



Negotiating and implementing large scale land deals in Sierra Leone

Improving transparency and consent

Caitlin Ryan

Key points

- The role of Paramount Chiefs and Members of Parliament in approaching communities for negotiations **compromised Free, Prior and Informed Consent**. Furthermore, customary decision-making regarding the agreement to lease land were made by elders of land-owning families and excluded women, junior men, and members of non-land-owning families.
- Companies and local authority figures **used vague references to 'development' to convince land-owners to sign**. There is no clear, transparent record of local content policies, making it difficult to assess how company promises match with community expectations.
- **There are a number of investments that could be classed as 'speculative'**. This has created problems with the transfer/sale of leases that are characterized by limited transparency in who is operating the investment project.
- **Surface rent payments are sometimes made through power-brokers** (such as Paramount Chiefs) whereas they should be made directly to land-owners and communities.
- **Gendered effects on food security and farming practices are determined in large part by whether the deal is for upland or seasonal lowland swamp (boliland) agricultural land**. Upland plots leased to companies are more likely to result in deficiencies in palm oil, and to push women's vegetable farming into dry season boliland planting, while boliland plots leased to companies are more likely to decrease land used for household and cash crop rice, and increase pressure and competition for upland plots.

Background

Investment into large-scale agribusiness projects in African post-conflict states is framed within broader economic reforms. On their surface, these projects boast of attracting much-needed infrastructure development, providing employment and shifts from subsistence agriculture to formal wage labor, and raising GDP.

Sierra Leone is a significant target country for large-scale land deals. The number of large-scale land deals there has increased steadily as a part of the wider pattern of large-scale land deals across sub-Saharan Africa since the 2008 food crisis and as a result of increased global demand for biofuels produced from sugar cane and palm oil. The Land Matrix database lists 647,999 hectares of contracted agricultural land deals in Sierra Leone.¹ Since its emergence from a long and destructive civil war, the national government has sought international investment as part of wider post-conflict liberal peace projects.²

Studies on land deals, such as the introduction to the 2013 *Third World Quarterly* special issue on land grabbing, and a study by Behrman *et al.* for the International Food Policy Research Institute argue that there is a need for detailed empirical work to better understand the gendered implications of land deals.³ In-depth empirical research is



Sierra Leone Agriculture plantation (photo: Caitlin Ryan)



Threshing rice
(photo: Deborah Bakker)

crucial for understanding the nuances and intricacies of how deals are negotiated and implemented, and how these processes are experienced differently by different members of the community.⁴ Gender is one, but not the only important mediating factor. Even amongst women in the same community, different women will have different experiences with land as a result of variables such as whether or not they are part of a land-owning family. Ethnographic data can help determine which factors mediate ones' experiences of the negotiations for and implementation of land deals.

The study

To address the question of how deals were made possible, negotiated and implemented, my project consisted of three months of field work in the Northern Region of Sierra Leone October 2017-January 2018, where a research team investigated 5 different investment projects across 7 chiefdoms. We conducted in-depth ethnographic research in 33 communities, including 27 with land under lease to an investment project. Methods included community meetings, farm site visits and individual interviews. We used purposive sampling to select communities and to select individuals for interviews within communities. In total, we conducted surveys and qualitative interviews with 339 people, across a range of ages, of different land-owning status and divided equally between men and women. In addition, I conducted 25 key informant interviews with relevant line ministries, local government and customary authorities, NGOs, the FAO, and the investing companies. The research questions focused on what conditions, institutions, and patronage relationships facilitated the negotiation and signing of the deals, and how communities and individuals experience their effects. I coded and analyzed the data using Atlas.ti and Stata.

Findings

The key findings relate to problems with transparency, consent, and clarity in the negotiation of the deals, with inadequate or inaccurate information and consultation during negotiations with the company. Further, only a small number of community members agree to let land that the entire community uses. There are also problems with implementation, particularly in relation to the speculative nature of two of the deals and the processes of payment that two of the companies use. Finally, the research points to the need for detailed empirical work on the gendered impacts of land deals for food and economic security, because deals



Map of Regions in Sierra Leone

located on different types of land result in different gendered affects for farmers.

