

Report of 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

29th January 2019



TABLE OF CONTENT

1. SUMMARY.....	3
2. BACKGROUND	4
3. THE TEAM COMPOSITION	5
4. OBJECTIVE OF THE MISSION	5
5. METHODOLOGY.....	5
6. ENGAGEMENTS	6
7. HUMAN RIGHTS ISSUES	7
a. The Right to life:	7
b. Protection of security of persons:	8
c. Unlawful arrest and detention:	8
d. Right to property:.....	8
e. The Right to Food:	8
8. KEY FINDINGS.....	8
9. RECOMMENDATION	9
a. To the GoSL:.....	10
b. To SOCFIN.....	10
c. To the International community.....	10

1. SUMMARY

While the Government of Sierra Leone had promised the affected communities in Malen to resolve the land conflict that has been raging in the Chiefdom since SOCFIN's arrival in 2011, recent violent incidents are of concern to the civil society organisations that are publishing this report.

Following the arrest and detention of land rights defenders belonging to the land rights activists group known as MALOA (Malen Affected Landowners Association) in Malen Chiefdom (22/01/2019), proponents of land rights across the country expressed concern for not just the detention of MALOA members, but also for death of two people who sustained gunshots from allegedly the state security personnel acting to protect the SOCFIN Agricultural Company (21/01/2019).

In order to get first-hand information, a fact finding team was speedily put together with the mandate of visiting the affected communities to conduct an assessment. The fact finding mission was held from 24th to 27th January in Pujehun district, Malen chiefdom and surrounding areas.

This report looks back at the background of this conflict, summarizes the situation of the events of the 21st January and the following days, specifies their impact on the human rights of communities and defendants, outlines the findings and makes recommendations to the stakeholders (GoSL, SOCFIN and the international community), who must act immediately as a matter of urgency.

Our main findings are as follows: two people were killed during a conflict that served as a pretext for the joint security operations – MACP – (with the support of SOCFIN) to raid in villages of nine sections, to use excessive force, beat villagers and MALOA members, to loot and vandalise properties of communities and to intimidate and arbitrary arrest activists, in particular the members of MALOA (fifteen people including Honourable Shiaka Sama, Member of Parliament). These incidents have created an unprecedented climate of tension and fear in the Chiefdom, which has forced hundreds of people to flee their villages.

We urge the Government of Sierra Leone to, among other steps, investigate these violent incidents, release those arbitrarily arrested and detained, ensure the protection of Malen communities and MALOA members, provide support to internally displaced persons, en generally, in relation to the existing land conflict, facilitate a long lasting peaceful resolution of the conflict.

2. BACKGROUND

SOCFIN leased 6.500 hectares of agricultural land in Malen Chiefdom for a period of 50 years, with the option of renewal for additional 25 years. First, the land was leased by the Minister of Agriculture, Forestry and Food Security (MAFFS) on behalf of the Central Government from the traditional authorities and land owners of the Malen Chiefdom on March 5th 2011. This so-called “Land lease” was signed by the Paramount Chief BVS Kebbie and 28 land owners. MAFFS then subleased the land to SOCFIN on the same day.

From the outset, the communities denounced this agreement as illegitimate and illegal. In a letter by the local organisation called “Malen Affected Land Owners and Land Users Association” (MALOA) dated October 2nd 2011, it was highlighted that “The Paramount Chief, Hon. P.C BVS Kebbie, instructed the chiefs and land owners to thumbprint documents and repeatedly told them that they will lose their land even if they didn’t sign or accept the compensation. This was done in the presence of armed police in a public meeting in Sahn where the community members were intimidated by chiefs to thumbprint a document and accept the ‘shake hand’ and compensation. Some villages rejected the money. A legal analysis of the land lease agreement, commissioned by the German NGO Welthungerhilfe also questioned the legality of the land deal under Article 21 of the Constitution of Sierra Leone (Protection from deprivation of property) and the Provinces Land Act (CAP 122). The legal analysis concluded that “there are strong indications that due to legal inconsistencies the signed lease agreements are in effect voidable” and that there is “an urgent need for a review and amendments of both the lease and the sub-lease agreement so as to ease the tension and to prevent the tension generating into a conflict that would likely escalate”.

In the above-mentioned letter, the members of MALOA expressed their main grievances to the local and national authorities. These included: inadequate consultation, lack of transparency, inadequate compensation, high levels of corruption, destruction of livelihoods of landowners and land users, appalling working conditions for labourers working in the plantation, lack of proper documentation of financial transactions with landowners, non-payment of compensation to landowners of land leased to the former Sierra Leone Produce Marketing Board (SLPMB), failure of the company to identify the boundaries of family lands before clearing, and destruction of the biodiversity of ecosystems, etc.

