

# Annual World Bank Conference on Land Policy and Administration

## **ACQ3: Social and Environmental Aspects of Large Scale Agricultural Investments**

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**3:00 – 4:30 PM**

# ABOUT THE AUTHOR

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# LAND OWNERSHIP AND POWER

- Ownership of land in Liberia has been a long and drawn out issues dating back to the time when the first settlers arrived on these shores. The settlers reported to have “bought” the land which they occupied from the aborigines in 1821. That report was indicative of their acknowledgement of the ownership of the land by the aborigines.

# LAND OWNERSHIP AND POWER

- The settlers wrestled ownership of the land from the aborigines through legislative enactments which tied ownership of land to citizenship. For example, Article V, Sections 12, 13 and 14 of the 1847 Constitution clearly specified who can own land in Liberia. Excerpts of Article V and the sections referenced follow:

## LAND OWNERSHIP AND POWER

- “Sec 12: No person shall be entitled to hold real estate in this Republic, unless he is a citizen of the same. Nevertheless, this article shall not be construed to apply to Colonization, Missionary, Educational or other benevolent institutions, so long as the property or estate is applied to its legitimate purposes”.

## LAND OWNERSHIP AND POWER

- “Sec 13: The great object of forming these Colonies, being to provide a home for the dispersed and oppressed children of Africa, and to regenerate and enlighten this benighted continent, none but Negroes or persons of Negro decent shall be eligible to citizenship in this Republic”.

## LAND OWNERSHIP AND POWER

- “Sec 14: The purchase of any land by any citizen or citizens from the aborigines of this country for his or their own use, or for the benefit of others, or estates in fee simple, shall be considered null and void to all intents and purposes”.

## LAND OWNERSHIP AND POWER

- Freehold property can only be acquired by Liberian citizens. However, foreigners may obtain long-term leases subject to government approval.
- Illegal sale and resale of land, multiple ownership claims to the same parcels of land characterize the current unstable land tenure system in Liberia.

# LAND OWNERSHIP AND POWER

- Until October 20, 2009 when “An Act to Establish the Community Rights Law of 2009 with Respect to Forest Lands” was approved by the President of Liberia and published by authority, local communities inhabiting “unencumbered land” were classified as “squatters” and, consequently, totally excluded by the government from decision-making relative to large-scale acquisition of land by investors.

## NATIONAL DEBATES REGARDING LAND OWNERSHIP AND LARGE-SCALE INVESTMENTS

- Land ownership debate in post-war Liberia is very active,. The issues of land rights, administration, management, sale, possession, occupancy, control and distribution have posed major challenges for a peaceful post-war Liberia.
- Many local farmers who depend on subsistence farming are afraid that large companies will take away “*their land*” and they will have no other ways to survive.
- At the community level across the country, there are “*peace threatening*” land disputes amongst community members.

## NATIONAL DEBATES REGARDING LAND OWNERSHIP AND LARGE-SCALE INVESTMENTS

- The Government of Liberia has promulgated An Act to Establish Community Rights Law of 2009 with Respect to Forest Lands which was approved by the President of Liberia on October 16, 2009 and published by Authority of the Ministry of Foreign Affairs, Republic of Liberia.

## NATIONAL DEBATES REGARDING LAND OWNERSHIP AND LARGE-SCALE INVESTMENTS

- A Land Commission has also been established, approved August 4, 2009, in order to judiciously, efficiently and adequately resolve all the issues surrounding land in Liberia and to maintain a peaceful and stable society wherein every Liberian citizens will be afforded an equal opportunity to own, use and dispose land in accordance with the laws of the Republic; and to also evolve robust land policy, law and programs by promulgating the requisite land use regulations and guidelines within appropriate institutions, and to establish and maintain an autonomous agency/commission dedicated to pursuit of such desired goals and objectives.

# AGRIBUSINESS AND FORESTRY SECTOR INVESTMENTS

- Agriculture contributes to over 70% of the GDP. Rice is one of the principal cash crops as well as staple food. Other principal crops grown in Liberia include rubber, cocoa, coffee, oil palm, sugar cane, cassava and to a lesser extent, a variety of fruits and vegetables. Livestock include cattle, pigs, goats and poultry. The country can boast of tremendous resources and therefore, major potential for increasing agriculture production for local consumption and export.

# AGRIBUSINESS AND FORESTRY SECTOR INVESTMENTS

- Rubber is the second most exported foreign exchange-earning cash crop. Rubber is cultivated both by large foreign companies and smallholder Liberian farmers, with the foreign companies controlling about half of the area under rubber cultivation.
- Timber is Liberia's third major export commodity. Almost half of the country is covered with forests.