Negotiating deals

Across all 5 investment deals, the Paramount Chiefs and Members of Parliament were the first who approached the communities to ask for land, and in multiple cases they were accompanied by other local 'Big Men' with patronage power in the community. Throughout all 27 communities with land under lease, there was very little clarity about the process of negotiating the deal, and frequently stories about the timeline of the process were obscure or contradictory. In part, this may represent the community's desire to present a narrative to me that clears community leaders from culpability in deciding to lease land to investing companies, but there are also several other conclusions that can be drawn about the nature of negotiating processes and Free, Prior and Informed Consent (FPIC). Firstly, the people who brought companies in to ask for land, or who asked for land on behalf of companies were known, respected and trusted by the communities. The use of these figures of authority to request land limits the scope of communities to refuse to let land. Indeed, in one community that ultimately rejected the company and where no land is under lease, multiple people reported a sustained campaign of harassment and neglect from the MP and Ward Councilor. This suggests that FPIC is compromised by the role of local power brokers. According to the National Land Policy of Sierra Leone (NLP), which is based closely on the Voluntary Guidelines for the Governance of Tenure (VGGT), FPIC is mandated for all investment deals.⁵ This is supported by interviews with key informants from the Ministry of Lands, Country Planning & Environment, Ministry of Agriculture, and the Sierra Leone Investment and Export Promotion Agency.⁶ Secondly, no community reported the presence of independent lawyers acting on their behalf, no communities reported having been given a copy of the lease to review prior to agreeing, and in some communities, illiteracy would have prevented the community from reading the lease even if it had been provided. As such, these deals do not meet the minimum requirements for FPIC. More importantly, in relation to the 3 deals where I was able to see a copy of the lease, it is evident that not all heads of land-owning families with land under lease have signed the actual lease, but rather, the land of multiple families and communities has been bundled together with only a few signatories. In the cases of two biofuels deals in the north of Port Loko District, FPIC is especially problematic. In the case of West African Agriculture, the lease for 32,442 hectares was signed in 2011 by the Regent Chief, MP and 11 other individuals. However, most communities with land under lease report that they did not hear about the company until 2012 or later. In the case of Sierra Leone Agriculture/Geoff Palm, the Paramount Chief, MP and 12 other individuals first signed a lease for 40,000 hectares in 2009, but communities' earliest recollections of the company and negotiations was in 2010, with some reporting not hearing anything about any company until 2012. In both



Village kitchen (photo: Deborah Bakker)

of these cases, a British national negotiated the initial lease through a shell company and later sold the leases. Clearly, in these cases, there is an obvious violation of FPIC that points to a broader problem with the processes of negotiating lease agreements in Sierra Leone.

Language of development

In addition to the patronage power that facilitated agreements between communities and companies, language of 'development' was deployed by companies, the Members of Parliament, Paramount Chiefs and other authority figures. Individuals in communities with land under lease frequently reported that they had been told that the company was there to 'do goodness to us' or 'to bring us development.' In particular, other reported phrases that were used in negotiations were 'elevating us from poverty' or that the Member of Parliament 'was bringing this company for us to develop.' Community expectations of the companies' responsibilities to 'bring development' were frequently unrealistic – people frequently reported that the companies had promised roads, schools, water wells, health centers and electricity, even in very small communities. Without having been present during actual negotiation discussions it is not possible to determine how many of these promises had actually been made by companies or their local representatives (such as MPs). However, it is clear that the general language of 'bringing development' has connotations and meanings for local communities, where development is associated with these goods and services. The effect is that communities agreed to lease land in part because of the language of development, and now they evaluate their feelings about the company in relation to a widespread 'failure' to bring any/all of these 'promises.' It is worth noting that none of these conditions were included in the lease agreements I was able to access. Various national and local government officials and one Paramount Chief made reference to



Leased boliland (photo: Deborah Bakker)

'local content agreements' where terms and conditions for corporate social responsibility are set out, however, no one was able to show me any of these agreements, so I have no way of validating what companies legally promised. However, it is also important to note that community elders also deploy the language of development to explain why they agreed to deals that are increasingly unpopular within the communities. Limited services in rural areas of Sierra Leone result in gendered insecurity through the absence of essential health services, safe water, and educational and economic opportunities. Investment projects that do not advance the opportunity for and availability of services perpetuate these gendered insecurities and unrealistic or false promises for economic development should not be made during negotiations for investment.