These serious grievances have not been adequately considered and addressed by the authorities, which should have reviewed the terms of the lease agreement and properly regulated SOCFIN’s activities. Instead, SOCFIN has acquired more land in the Malen Chiefdom. The same process of land acquisition, which the communities have denounced since the beginning, has been applied for the two subsequent lease agreements that SOCFIN has contracted with MAFFS. As of April 2019, SOCFIN claims to hold 18,473 hectares of land in the Malen Chiefdom, of which 12,557 ha have already been planted with palms. The planted area already exceeds the terms of the Memorandum of Understanding (MoU) signed between SOCFIN and the Government of Sierra Leone in September 2012, fixing cultivated plantation to 12,000 ha. The project currently affects around 32,842 people in 52 villages.

Throughout the years, numerous reports from local and international NGOs as well as several academic researchers have highlighted the negative impacts of the SOCFIN

investment on the communities. The occupation of the land by SOCFIN has deprived the affected communities from their main source of income and livelihood.

Since 2011, affected communities, supported by MALOA, have continuously called for a peaceful resolution of the conflict involving dialogue between stakeholders and a revision of lease agreements to allow communities to give their full consent. The lack of political will, as well as the lack of dialogue on the part of SOCFIN, have aborted all the initiatives. Communities continued to suffer the consequences of these violations of their most fundamental rights and MALOA representatives and members were systematically criminalized to claim their demands.

These last few months have renewed the communities' hope of finding a solution but also the tensions, especially regarding working conditions that are not improving and that do not allow the affected families to provide for their needs with dignity. This is why SOCFIN plantation workers went on strike several times, in July and October 2018.

3. THE TEAM COMPOSITION

The team comprised of 15 Human Rights Defenders from 8 Human Rights organisations namely Human Rights Defenders Network-Sierra Leone, Amnesty International Sierra Leone, Green Scenery, Sierra Leone Network on the Right to Food, P.R.O.T.E.C.T Sierra Leone, Partners Initiative for Conflict Transformation, Network Movement for Justice and Development and Bo District Human Rights Committee.

4. OBJECTIVE OF THE MISSION

The objective of the mission was to monitor the Human Rights situation in Malen Chiefdom after the violent incidents, which had occurred between January 16, and January 25 and the subsequent arrests of several community people and come up with concrete recommendations for intervention.

5. METHODOLOGY

The team used the following methods during its monitoring exercise;

- Engagement with stakeholders particularly DISEC including Pujehun District Council, the community radio in Pujehun and Civil Society Chairman of Pujehun District;
- One on one Interviews with victims and survivors of the 21st January 2019 Malen incident;
- Focus group discussions with Internally Displaced Persons;

6. ENGAGEMENTS

Following the arrest and detention of land rights defenders belonging to the land rights activists group known as MALOA (Malen Affected Landowners Association) in Malen Chiefdom, proponents of land rights across the country expressed concern for not just the detention of MALOA members, but also for death of two people who sustained gunshots from allegedly the state security personnel acting to protect the SOCFIN Agricultural Company.

In order to get first-hand information into the impasse, a fact finding team was speedily put together with the mandate of visiting the affected communities to conduct an assessment. The fact finding mission was held from 24th to 27th January in Pujehun district, Malen chiefdom and surrounding areas. The intended approach was to engage all stakeholders including company officials, traditional leaders, security apparatus and community people.

The team conducted a three days intensive visit to the affected communities in Malen Chiefdom. On arrival in Pujehun town the team engaged the chairman Civil Society Chairman of Pujehun to get some information about the incident and the situation on the ground. The team later visited the Pujehun Police Division to register their presence in the district. The team afterwards departed for Sahn Malen Chiefdom where the incident took place. The team met in a session with an extension of the District Security Committee (DISEC) meeting which attracted stakeholders from the military, police, Office of National Security, General Manager SOCFIN Company, Senior District Officer, Legal Aid Board and chiefdom authorities including the Paramount Chief. At the meeting, the team was welcomed and were given audience to say a few words and to seek for clarifications on certain issues.

