral and Multilateral Donors

Support capacity of the government at district, provincial, and central levels to manage commercial agriculture and provide protection to rural communities, including by:

- Facilitating training of government officials on laws and policies on commercial agriculture and the rights of rural residents.
- Supporting meetings of government officials to clarify responsibilities regarding coordination and monitoring impacts of commercial farming.
- Supporting reform and implementation of laws and policies on land, environmental protection, agriculture, and resettlement.
- Providing financial and other support to civil society organizations to strengthen their capacity to monitor developments and defend the rights of rural residents, including women, affected by commercial farming.

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“Forced to Leave”

Commercial Farming and Displacement in Zambia

Over the last decade, the Zambian government has been promoting large-scale agricultural investments as a way of diversifying its economy and reducing rural poverty. But it has exercised exceedingly poor oversight and failed to enforce legal requirements over commercial farms, failing to implement laws and regulations that require these farms to assess and mitigate the likely social and environmental impacts of their operations on rural communities. The government has also not taken basic steps to monitor whether commercial farming ventures are complying with the law.

“Forced to Leave:” Commercial Farming and Displacement in Zambia examines the impact of commercial farms on residents’ rights to health, housing, livelihood, food and water security, and education. The report details how some commercial farmers have acquired thousands of hectares of land while ignoring legal provisions meant to protect local communities and the environment. In some cases, commercial farms have forcibly evicted residents whose families farmed the land for generations, without proper procedures and compensation. The report also examines how women have been disproportionately affected and often excluded from negotiations with commercial farmers.

Based on more than 130 interviews with rural residents in Serenje district in Zambia’s Central Province, the report examines the human rights record of commercial farms and the response of the Zambian government. It finds serious violations of rural residents’ rights to housing, food, water, health, education, and to remedy, illustrating the harm of much larger governance failures.

The Zambian government should consistently and vigorously enforce all relevant laws and policies to protect rural residents in commercial farming areas, including those on resettlement and compensation. It should uphold its human rights commitments by ensuring that rural residents in dire need of improved livelihoods are not left worse off by commercial agriculture.

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Ruth Mwitwa (left) and Gloria Kango were convicted of criminal trespass for being on land they have lived and farmed for decades, and now belongs to a commercial farmer. They were sentenced to three months’ imprisonment and were detained with their breastfeeding children. Gloria was also four months pregnant during her detention.

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