

Large-scale Land Acquisition in Africa: Impacts, Conflicts and Human Rights Violations



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The Case of Socfin in Sierra Leone

“*Development Finance Institutions and their national governments must respect human rights, act in a conflict-sensitive way and must take responsibility for long-term impacts.*”

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This Africa-EU Policy Brief is part of a series of policy briefs intended to put good land governance, land rights related issues and prevention of conflicts over resources on the agenda of the African-EU partnership and the forthcoming EU-Africa Summit in 2022.

Land Grabbing in Africa



The demand for land and natural resources has significantly accelerated in the last two decades due to the 2008 food price crisis and resulting land speculations. This led to a surge in large-scale land acquisitions (LSLAs),¹ often referred to as land grabbing. Since 2000, over 25 million hectares of land deals have been carried out across the African continent.²

While private actors are largely the ones executing LSLAs, their land acquisitions are encouraged and financially supported by governments. This includes governments within the Global South, which reduce barriers for land transfers, as well as governments within the Global North, many of which finance these land deals via their public development banks. The policy brief series is particularly concerned with a complex web of financiers, namely private equity funds and European development finance institutions, which have either indirectly or directly financed numerous land acquisition projects in Africa. These LSLAs have coincided with human rights violations and conflicts, with local communities bearing the burden of the harm generated.

¹ Land Matrix (2021). Taking stock of the global land rush. Analytical Report III. <https://landmatrix.org/resources/land-matrix-analytical-report-iii-taking-stock-of-the-global-land-rush/>.

See also: Neudert, R., Voget-Kleschin, L. (2021). What are the effects of large-scale land acquisitions in Africa on selected economic and social indicators? Misereor. https://www.misereor.org/fileadmin/user_upload_misereor.org/publication/en/foodsecurity/study-LSLA.pdf

² Land Matrix, obtained at <https://landmatrix.org/observatory/africa/>.

Proponents of LSLA often frame it as a development opportunity for Africa. However, the intensification of industrial agricultural practices and monoculture plantations that are associated with LSLAs have contributed to countless human rights violations and severe negative social and environmental impacts. In Africa, an additional 14,3 million hectares of land deals have failed and have never become or are no longer operational. These failed deals leave scars and the incidences of bankruptcy and serial transfers of land ownership further increase the insecurity of affected communities that live nearby and/or on the land in question.³

The majority of LSLAs fail to respect human rights, including the failure to uphold the key principle of Free Prior and Informed Consent when negotiating the land contracts and/or land use changes. Nor do the projects associated with most LSLAs provide guarantees to benefit local communities, as is often promised. Such deals are characterised by reduced security of land tenure, often leading to the forced eviction of rural communities, and inadequate compensation, such as for those communities evicted and/or who face reduced land access. Further, it is not uncommon for LSLAs to lead to conflicts over land and water resources, exacerbating pre-existing conflicts, violence and divisions within and between communities. This presents a real risk within fragile and conflict-affected areas.

Agricultural projects associated with LSLAs replace small-scale agriculture and therefore lead to a discharge of labour. Simultaneously, any jobs provided by companies on the land are most commonly day labourer work on an agricultural plantation, resulting in often atrocious working conditions. The loss of land for small-scale food producers, combined with the fact that many of the projects invest in producing crops for non-food purposes, decreases food production at the household and community levels and leads to higher food insecurity. Furthermore, the industrial agricultural plantations associated with many LSLAs barely achieve higher yields than small-scale food producers. Moreover, the intensive industrial agricultural model has been proven to cause environmental damage, such as pollution and the depletion of natural resources, leading to soil infertility.

Inadequate land laws as well as the insufficient implementation of land laws create perverse incentives for corruption and support efforts to weaken democratic institutions. Hence international standards are not followed - exacerbated by the culture of impunity and lack of accountability that characterizes many of these deals. The absence of meaningful access to justice and mechanisms of redress results in complicated and toothless grievance mechanisms for communities, which are often stalled, and/or coincide with accounts of repression, violence, and mistrust.

³ Land Matrix, obtained at <https://landmatrix.org/observatory/africa/>. See also Grain (2018). Failed farmland deals: a growing legacy of disaster and pain. <https://grain.org/en/article/5958-failed-farmland-deals-a-growing-legacy-of-disaster-and-pain>.