## INVESTMENT IMPLEMENTATION ARRANGEMENTS AND SOCIAL EFFECTS

- Allocation of large tracks of land for concessions in Liberia by the government usually does not consider the rights, interests and claims of local communities.
- Local communities inhabiting “*unencumbered land*” are encroached upon without regard to their culture, environmental concerns and economic livelihood needs.

# SOCIAL CONTRACTS AND RESPONSIBILITY

- Prior to the enactment of the National Forestry Reform Law of 2006 followed by enactment of the Act to Establish the Community Rights Law of 2009 with Respect to Forest Lands, no social contracts existed between concessions and affected local communities in Liberia.

# SOCIAL CONTRACTS AND RESPONSIBILITY

- The Government of Liberia does not involve affected local communities in the formulation of Concession Agreements.
- The Government of Liberia does not make Social Contracts an integral part of Concession Agreements which renders same legally non-binding and non-enforceable.

## **SOCIAL IMPACTS:** Job Creation and Social Responsibility

### Context

Liberia has remained mostly a centralized country with much job-related opportunities available in the urban areas, mainly Monrovia, the capital city. In the local government context, there are very few personnel at the county and district level; most government employees work from the capital. Local small businesses may employ a few persons locally mostly as unskilled workers. Most people in the interior depend on farming for sustenance and livelihood.

## **SOCIAL IMPACTS:** Job Creation and Social Responsibility

<b>Positive</b>	<b>Negative</b>
The large investment companies create more job opportunities for residents living within the concession areas as well as expatriates; they also provide social services such as education and healthcare for employees; they improve infrastructure such as roads and bridges which facilitate easy movement of people and goods in the concession area.	Unimplemented labor laws and policies pose challenges to the labor force because the investors decide unilaterally what wages to pay for labor; and dismiss the labor force at will without legal repercussions, e.g. workers in LAC and ADA Commercial Inc. complained of dismissals at will without reference to labor regulations.

## **SOCIAL IMPACTS:** Job Creation and Social Responsibility

Wages paid to local employees infuses cash into the local economy and helps to boost trade and commerce; reduces crime (particularly amongst employees who would have been potential criminals without a job), e.g. in the ADA Commercial Inc. concession area most of the unskilled workers are ex-combatants who are desperate for income for survival.

Unimplemented labor laws and policies pose challenges to the labor force because the investors decide unilaterally what wages to pay for labor; and dismiss the labor force at will without legal repercussions, e.g. workers in LAC and ADA Commercial Inc. complained of dismissals at will without reference to labor regulations.

## SOCIAL IMPACTS: Job Creation and Social Responsibility

### Competition for employment

Because local workers are mostly illiterate and unskilled, the investors bring in skilled workers from outside the concession area and the local population considers this as depriving them of employment opportunities that they are entitled to. For example, in the ADA Commercial Inc. concession area, the local population complains of ADA Commercial Inc. hiring workers from Sierra Leone and Guinea, thus depriving them of available jobs. This is one source of discontent and conflict between ADA Commercial Inc. and the communities in the concession. Similar discontent is also expressed in the LAC concession area that the company is fond of hiring outsiders instead of giving those job opportunities to the local residents.

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## SOCIAL IMPACTS: Job Creation and Social Responsibility

Hazardous working environment	Most workers like the rubber tappers in the LAC are exposed to harmful chemicals used to coagulate latex. Workers are not provided the required safety and health protection kits.
Working conditions	<ol style="list-style-type: none"><li>1. Housing facilities for unskilled laborers who are the majority in these concession areas is mostly not conducive (lacks basic amenities like toilets, family space and proper ventilation).</li><li>2. Unfair labor practices such as a) employment contracts not clearly spelling out employment policies, wages and benefits; b) employment done without regard to Liberian Labor Law; arbitrary dismissal of workers with due redress and compensation; and c) slave labor, i.e., workers walking 15-20 km to/from work daily and constantly working for more than 8 hours/day.</li></ol>

# SOCIAL IMPACTS: Conflict

## Context

The Government of Liberia does not consult with communities when negotiating concession deals that require large-scale acquisition of land for agribusiness and large-scale commercial forestry; social contracts are not integrated into Concession Agreements.

## Impact

Conflicts emanating from the lack of consultation with communities results into unfavorable relationship between the concessionaires and affected communities.

## Reasons

Attempts to leave out communities in participating to negotiate and formulate concession arrangements lead to conflicts between the investments and those communities. In the cases of the ADA Commercial Inc. and LAC concessions, communities were not represented.