Implementing investment deals

Three of the five deals were for areas of land far greater in size than the current or intended operations. In two extreme cases, only 5,000 hectares out of a leased 32,442 and 6,000 hectares out of a leased 40,000 were under current and/or planned operation. In both of these cases the same British individual negotiated the original leases, which were sold to oil palm investors before any development of the project took place. The two companies that purchased the leases do not intend to use the full size of the negotiated lease. This type of speculative investment is problematic for communities, local and national government, and ultimately for the operating company. In one case, disagreements and misunderstandings between the communities, customary authority, and the new company about the sale of the lease and the size of the leased land under operation led to the operation being halted. This has created further grievances about stalled lease payments and loss of employment. It is heartening to hear that there are plans to reform the investment process at the national level intend to prevent such speculative investment by limiting the size of leases.

While some communities reported that the company paid the

annual surface rents to them directly, two of the companies are paying surface rents through either the Paramount Chief or the Ward Councilor. In the case where payments are made from the company to the Paramount Chief, who then pays the land owners, the annual payments reinforce particular patronage structures in the deployment of the adage that Paramount Chiefs are the custodians of the land. The new National Land Policy of Sierra Leone seeks to clarify the role of Paramount Chiefs in relation to land, iterating that this role entitles Paramount Chiefs to mediate disputes over land and give input into the negotiation of lease agreements, but that in case of 'family land' they are not the ultimate land owners, and should not exercise decision-making authority over this land. Therefore, the act of paying communities via Paramount Chiefs undermines the intended reforms of the National Land Policy. In several communities, individuals expressed tensions with the Paramount Chief, and whereas the Paramount Chief should be acting on the behalf of the people in his Chieftom, he becomes a *de facto* agent of the company in the distribution of surface rents. This points to the need for clear and implementable legislation on how surface rent payments should be made – with direct payments to land owners, as well as separate payments to local and national authorities. This being said, the (small) financial benefits of lease payments are primarily controlled by a very small number of elder landowners in the communities because of the existing customary land tenure system. Broadly speaking, women and young men do not benefit from surface rent payments, meaning that they are disproportionately losing subsistence crops and/or cash income from crops as a result of land deals.

Gendered effects on farming systems

Gendered effects on food security and farming practices are determined in large part by what kind of land is leased to companies. This difference needs greater attention in research on the effects of land deals. In the case of Northern Sierra Leone, my findings suggest that upland plots leased to companies are more likely to result in deficiencies in

palm oil, and to push women's vegetable farming into dry season boliland planting. In particular, where oil palms were cleared by the company, individuals systematically reported a decrease in production of oil for household consumption and sale. The effects on the sale of oil are gendered because of the gendered division of oil production. Women report a loss of cash income from the sale of (less valuable) palm kernel oil, and men report a loss of cash income from the sale of (more valuable) palm fruit oil. For women, this means less cash for school fees and own individual needs, and for men this means less cash for household repairs and medical costs. In addition, where increased competition for remaining upland farms increases, women's vegetable farming is pushed into the boliland during the dry season, where possible crops are more limited and where labor, such as for watering and fertilizer is intensive.

In cases where boliland plots are leased to companies, there is greater likelihood of decreased household and cash crop rice, increasing reliance on bought rice or substitute crops such as cassava, as well as increased pressure and competition for upland plots. Both male and female farmers reported that increased pressure for upland plots frequently results in using shorter fallow periods, thereby decreasing the land's carrying capacity over time.

Implications

Despite variation across the 5 deals in terms of processes of negotiation, degree of speculative investment, processes of payment, and effects on farming, there is broad similarity in terms of how local systems of patronage and language of 'bringing development' are deployed to generate agreement for investment deals in a local context of extreme poverty, food insecurity, and low educational levels. Deals are facilitated by a number of convening factors that favor companies and local authority figures at the expense of communities' informed and realistic understanding of the likelihood of such deals to bring meaningful local development.