The case of Socfin in Sierra Leone

The large-scale land acquisition by Socfin Agricultural Company in Sahn Malen, Sierra Leone, is cause to major land and social conflict and numerous human rights violations of the affected communities. From the outset, the communities denounced the land lease agreement, insisting on the absence of their active, Free, Prior and Informed Consent (FPIC). At the same time, compensation for the land leased was inadequate, and boundaries of family-owned lands were not demarcated.⁴ Since then several issues have emerged, spanning from the rights to land, food, water and a healthy environment, to workers' rights, women's rights, the rights of the elderly and the right to education. Added to this are serious violations and abuses of civil and political rights, including the rights to peaceful assembly and association, physical integrity and clear cases of criminalization of human rights defenders.

Serving as the middleman by leasing the land from the communities and subletting it to Socfin, the authorities (both of the government and the chiefdom) have failed in their duty to protect the rights of the communities. These impacts and consequences also resulted from the outdated and inadequate land laws that create incentives for corruption.

Furthermore, corruption is exacerbated by weak national institutions ill-equipped to supervise acquisitions, as well as non-adherence to international standards by private companies due to them not being liable in their countries of registration.

Socfin in Sahn Malen, Pujehun District

From 2011 to 2013, Socfin Agricultural Company Sierra Leone, a subsidiary of the Belgo-Luxembourgish company SOCFIN, leased 12,000 hectares of land in Sahn Malen Chiefdom, Pujehun District. A first lease agreement was signed between the Minister of Agriculture, Forestry and Food Security (MAFFS) of Sierra Leone and the Chiefdom's traditional authorities. The government subsequently sub-leased the lands to the company for a period of 50 years, renewable for an additional 25 years. From the beginning, affected landowners denounced the lease agreement as illegitimate. They organized themselves under the Malen Affected Land Owners and Users Association (MALOA) and sought reparation from the government.

No forceful evictions nor any resettlement have occurred through the concessions. Villages located inside the lease were surrounded by the plantation, given the fact that SOCFIN almost never respected the 500 meter buffer zone for farming and bush for the villages that had been promised to the communities. Many farmers have left the villages due to a lack of livelihood opportunities, but some still remain.

⁴ Family-owned land here means the entire plot of land comprising oil palm plantation and farmland.

Their grievances not being addressed, communities started to protest against the company, leading to violent repression by the local police,⁵ the death of two civilians in 2019,⁶ and criminalization of MALOA members in 2013⁷ and 2019,⁸ including the organization's speaker Shiaka Sama who was elected Member of Parliament in 2018, with 70% of the votes in the constituency comprising Malen Chiefdom.

Studies⁹ on the impact of the company's presence on local communities, conducted between 2013 and 2018, show how food security, access to education and livelihood opportunities decreased due to the lack of land and the lack of livelihood diversification.

In 2012, in response to the petition filed by the communities, the Human Rights Commission of Sierra Leone commenced a mediation process. The mediation however could not be concluded due to the absence of the Paramount Chief and main ministries. A second dialogue intent, led by the Parliamentary Committees on Land and Agriculture in 2014, did not come to fruition after initial meetings. A mediation committee was set up in 2017 by the Office of the Chief of Staff, leading to several meetings between stakeholders, but again resulting in no concrete actions. In 2018, President Julius Maada Bio promised to solve the Malen issue during his electoral campaign. He set up a mediation committee led by the Vice President once elected.

The mediation committee presented its investigation report in 2019 to the Vice President and still no action has been taken. In 2021 a joint project¹⁰ from UNDP and WFP (funded by the UN Peacebuilding Fund and supported by the Vice President's office) intended to resume the dialogue, with participation of civil society organisations (CSOs).

Nonetheless, MALOA expressed dissatisfaction with several components of the 2021 process,¹¹ reiterating their request that the investigation report finalised in 2019¹² be officially published and that it be the basis for any new initiative to resolve the conflict.

Lack of Free, Prior and Informed Consent

Free, Prior and Informed Consent was not carefully carried out neither by the company, the Chiefdom Council nor the government during the acquisition of land in Malen. Community members and key stakeholders, such as the district councillors, explained that no proper consultations took place for community members to understand the issues.¹³ Moreover, some land-owners affirm having been coerced into leasing their own lands, as they were told by the Chiefdom authorities that their land would be leased whether they agree or not.

