

Land Grabbing for Palm Oil in Sierra Leone

Analysis of the SOCFIN Case from a Human Rights Perspective



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Executive Summary

Since the arrival of **multinational agribusiness company SOCFIN in 2011** as part of a large-scale investment in palm oil in the Southern Province of Sierra Leone, **social conflict has raged in the Malen Chiefdom**. SOCFIN is controlled by a Belgian businessman (Hubert Fabri) and the French group Bolloré, which has developed a business empire in many parts of Africa.

This **report**¹ found that affected communities who have lost access to and control over their land have been exposed to **serious human rights violations and abuses** since 2011. Several issues 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. The report also points to serious allegations of corruption, lack

of transparency and non-implementation of corporate social responsibility promises by SOCFIN.

The report paints a grim picture of a **profound, multi-faceted decline in the enjoyment of rights by local communities** as a direct result of the shift in control over land in Malen, and the subsequent development of SOCFIN's activities in the Chiefdom.

The report is based on three fact-finding missions carried out by FIAN Belgium in collaboration with local and national organizations, in 2012, 2016 and 2018. It analyses the land conflict in Malen Chiefdom from a **human rights perspective**, exploring the extent to which human rights are respected, protected and fulfilled, and the extent to which states and non-state parties have upheld obligations arising from international human rights instruments. It also draws on existing reports and publications from international human rights experts, local and international NGOs, academics and journalists.



BACKGROUND

On 3 March 2011, SOCFIN signed a lease agreement with the government of Sierra Leone to **acquire 6,500 hectares** of land in the rural chiefdom of **Malen**, in southern **Sierra Leone**. This followed a prior agreement signed by the local Paramount Chief and 26 landowners to cede their land to the government through the Ministry of Agriculture. These agreements marked the first step in the **large-scale seizure**

¹ This document is the executive summary of a case report available online or on request. More information on the full report is available at the end of this document.

2011



2013

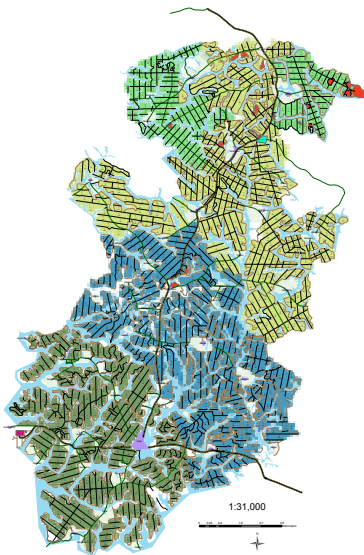


2014



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MAP SAC PROJECT
18,473 HA



© Socfin

2016



of land by SOCFIN in Malen. In subsequent years, following two other lease agreements, the company has taken control of a total of **18,473 hectares** of the Chiefdom's 27,000 hectares of land, transforming **over 12,000 hectares** into industrial palm oil plantations. This concerns **more than 32,000 people** living in 52 villages located within the concession area.

From the outset, the **communities denounced the agreement as illegitimate**, insisting on the absence of their active, free, meaningful and informed consent. In the years that followed the communities organized themselves into the Malen Affected Land Owners and Land Users Association (MALOA), and continuously called on the State of Sierra Leone and SOCFIN to recognize and counteract the negative impact of the land deal and the company's activities on their human rights. Their **grievances** include:

- A lack of consultation with landowners prior to the agreement of the land lease;
- Pressure, intimidation and



SOCFIN's concession is larger than the entire Brussels-Capital Region.



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threats aimed at coercing landowners to sign over their land;

- A lack of transparency and high levels of corruption in the land acquisition process and afterward;
- Inadequate compensation for land leasing and crops and non-payment or irregularities of annual rental payments;
- The failure of SOCFIN to mark boundaries of family land before its clearing, which prevents communities from reclaiming their land at the end of the lease;
- Extremely poor working conditions on the SOCFIN plantation;
- The destruction of the livelihood of landowners in the area;
- The destruction of the area's ecosystems and the negative impact on its biodiversity.