# SOCIAL IMPACTS: Conflict

The Act to establish the Community Rights Law of 2009 with respect to forest lands is helping to ensure community participation in negotiating social agreements to accrued benefits from the concessions. For example, at the Alpha Logging & Woodprocessing Incorporated, one of the two districts in which the concession is located have already signed a social agreement, while the other district is still in the process of negotiating the social agreement. In the second phase of the ADA Commercial Inc. operation commencing 2010, the ADA Commercial Inc. plans to involve the Foya District citizens in discussing and negotiating a social agreement.

To mitigate unfavorable relationships between the concessionaires and affected communities.

Residents of affected communities disgruntled with concessionaires.

Importation of skilled workers into the concession areas, particularly foreigners.

# SOCIAL IMPACTS: Conflict

Social Agreement not legally enforceable.	Social Agreements are not a part of the Concession Agreements or Forest Management Contracts (FMCs). The Social Agreements are “at will” or “good will gesture” agreements between concessionaires and affected communities.
Violent resistance to expansion of the commercial operations of concessionaires.	Forceful displacement and dispossession of communities of farmland which is their sole source of livelihood, by the Government of Liberia and concessionaires.
Challenges to the legitimacy of the authority of the Government of Liberia.	Disenfranchisement of affected communities by the Government of Liberia by classifying them as squatters who have no land rights.

## **SOCIAL IMPACTS:** Displacements

- In the three cases studied in this work assignment, affected communities have suffered displacements at various level, e.g., in the LAC expansion drive, several whole communities have been displaced and LAC is pushing the Government of Liberia to remove 12 whole communities from 2,500 acres of inhabited land to enable the company to expand its existing rubber plantation.

## **SOCIAL IMPACTS:** Displacements

- At the ADA Commercial Inc. concession in Foya District which is quite newly established, some community members have migrated from their communities in search of farmland because the ADA Commercial Inc. operations has taken away the land previous occupied by these farmers.

## **SOCIAL IMPACTS:** Unmet Expectations

- Concessions not operating at scale because they have not reached agreement with local communities; which affects job creation.

# CONCLUSIONS

**Positive and negative impacts of large-scale investments in Liberia:**

**Positive:** Large-scale investments contribute to local economic growth of the communities that benefit, including social services such as healthcare and education.

**Negative:** Large-scale investments have potential for environmental degradation over the long term is quite a threat to the existence of affected local communities. Some of the investment companies do not give much attention to safeguarding local communities from the pollutions that result from their operations.

# CONCLUSIONS

- **Government Policies & Investment Decisions that help/hurt local communities**

1. The Government of Liberia did not consider the involvement of local communities in developing concession agreements in the past. The government takes lead role in negotiating and consummating the concession agreements but takes the back seat when it comes to resolving implementation challenges between the investors and the affected local communities.

# CONCLUSIONS

- **Government Policies & Investment Decisions that help/hurt local communities**

2. Generally, taxes paid by investors are put directly into the central revenue system of the government, leaving the affected local communities with no direct access to benefits.

# CONCLUSIONS

- **Government Policies & Investment Decisions that help/hurt local communities**

3. The Government of Liberia does not take an active role to ensure implementation of “Social Contracts”; this is rather left to the affected local communities to work out with investors on a “good will gesture” basis. This is a major source of conflict between local communities and investors.

## NEXT STEPS TO IMPROVE THE IMPACT OF LARGE-SCALE INVESTMENTS ON AFFECTED LOCAL COMMUNITIES

- The new *Act to Establish the Community Rights Law of 2009 with Respect to Forest Lands* has removed the stigma associated with the classification of the indigenous people of Liberia as “squatters” and restored their rights to “forest lands”. This has laid the foundation for local communities to partially participate in the implementation of concessions awarded to local and foreign investors by the Government of Liberia.

## NEXT STEPS TO IMPROVE THE IMPACT OF LARGE-SCALE INVESTMENTS ON AFFECTED LOCAL COMMUNITIES

- Notwithstanding, the Government of Liberia needs to do more to enable affected communities fully realize the benefits of the concept of “Social Agreements” between investors and affected communities by incorporating social agreements into Concession Agreements and Forest Management Contracts to make the commitments undertaken by the parties to the social contracts legally binding and enforceable.

## NEXT STEPS TO IMPROVE THE IMPACT OF LARGE-SCALE INVESTMENTS ON AFFECTED LOCAL COMMUNITIES

- The Government of Liberia must be called upon to implement the Labor Laws of Liberia fairly, transparently and strictly in the interest of both investors and workers. Abusive labor practices need to be stopped; and hazardous working conditions must be improved for workers in all sectors of the Liberian economy.