

A photograph of a dirt road in a rural village. The road is reddish-brown and leads into the distance. On the left, there are several small, simple houses with corrugated metal roofs, surrounded by lush green vegetation and trees. The sky is bright blue with scattered white clouds. The overall scene is peaceful and rural.

Our land. Our rights.

LAND GRABBING IN LIBERIA AND THE CASE FOR A NEW UK LAW



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Summary

All around the world, businesses are looking to buy up land for commercial farming. But there are almost always communities already there, dependent on the land for shelter and livelihoods and with links stretching back for generations.

In Liberia, the UK company Equatorial Palm Oil have established huge plantations of oil palm, which it hopes to export for use in processed foods and toiletries around the world.

However, the residents affected by the plantations allege that the land belongs to them and was taken without their consent, leaving them without a means of earning a living. Community members who protested were beaten and the promised benefits – from compensation payments to employment opportunities to a health clinic – have not materialised.

This is just one example of a global problem, where the rights of communities are secondary to those of big corporations.

To ensure that British businesses act responsibly in their overseas operations, Traidcraft Exchange is calling on the UK government to pass a law requiring companies to assess their impact on human rights and the environment and holding those companies responsible in the courts if abuses do occur.

Introduction

Land is more than just earth and grass. Land is food, shelter and security. Land is freedom, culture and identity. But the ownership and use of land around the world is heavily contested.

The global population is growing, and with it the demand for food, water and energy. This requires land, which is in increasingly short supply. Private investors and national governments have responded to this situation by 'land grabbing': claiming ownership over large areas of land in an opportunistic or unlawful manner. Grabbed land could be used for agriculture, mining, energy projects or water – but it almost always boils down to extraction and profit.

Richer countries used to colonise or enslave poorer countries in order to exploit their human and natural resources. In the 21st century, land grabs have seen businesses take the lead in exercising dominion over parts of Africa, Asia and Latin America in what can be seen as modern-day corporate colonialism.

According to 2016 estimates based on the Land Matrix database, UK companies are involved in 124 international land deals covering a total of almost 2 million hectares, which is roughly the size of Wales.¹

Very little land is empty. Even land that appears unoccupied is often used by local communities for grazing or foraging or holds cultural significance. So when a corporate land grabber lays claim to an area of foreign soil, they frequently come into conflict with communities already living on or using that land. It is for this reason that land grabbing is most prevalent in countries desperate for investment where rule of law is weak. Liberia, in West Africa, is one such country.

Background to Liberia

Liberia is a unique country. It was founded by former slaves from the United States of America who saw the picturesque stretch of Atlantic coast as a place where their freedom could be guaranteed.

Recent years have been extremely difficult for Liberia. Political instability in the 1980s gave way to a long period of brutal civil war that only drew to a close in 2003, leaving a divided and traumatised population. Post-war economic development has been slow, hindered by the Ebola epidemic of 2014-15, and today Liberia's per capita GDP of \$674 places it amongst the very poorest countries in the world.²

Foreign corporations have long exercised power in Liberia. In the 20th century the American rubber company Firestone held the rights to 4% of Liberia's land. In the civil war years, Firestone played a critical role in propping up the regime of warlord Charles Taylor. In return for being allowed to continue operating in Liberia, Firestone paid Taylor millions of dollars to finance his war.³

Today 40% of Liberians live on land that has been signed over to foreign investors: either mining corporations or agriculture companies that are setting up huge plantations for timber, rubber and palm oil.⁴

The victims of this great Liberian land grab are the people themselves, who are reduced to squatters on the land their families have occupied for generations. This is profoundly damaging to lives and livelihoods. For rural Liberians who farm, fish and hunt, land provides food, income, shelter, and security against the future.

Some of Liberia's most controversial land deals have been made with foreign palm oil companies.