⁵ https://wrm.org.uy/wp-content/uploads/2014/02/Arrest_of_fifty_seven_citizens_in_Malen_Chiefdom.pdf

⁶ Report on the fact-finding mission on the Human Rights situation in Malen Chiefdom after the violent incidents in January 2019, compiled by Human Rights Defenders in Sierra Leone. https://www.banktrack.org/download/report_of_the_fact_finding_mission_on_the_human_rights_situation_in_malen_chiefdom_after_the_violent_incidents_in_january_2019/report_of_the_fact_finding_mission_on_the_human_rights_situation_in_malen_chiefdom_after_the_violent_incidents_in_january_2019.pdf

⁷ <https://www.omct.org/en/resources/urgent-interventions/continuing-judicial-harassment-against-members-of-the-malen-land-owners-and-users-association-maloea>

⁸ <http://greenscenery.org/eighteen-accused-maloea-members-discharged/>

⁹ See: <https://www.fian.be/Landgrabbing-by-SOCFIN-in-Sierra-Leone-documentation?lang=fr>

¹⁰ UNDP & WFP, Mitigating Localized Resource-Based Violence & Enhancing Community Resilience in Pujehun and Moyamba Districts.

¹¹ MALOA, press release, 19/08/2021.

¹² Government of Sierra Leone, Report of the Technical Committee on the Malen Chiefdom land dispute in Pujehun District, submitted to the Honourable Vice President, September 2019. https://www.fian.be/IMG/pdf/2019_report_malen_tc_final_september.pdf

¹³ Green Scenery (2011). The Socfin Land Deal Missing Out on Best Practices. <http://greenscenery.org/the-socfin-land-deal-missing-out-on-best-practices-report-on-fact-finding-mission-to-malen-chiefdom-pujehun-district-sierra-leone/>

Some town and village chiefs who did not agree to lease their lands were deposed by the Paramount Chief without the consent of their communities.

Inadequate compensation for loss of land and crops

Landowners have complained about the insufficiency of the 12.5 USD per hectare due as the land lease fee (of which they receive only 50%). While a household family could live from farming on a hectare of land, the yearly fee does not suffice to compensate for the loss of land. Additionally, to the annual 6 USD per hectare, some landowners received an initial single payment of 227 USD as compensation per acre of oil palm plantation, but due to a lack of information this was regarded by many as a yearly payment.

Yearly lease fees are paid by the company directly through the Chiefdom Council which distributes them to the Town Chiefs before it reaches the family heads. This process has been often criticized by MALOA as lacking transparency. Furthermore, all families receive the same amount of money as their lease fee, irrespective of the size of land they owned, contrary to the contractual clauses of the land lease agreement.

Failure to mark boundaries of family land before clearing the land

Most landowners who leased land to Socfin in Sahn Malen do not possess documents clarifying the boundaries of their land within the concession. Moreover, some do not know the number of hectares that their family possessed. This situation leads to an inadequate payment of lease fees¹⁴ and future conflicts if/when the lands are returned to the land-owning families at the end of the lease agreement. The lands were also surveyed by the company, which poses a conflict of interest. In fact, the actual size of the concession is bigger than the size officially leased to the company.¹⁵

Indecent labour conditions

As mentioned in an unpublished government report, *“the company in an effort to unduly absolve itself from legal industrial responsibility, frequently subcontract their services to third parties.”*¹⁶ FIAN¹⁷ demonstrated that the majority of the jobs are given to daily workers and are underpaid, insecure, lacking in transparency and overly strenuous. Where the legal minimum wage in Sierra Leone is around 40 EUR per month, the testimonies and evidence collected suggest that in SOCFIN plantations it is around 20 EUR per month for seasonal workers. Furthermore, FIAN received allegations of corruption in the management of salaries by supervisors.

¹⁴ As is the case in Sahn Malen, where all land-owning families receive the same amount of fee, irrespective of the size of land leased.

¹⁵ Report of the Technical Committee on the Malen Chiefdom Land Dispute (2019).

Green Scenery (2017). Spatial Monitoring Report on SOCFIN.

¹⁶ Report of the Technical Committee on the Malen Chiefdom Land Dispute (2019).

¹⁷ FIAN (2019). Land Grabbing for Palm Oil in Sierra Leone, Case Study. https://www.fian.be/IMG/pdf/fian_b_report_landgrab_in_sl_malen_2019_full_weblow.pdf.