In response, different state authorities took several initiatives in an attempt to find a solution to the conflict. These efforts, however, proved unsuccessful, largely due to a lack of political will. The change in government following the **2018 elections**

brought renewed hope for the conflict's resolution since the resolution of Malen's land conflict was part of the new president's electoral promises. A new mediation process was initiated under the auspice of the Vice-President. Unfortunately, the conflict has escalated following a recent violent incident involving security forces, leading to the **killings of two villagers** and the consecutive arbitrary arrests of community people and MALOA leaders. This report aims to **contribute to solving this conflict by applying the lens of international human rights law to the situation.**



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KEY FINDINGS:

The Right to Adequate Food and Nutrition:

Communities have lost their access to farmland, preventing them from growing their own food and other cash crops. Following the arrival of SOCFIN, the diversity and quality of food consumed by the Malen communities dramatically decreased. In many households, the number of meals consumed daily dropped from between 2-3 per day to 1-2. In the absence of cash crop sales, higher commodity prices on local markets, and increased expenditures on food, a decrease in household income has resulted in lower purchasing power. Promises of mitigation measures made by SOCFIN to ensure food security are not adequate or simply not respected. Villagers are complaining about the following: the 'buffer zones' (or 'green belts') between plantation and villages are not sufficient for gardening and are usually under the 500m promised; inland valley swamps let out to communities are unsuitable for cultivation because of chemical pollution; the

smallholder out-grower scheme (budgeted at \$2,608,000) was never implemented; and other alternatives financed by the company's corporate social responsibility program (namely the 600-acre rice project and construction of fish ponds) do not allow communities to feed themselves adequately.

The Right to a Healthy

Environment: The land lease changed the way in which land in the Chiefdom was used, transforming a traditional bush-fallow agricultural system into a large-scale industrial palm oil monoculture. This has had serious impacts on the biodiversity of

fauna and flora in the chiefdom, leading to a drastic decline in mammal species and medicinal plants in particular. Communities also report that the use of chemicals and fertilizers in SOCFIN's operations have made swamps in the plantation area unsuitable for cultivation. Further independent investigation and chemical analysis is necessary in order to assess whether the use of chemical substances by SOCFIN complies with national law and international standards. Unfortunately State agencies tasked with environmental protection – in particular the Environmental Protection Agency (EPA) – lack the human

and financial resources to conduct such investigations. As recently raised by the UN Special Rapporteur on hazardous substances and wastes in September 2018: *"This lack of detail fundamentally obstructs the ability of the EPA to perform its duties under human rights law, and fails to respect the rights of workers and local communities to information, participation and remedy. Despite these concerns, Socfin received an EIA [Environmental Impact Assessment] licence"*.

The Right to Water: SOCFIN's agro-industrial activity poses a serious threat to water in the



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Chiefdom, risking pollution of water sources and interference with water use, including for future generations, with concerns stemming from an agreement between the company and the Government allowing SOCFIN to draw unlimited quantities of water to service its activities in Malen, and to do so at a heavily cut price (\$0.00012 per cubic meter). In a complaint to the EPA in 2013, local communities reported high levels of pollution of the Malen River, along with large numbers of dead fish. Despite repeated attempts by MALOA, no public report or conclusions were shared with communities.

The Right to Decent Work and Fair Employment: 32,842 villagers are estimated to be affected by SOCFIN's activities in the Malen Chiefdom, yet SOCFIN only offers 1,178 permanent job positions. What's more, only a few members of the Chiefdom communities are employed in management or supervisory positions. In addition to permanent contracts, SOCFIN claims to offer another 2,500 job opportunities for casual workers, all working under very precarious employment conditions. They usually do not have a proper contract and can be laid off at any time. Pay is dependent on the completion of daily tasks, which are described as very difficult to accomplish. Evaluation of completion is left to the discretion of supervisors, and workers report frequent cases of corruption. As a result, average salaries for seasonal local workers at the company were between approximately 150,000 and 250,000 Leones per month, which is far below the minimum wage in Sierra Leone (500,000 Leones per month). Elderly community members are completely overlooked for employment. Workers' strikes increased in 2018, leading to more

tension and further human rights violations and abuses.