Palm oil

Palm oil has become near-ubiquitous in Western supermarkets. It has been estimated that half of all manufactured products – including cookies, chocolate, lipstick and shampoo – contain palm oil.⁵ It is cheap to produce and more versatile than other vegetable oils owing to its relatively high melting point. Most palm oil comes from Indonesia and Malaysia, where NGOs and community groups have drawn international attention to the destructive effects of the crop. Deforestation to establish palm oil plantations has devastated ecosystems, driving many species, from orangutans to Sumatran tigers, towards extinction. It has also been reported that plantations have used child labour and forced labour.⁶

The global appetite for palm oil is growing, and West Africa is the next frontier for the plantation companies. The palm oil sector was the largest source of foreign direct investment into Liberia in the decade after the civil war ended in 2003.⁷ Liberia sees palm oil as crucial to its economic development, and has granted 'concession agreements' to four foreign palm oil companies, including the UK company Equatorial Palm Oil.



Equatorial Palm Oil in Liberia

Equatorial Palm Oil (EPO) is headquartered in London's Piccadilly and registered on AIM, a sub-market of the London Stock Exchange.

It was founded in 2005, and a Malaysian palm oil giant has been the majority shareholder since 2013.⁸

EPO has signed a 'concession agreement' with the Government of Liberia to develop and operate two large palm oil plantations: Palm Bay and Butaw. These agreements were made without properly consulting and gaining the consent of the communities who had owned and used that land for generations.

In November 2019, Traidcraft Exchange visited villages in and around EPO's Palm Bay plantation and spoke to community members about their experience dealing with the company.

Broken promises

EPO arrived in Palm Bay in 2012 with big promises. They would bulldoze the trees and crops around the villages and use it to expand the oil palm plantation. In return the communities would be handsomely compensated with large cash payments for the crops that were destroyed. Five villages handed their land to EPO. None signed a contract or a Memorandum of Understanding with the company. The promised compensation has not been paid.

They started counting the crops. When they concluded the counting and it was time for the payment they changed the price from \$97.92 to \$6 [for each rubber tree]. When we asked what was the reason, they told us that the government had changed the price. But if the government had changed the price why were we not notified?

G HILARY GBAH

EPO's Liberian estates

Palm Bay Estate

- Established in the 1960s, when the original concession-holder evicted local inhabitants and destroyed their villages.
- EPO's agreement with the Liberian government grants them 13,000 hectares, with expansion rights over a further 20,234 hectares.
- EPO has been accused of illegally clearing land, breaking promises made to communities and being complicit in violence and intimidation.

Butaw Estate

- The concession agreement, signed in 2008, gives EPO 8,750 hectares of oil palm, with the option to expand into 46,539 hectares.
- EPO struggled to identify areas for expansion of the plantation, since some parcels of land were subject to competing claims by different tribal groups.
- In November 2019, EPO made all the workers redundant, closing the school and the clinic. EPO now seems to be looking for a buyer to run the plantation.



It wasn't just the compensation. The company also promised the villagers that they would bring employment, fix the roads, and fund schools and clinics. Again, the reality has fallen woefully short. The handful of job opportunities available to the community have been contractor positions. This is ill-paid and insecure work, and people complained of being paid late, having their wages docked for no reason and being exposed to harmful chemicals without adequate protective gear.

Without land, villagers have been left without the means of growing food or earning an income. Many are reduced to working the fields in nearby villages for a small wage, and have lost food security and self-sufficiency.

There is no farming here. As you can see, the palm farm goes around the side [of the village]. We're in a circle.

HANNAH NAGBE

The level we are living in is very deplorable. We are starving to death. We can only survive when we go to our neighbour and work for them. They give us a small thing – that's the only way we can eat.

G HILARY GBAH



At the time they said if we agreed to give the land in return they would build hospital and school for us ...it has not happened.

MARIE MENYON

Violence and threats

Communities that have resisted EPO's attempts to grab their land report having been subjected to violence and intimidation.

This began in 2013 when EPO came to survey the land in preparation for expanding their plantation.