Root causes of the Malen issues

The global increase in demand for agricultural commodities (e.g. palm oil) and policy incoherence at the international level

Global demand for palm oil has exploded in recent years. In Europe alone, demand has doubled in the last decade (6.5 million tonnes imported in 2016) and projections by the Food and Agriculture Organisation of the United Nations predict that by 2030, the volumes of oil produced will be at least twice those produced in 2000. But palm oil cultivation is extremely controversial. In order to meet global demand, the industrial sector uses a production system based on the intensive exploitation of oil palms in the form of monocultures, which generate serious social and environmental impacts. This contributes directly and indirectly to the phenomenon of land grabbing, of which this case is an example.

Lack of binding regulation for human rights abuses and criminalisation committed by private sector in the Global South

The current lack of mandatory human rights and environmental legislation with strong enforcement mechanisms in the home countries of parent company SOCFIN contributes to the perpetuation of SAC's abuses in Sierra Leone. Furthermore, the weak consideration of the

extraterritorial obligations of the States of the parent company's headquarters (Belgium, Luxembourg, Switzerland and France) does not allow response to abuses. In line with extraterritorial human rights obligations, home States of SOCFIN should take necessary measures to regulate SOCFIN and ensure that the activities of subsidiaries do not nullify or impair the enjoyment of economic, social and cultural rights as well as civil and political rights. They should also ensure access to justice and protect human rights defenders at risk.

Outdated and inadequate land laws that create incentives for corruption

Cap. 122, the law giving the Chiefdom Council the custodianship of land, has been abusively interpreted to give it absolute power to lease land on behalf of the land-owning families without proper consultations. Most of the land deals have not been signed by the rightful land-owners, but only by the Chiefdom Councils. According to the National Land Policy 2015 and to Customary Laws of most communities, the consent of land-owning families should be sought; however, these affected communities did not participate in inclusive consultations before the company started operations on their lands, long after a lease was signed.¹⁸ Moreover, families who refused to lease their lands have reported being harassed or neglected by traditional chiefs, MPs or councillors.¹⁹

Given the distribution of the annual lease rent payment (20% to the District Council, 20% to the Chiefdom Council, 10% to the national

¹⁸ Ryan, Caitlin (2018). Negotiating and implementing large scale land deals in Sierra Leone - improving transparency and consent. Policy brief 6, LANDac, Utrecht. <http://www.landgovernance.org/assets/LANDac-Policy-Brief-06-Caitlin-Ryan-1.pdf>

¹⁹ FIAN (2019).

government, and 50% to the landowners), there is a strong incentive for corruption²⁰ and for the avoidance of inclusive and informed consultations.²¹ Not bearing the costs of loss of lands, the chiefdom authorities tend to poorly negotiate land fees, ranging from 5 to 12 USD per hectare in Sierra Leone, far below prices in other countries. An adequate compensation, for landowners not to experience welfare loss, has been evaluated at between 48.5 to 55.41 EUR²² in Bombali District.

VGGT²³ procedures are not followed neither by Government nor by companies during land acquisitions

Incomplete entries by companies which do not follow due procedures of acquisitions lead to complications not only for the local communities, but also for private companies in the long run. Landowners who were not consulted will oppose operations of companies, as the issue in Malen exemplary shows. Not properly informed communities will have unrealistic expectations that cannot be fulfilled, leading to disappointment and disputes with the company in the long term. Local elites and company representatives present a vague image of development,²⁴ emphasizing the benefits of the company, leading to communities holding unrealistic expectations regarding roads, schools, water access, health centres, and electricity supply. Corporate Social

Responsibility agreements are most often voluntary and even if they are fulfilled, they are inadequate to ensure the realization of the human rights of local communities in the long term.

Weak state institutions to oversee land acquisition processes and social and environmental impacts

Sierra Leonean institutions are ill-equipped to accompany the process of land acquisitions, relying often on the benevolence of companies to follow due diligence. In addition, by agreeing to facilitate the land deal, the government and public authorities of Sierra Leone find themselves unable to adequately protect the rights of affected communities, having a dual role as party to the contract and as human rights duty-bearers.

A number of measures that would normally be the responsibility of the State are therefore delegated to the company, due to a lack of resources, political will or structure; examples include the demarcation of land, the supervision of consultation processes, the negotiation of the contract, and the continuous monitoring of impacts (social, environmental, etc.).

Various tax holidays (i.e. 100% loss carry forward, 125% deduction for expenses on R&D, training and export promotion, 10 years corporate tax exemption) strongly limit State income and increase incentives for practices such as trade mispricing.