The Right to Education:

Subsequent to the land lease agreements, family sources of income either became insufficient to cover education expenses or – in most cases – ceased entirely. Families were left with little choice but to remove their children from school, with girls commonly the first to be withdrawn.

The Rights of Women: Prior to the arrival of SOCFIN, the agricultural activity of women was of chief economic importance within communities. As the basis of much of the social interaction within villages, it also played a key social role. The changes in access to and control over land following the lease agreement removed the base materials of this activity from local women, creating a wide economic and social gap in communities. Women, especially elderly women, are mostly deemed unfit for the tasks demanded of workers on SOCFIN's plantations, and thus frequently face barriers when it comes to work in all its forms.

Civil and Political Rights and the Protection of Human Rights Defenders:

Opposition to the land lease agreement has been systematically criminalized and repressed by local security services, many times using violence. Acts of arbitrary detention and judicial harassment against MALOA and other community members have been denounced by international human rights organizations, including UN Special Rapporteurs. National and international civil society organizations supporting local communities have faced continuous acts of intimidation by the company and local authorities. The escalation of tension in the chiefdom and

recent violent repression by the police in January 2019 led to the death of two people, dozens of wounded and the arbitrary arrest of several people, including one leader of MALOA, and MALOA's former spokesman, a member of Parliament.

Participation, Consultations and Free, Prior and Informed Consent (FPIC):

All available evidence indicates that the conditions under which the land lease agreement was made did not allow for communities to give their free, prior and informed consent. Allegations of coercion aimed at gathering signatures for the agreement, including through bribes and the presence of armed guards at a meeting to sign the contract, raise significant doubts as to the agreement's legality. Some promises, which were decisive in convincing some chiefs and landowners, have never been respected or even implemented. These range from annual payments, and the respect of buffer zones to the establishment of an out-grower scheme, and long-term employment opportunities.

Transparency and Corruption: A profound lack of transparency has accompanied the development of SOCFIN's activities in Malen, seriously restricting the capacity of local communities to assert their rights and seek remedies to the conflict. From the outset, communities have demanded increased transparency and access to key documents relating to the leasing of land, including the land lease agreements themselves. In parallel, irregularities in the compensation payment process and unjustified payments to official representatives and others have led to repeated accusations of corruption.

2013



2016



2018



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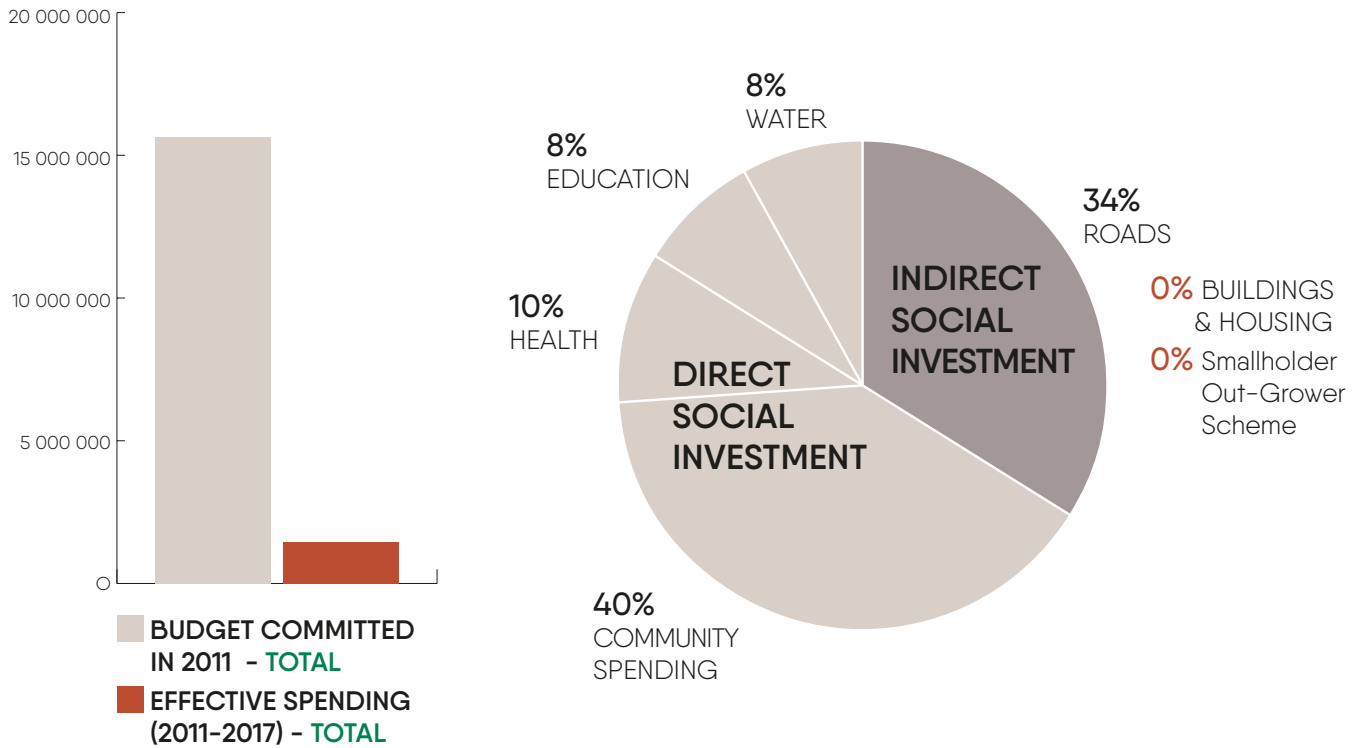
SOCFIN CONCESSION - ZONE C