During the meeting, several allegations were made by the Paramount Chief Kebbie against the detained Honourable Shiaka Sama and Civil society organisations. He alleged that Mr. Sama is the cause for all the incidents in Malen Chiefdom because he has a large followership in the chiefdom. The Paramount Chief went on to say that Honourable Sama has gained popularity in the chiefdom by promising affected land owners that he will reclaim their land from the company. He accused Honourable Shiaka Sama of inciting his followers (MALOA) to conduct the secret 'poro society' to disturb the operations of SOCFIN Agricultural Company. The Paramount Chief in a contradictory statement indicated that the protest by the members of the secret 'poro society' was as a result of a statement made on Malen Community Radio by the Resident Minister for the Southern Region. This was later confirmed by several interviews.

The representative of the Office of National Security admonished everyone to be law abiding as government has to protect investments. He stated that the government was putting measures in place for a lasting solution to the land dispute in Malen and therefore encourages everyone to do the same. He stated that his office has received complaints of the government security forces using excessive force on community people and therefore ask that they stop. In ending his statement he pleaded to the company's General Manager to continue providing support to aid the operations of the military and police in the SOCFIN operational areas as the government is overstretched and cannot adequately meet the needs of the security personnel deployed at Malen Chiefdom (confirming therefore the illegality of the actions taken by the government security forces and SOCFIN which cannot be involved in State duties).

A request by the team to visit the affected communities was declined by the authorities on the grounds that we first get a clearance from the offices of the Assistant Inspector General of Police South and the Brigade Commander South.

After securing a clearance the following day, the team visited 15 affected communities in Malen Chiefdom. During the visit they confirmed that 15 people including Honourable Shiaka Sama have been arrested and taken to Freetown. The team visited three MALOA members (Hannah Deen, Edward B. French and Musa Samba) who were in police detention at the Pujehun Police Divisional Headquarters. The Police allowed the team to talk to the MALOA members and during the discussions they explained that they were arrested around 11pm on Wednesday 23rd January 2019 by both Police and Military personnel in the company of people who are perceived to be supporters of Paramount Chief Kebbie taken to the Malen court barray where they were beaten and later detained in police cell. Hannah Deen stated that she was harassed and dragged out of her home. She was denied access to the rest room throughout the night even when she requested for it.

The team had a briefing session with officials of the Pujehun District Council in relation to the 21st January 2019 incident in Sahn Malen Chiefdom.

According to ONS District Coordinator, The Paramount chief, District Officer, Military Commander and Local Unit Commander at an extended DISEC meeting in the Chiefdom headquarters held on the 24th January 2019, the MALOA community members organised illegal initiation and went on the rampage resulting to the death of two civilians and as a result they invoked MACP in order to restore normalcy in the communities (our research leads us to other conclusions, see Findings).

The team also visited Internally Displaced Persons from the affected communities in Malen Chiefdom who were residing in neighbouring villages in Sowa Chiefdom to assess their situation and some of the IDPs shared their ordeal with the team.

A 55 years old woman testified that: two soldiers came at her house and repeatedly hit on the door. She said the soldiers were asking whether the chief lives there while kicking on the door. She said she pleaded with them that she had been in a motorbike accident and they should have mercy on her. She stated that the soldier asked her to give them 300,000 Leones but said she had no money and they took away her phone and asked her son to kneel down before beaten mercilessly.

7. HUMAN RIGHTS ISSUES

The Human Rights Issues directly related to the incidents of January 2019

a. The Right to life:

During the monitoring the team was able to confirm the death of two civilians at Jao junction (*Mohamed Ansuma a cousin of Honourable Shiaka Sama also a MALOA member, and Mustapha who is believed to be a worker of SOCFIN*), who are alleged to have died of gunshots. The government security forces alleged that the killings were done by members of the 'Poros Society' who were using shot guns. However, in the testimony of one community member interviewed by the team, he alleged that the security forces were responsible for the killings;

b. Protection of security of persons:

Members of the MALOA expressed fear for their lives and physical integrity as the military and police maintain routine raids and search for suspected MALOA members whose names, they said, have been listed by the Paramount Chief.

c. Unlawful arrest and detention:

Residents of the communities were arrested without prior and informed knowledge of their arrest as the military and police raid was conducted during the night of 21st January 2019 when some were sleeping. Some were kept in arrest over several days without clear accusation, etc.

d. Right to property:

It is reported that during the raid, property (such as mobile phones and food stuff and cash money) belonging to the community people believed to be MALOA members were seized and looted by the military. The team spoke with several people who claimed that their properties were vandalised, and monies stolen by Military personnel while conducting raids in their villages. These claims were confirmed by the team as we visited and took pictures of some of the ransacked and vandalised homes.

e. The Right to Food:

According to our findings the Company has leased almost all the arable lands in the chiefdom leaving the communities with no land to farm which has created a huge negative impact on Food Security and other livelihood activities of affected communities. The situation that led to the displacement of communities has further worsened the food situation of the communities. IDPs are living in villages nearby with limited access to food and water.