²⁰ Yengo, Genesis Tambang, Karin Steen, Frederick Ato Armah and Barry Ness (2016). Factors of vulnerability: How large-scale land acquisitions take advantage of local and national weaknesses in Sierra Leone. *Land Use Policy* 50, p. 328-340.
SILNoRF and Bread for All (2012). Concerns of civil society organisations and affected land users on Addax Bioenergy. https://www.farmland-grab.org/uploads/attachment/CSO_Concerns_Addax_120925.pdf

²¹ Additionally, this taxation formula is in contrast with the national taxing system in which only 10% is paid on property.

²² Hansen, Marc, Mohamed Conteh, Martina Shakya and Wilhelm Löwenstein (2016). Determining Minimum Compensation for Lost Farmland: a theory-based impact evaluation of a land grab in Sierra Leone. IEE Working Papers, No. 211, Ruhr-Universität Bochum.

²³ VGGT - Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, Committee on World Food Security, 11 May 2012, <https://www.fao.org/tenure/voluntary-guidelines/en/>.

²⁴ Bakker, Deborah and Caitlin Ryan (2021). The company is here to do goodness to us: Imaginaries of development, whiteness, and patronage in Sierra Leone's agribusiness investment deals. *Environment and Planning A: Economy and Space*, 53(8), 1935-1951.

Recommendations

Specific recommendations to the Socfin case

To the Government of Sierra Leone:

1. Enact the Customary Land Rights Bill and the National Land Commission Bill that were drafted in 2020, based on the National Land Policy 2015, ensuring that legitimate land rights are recognised and protected (such as customary rights)
2. Officially adopt the Investigation report of the Technical Committee on the Malen Chiefdom land dispute in Pujehun District, submitted to the Honourable Vice President in September 2019 and adopt the conclusions and follow-up actions for the Government.
3. Set up, in consultation with the affected communities, a fair, transparent, effective and independent conflict resolution mechanism, enabling the parties to the conflict (State, SOCFIN and affected communities as well as representatives chosen by them) to find a solution to end and repair human rights violations and abuses.
4. Ensure that the outcomes of the conflict resolution mechanism include:
 - A review of the land lease agreements, including the review of boundary demarcation (under public control) and measures to protect legitimate land rights (e.g. with land titles);

- A clearly defined process to implement and monitor any agreement that parties have agreed to, including the processes of payment of rent and compensation to be carried out by the Government to the communities and not by the chiefdom authorities;
- A review of the corporate social responsibility plan with meaningful participation of community representatives;
- Development of policies and legal frameworks for the conduct of corporate and financial actors (adapting existing regulations or introducing new regulations) to effectively regulate large-scale land acquisition processes of private companies, in line with the VGGTs;
- Refrain from acting as an intermediary for investors through sub-leasing lands.

To the European Union:

1. Adopt mandatory human rights and environmental regulation legislation for EU businesses for their actions abroad, with strong enforcement mechanisms and specific obligations regarding adequate consultations, Free, Prior and Informed Consent, and fair compensation;
2. Ensure access to justice and effective remedy;
3. Take the necessary measures to regulate SOCFIN and to ensure that the activities of SOCFIN in Sierra Leone do not nullify or impair the enjoyment of economic, social and cultural rights, including administrative, legislative, investigative, adjudicatory and other measures, like the monitoring by diplomatic bodies of the compliance by SOCFIN with national law and human rights standards, providing monitoring reports to relevant national and European institutions.

To the African Union:

Africa should consider developing its own business and human rights principles and practices basing it on the African Charter for Human and People's Rights and other standards and practices acceptable at the global level.

Common recommendations

1. We call for an immediate end to the financing of Large-Scale Land Acquisition projects and speculative investments by public development banks.
2. We call for the creation of fully public and accountable funding mechanisms that support peoples' efforts to build food sovereignty, realize the human right to food, protect and restore ecosystems, and address the climate emergency.
3. We call for the implementation of strong and effective mechanisms that provide communities with access to justice in cases of adverse human rights impacts or social and environmental damages caused by public development bank investments.
4. We call to secure communities' rights and access to and control over land, seeds, and water, with a specific attention towards access for women and young farmers.
5. We call for the recognition of small-scale farming as a viable structural model for agricultural development and to promote labour-intensive means of small-scale farming and agroecology.

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