Upland farm (photo: Caitlin Ryan)

While investing companies and the national government share the bulk of the responsibility for the flawed negotiating and investment processes and problematic plantation operations, there are also more grounded problems located within community decision-making processes that favor a very small number of individuals, and the subsequent distribution of benefits from investment that frequently re-inforce these power dynamics. In this sense, reform to the procedures for investment, such as those underway by the Ministry of Lands, Country Planning and Environment, Ministry of Agriculture and Sierra Leone Investment Promotion Agency are necessary, but insufficient on their own without systematic and grassroots changes to local understandings of decision-making and equal rights in ownership. In relation to the 5 themes of this brief, I present 5 concrete recommendations for changes.

Policy recommendations

1. Members of Parliament and Paramount Chiefs should not advocate on behalf of investing companies, but instead should advocate from the side of local communities in the process of negotiating deals.
2. Companies and local power brokers should refrain from using vague language of 'development' and should instead be much more direct and explicit about intended benefits as well as potential drawbacks of investment deals. Independent lawyers who speak the local languages (Temne, Mende, etc.) should be present at every meeting to ensure that vague and overly optimistic language is not used.
3. Firm legislative measures should be enacted in law to prevent speculative investment, including preventing the sale of leases where no operations have started.
4. Surface rent payments should be made directly from companies to land owners to avoid situations where Paramount Chiefs or other local authorities act as *de facto* agents of the company by distributing payments.
5. The Ministry of Agriculture should develop firm and implementable programs of extension targeted at the specific changes to farming that both male and female farmers will face after the implementation of different kinds of investment deals.

Notes

- 1 LandMatrix,(2016) "Online Public Database" www.landmatrix.org; Land Matrix (2016) Large Scale Land Acquisition profile: Sierra Leone https://landmatrix.org/media/filer_public/96/6f/966f59b6-5d89-4014-a3b3-5a77a55170f1/sierra_leone_cp_digital_version_final.pdf
- 2 Cramer, C. and P. Richards. "Violence and War in Agrarian Perspective." *Journal of Agrarian Change* 11, no. 3 (2011): 277 – 97.; Richards, P. "To Fight or to Farm? Agrarian Dimensions of the Mano River Conflicts (Liberia and Sierra Leone)." *African Affairs* 104, no. 417 (2005): 571 – 90.; Millar, G. "Investing in Peace: Foreign Direct Investment as Economic Restoration in Sierra Leone?" *Third World Quarterly* 36, no. 9 (2015): 1700-1716.

- 3 Behrman, J.R. Meinzen-Dick, and A. Quisumbing. "The Gender Implications of Large-Scale Land Deals" *The Journal of Peasant Studies* 39, no. 1 (2012): 49-79; Daley, E. *Gendered Impacts of Commercial Pressures on Land*. Rome: International Land Coalition, 2011. <http://www.landcoalition.org/en/resources/gendered-impacts-commercial-pressures-land>; Edelman, M. C. Oya, and S. Borras. "Global Land Grabs: Historical Processes, Theoretical and Methodological Implications and Current Trajectories." *Third World Quarterly* 34, no. 9 (2013): 1517.
- 4 Millar, G. (2018) "Co-opting Authority and Privatizing Force in Rural Africa: Ensuring Corporate Power over Land and People" *Rural Sociology* (published in Online First <https://onlinelibrary.wiley.com/doi/abs/10.1111/ruso.12203>).
- 5 Government of Sierra Leone. 2016. National Land Policy of Sierra Leone. Ministry of Lands, Country Planning and the Environment. <http://extwprlegs1.fao.org/docs/pdf/sie155203.pdf>.
- 6 Key Informant Interview 6, 3/1/18, Freetown; Key Informant Interview 7, 4/1/18, Freetown; Key Informant Interview Nine, 5/1/18, Freetown.

Research and publications

About

This Policy Brief is a synthesis of the author's project on gender and land deals in Sierra Leone. Folke Bernadotte Academy funded the project. The findings will also be published in two forthcoming journal articles, one book chapter in an edited volume, and a monograph.

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Selection of publications

- Ryan, C. (2017) 'Large-scale land deals in Sierra Leone at the intersection of gender and lineage' *Third World Quarterly*
- Ryan, C. (2018) '(Analog) mapping the knowable and ways of knowing: Relational ontologies of chickens and ancestors in rural Sierra Leone' in *Mapping and Politics in the Digital Age* Simon, E., Chandler, D. and Bargués-Pedreny, P. London: Routledge *forthcoming*.

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