8. KEY FINDINGS

Our findings suggest that the joint security operations (MACP) raided the nine sections in the Sahn Malen Chiefdom, Pujehun District in the Southern Province of Sierra Leone in response to a protest by members of the secret 'Poro Society' in Saingama Village (and not because of MALOA community members organising illegal initiation. The communities stated that the initiation had nothing to do with the company and their protest was as a result of a statement made by the Resident Minister South (Mr. Mohamed Alie) against the 'poro' society. During a peaceful protest the society members came in contact with security officers at Jao junction opposite SOCFIN operation camp site where there was a standoff between members of the 'Poro society' and the government security forces that led to the death of two civilians. The death of the two civilians according to the military commander and the LUC occurred as a result of the use of shot Gun by the protesters. The team could not confirm this allegation but some of the community interviewed blamed the killings on the government security forces.

It became clear from the corroborating evidence that the conflict that occurred during the protest by 'poro' society members had nothing to do with MALOA members wanting to disrupt the operations of the Company as alleged by the Paramount Chief Kebbie. However, the incident was used by local authorities as a pretext for an illegal repression directed at MALOA leaders. The team found no evidence connecting MALOA to the protest neither the initiation.

After thorough analysis of all the information gathered, the Team recorded the following findings:

- Arbitrary arrest and detention of particularly the members of MALOA;
- Beating of MALOA members resulting to wounding and bodily pains;
- MALOA members are a direct target of intimidation, harassment and violence by either government security personnel or loyalists of the Paramount Chief of MALEN Chiefdom.
- Heavily armed military and police presence in the Malen Chiefdom;
- Excessive force was used by the Military and the Police against civilian protesters and other villagers during raids;
- Extra-judicial killing of two civilians during the standoff between the members of the 'poro society' and the government security personnel;
- Looting and vandalising of properties of communities for which the communities accused personnel of the military;
- Several villages were deserted as a result of the conflict and fear of being arrested;
- Over 2,500 Internally Displaced Persons are living in villages in the neighbouring Sowa Chiefdom and others according to family members have gone to Bo to seek medical attention;
- School activities have been disrupted in most of the communities and also health centers were closed in communities visited by the team;
- The team witnessed the use of SOCFIN company vehicle by Military personnel in conducting operations to protect the company;
- One military officer and one police officer were secretly following the team during the visit to communities to identify victims who testified.

9. RECOMMENDATIONS

a. To the GoSL:

1. Facilitate an independent investigation into the actions of the security forces, SOCFIN and other actors involved in the January 2019 incidents in the Chiefdom of Malen.
2. Ensure the protection and security of community members and land rights activists, including members of MALOA and organizations and individuals supporting them, immediately put an end to all forms of criminalization and intimidation and effectively guarantee their rights to freedom of assembly and freedom of expression;
3. Fully comply with the legal provisions applicable to the arrest and detention of members of MALOA and other detainees following the incidents; immediately release those unfairly detained, and compensate for the damage suffered;
4. Take the necessary measures to ensure the immediate humanitarian needs of Internally Displaced Persons are met and also assist them to return home safely;
5. Investigate all Human Rights Violations allegedly perpetrated by government security forces;
6. Generally, in relation to the existing land conflict, facilitate a long lasting peaceful resolution of the conflict. This should start with an independent investigation into the land conflict, as well as an investigation by the Anti-Corruption Commission on the use of the 20% Land Lease Fees that is paid to the Chiefdom Council.
7. Respect obligations to international human rights laws in relation to business and human rights;
8. Set up an independent and credible coroner's inquest to establish the cause of death of the two deceased, and commence investigations and a judicial process to hold the perpetrators to account.

b. To SOCFIN

1. Must immediately stop any and all activities that interfere with the people of Malen and MALOA in peacefully defending their communities, their lands, their human rights and their livelihoods against human rights violations and the company's activities.
2. Comply with the long-standing request by affected communities and MALOA for a fair, transparent, effective and independent conflict resolution mechanism to review the land lease agreements and find a long-term resolution to the land conflict.

c. To the International community

1. Urge GoSL to respect regional and international obligations and offer support, if required, in the land conflict resolution in Malen and ensure that the human rights of the Malen communities are respected, protected and fulfilled.
2. Particularly, urge GoSL to ensure the protection of the human rights defenders, and especially land rights activists and MALOA members.

ANNEX