Compensation, Resolution and Restitution: The form and levels of compensation and payment due to the land owners by the company in accordance with the lease agreement, along with the process for making these payments, have raised serious concerns from the outset. Firstly, the lease agreements provided compensation to landowners for their loss of palm oil crops. This was fixed as a single lump payment of \$570/ha. This is very low considering that SOCFIN itself valued the price of one hectare of palm trees at \$57,120. Landowners also denounced that the size of land plots were undervalued, and that the loss of other cash crops was not compensated for. Secondly, it was agreed that a recurring yearly rental payment would be paid by SOCFIN. This was set in the lease

agreement at \$5 per acre per year (\$12.5 per hectare), of which landowners would only receive 50% (20% goes to the chiefdom authorities, 20% to the district and 10% to the government). This sum is considered a meager amount. Moreover, substantial problems have been identified throughout the payment process, leading to strong accusations of corruption, particularly at the level of the chiefdom authorities. SOCFIN is paying the amount that was targeted for landowners (supposedly \$115,456) to the chiefdom authorities who supposedly act as intermediaries, but these are accused of withholding payments and engaging in inequitable distribution. Despite the many requests by MALOA and others to both SOCFIN and local authorities to obtain lists of payments made

in compensation and annually, the communities have never had access to these lists.

Responsible Investment: A major gap has emerged between the promises made by the company in its corporate social responsibility action plan, and the projects actually implemented, their respective budget and ultimate impact on the ground. The corporate social responsibility plan formulated by SOCFIN in 2011 foresaw an expenditure of \$16,433,375 for the benefit of communities between 2011 and 2017. Only \$2,583,784 was actually spent for this purpose. This figure, which represents a mere 16% of the budget planned for the social benefit of the communities, includes expenditure on roads (which almost exclusively benefit the company) for more than 1/3 of



the total budget, as well as several expenses with no social interest, or which could be related to corrupt practices. No investment has been made to implement the smallholder out-grower scheme, one of the company's primary promises.

Based on these findings, the report makes a series of recommendations aimed at ending ongoing human rights abuses and violations in Malen, and finding a peaceful solution to the conflict. Indeed, it can be concluded that immediate steps by all actors must and can

be taken to provide remedies for harm suffered by local communities since the initial land lease agreement, and that such steps, along with others aimed at providing a stable ground for local communities to enjoy their rights, are essential to finding a resolution to the conflict.





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Sources and a detailed bibliography can be found in the full report.

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