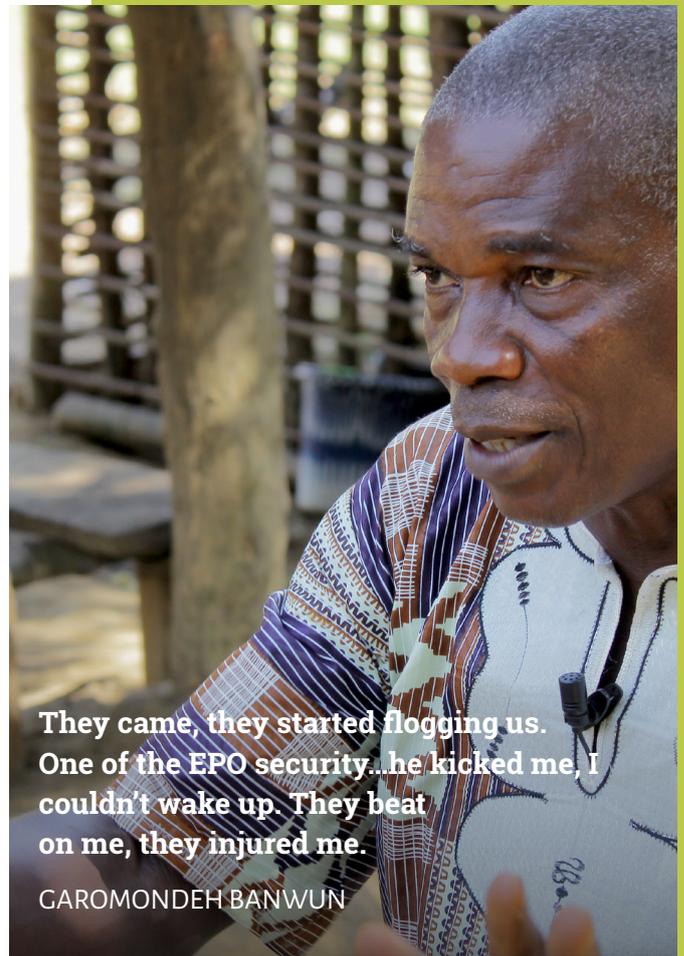
Alarmed by the survey of their land and suspicious of the company's intentions, 300 villagers began to march peacefully on Buchanan, the regional capital. On the way, they were intercepted by EPO security guards and armed Liberian police.

They brought the surveyor, brought them with armed men. Since the war finished in Liberia, that was the first day that we had seen armed men. We were afraid.

GAROMONDEH BANWUN

We left from here to go and meet our lawmakers in Buchanan...we were going and we were flogged on the way going there

LUKE FREEMAN



They came, they started flogging us. One of the EPO security...he kicked me, I couldn't wake up. They beat on me, they injured me.

GAROMONDEH BANWUN



[They are] going to the various towns, talking to one or two persons, giving them small things, you know, a bribe. For them to go and talk to people for them to get extension.

LUKE FREEMAN

In just recent times a few towns and villages agreed and gave a portion of their land and cannot receive the benefit of their own crops down there. So what is going to motivate me to give mine?

LUKE FREEMAN

Continued pressure

The complaints about broken promises by those villages that handed over their land, coupled with EPO's violent and abusive approach to settling disputes, has meant that the remaining communities are reluctant to give any more land to the company.

This is unlikely to be the end of the story. EPO's agreement with the Liberian government allows for the plantation to be expanded by many thousands more hectares. Although new Liberian law states that any new land deals must be ratified by the collective consent of the community (see: 'Ethical Land Deals'), villagers report that EPO has been illegitimately targeting individuals.

We are not against the company. Are you getting me? The company come to develop. But where they can't develop us – that's the place we have a problem.

DEVIN HARRIS

They are using all types of methods. They are mentally abusing and they are breaking the relationships in the community, they are dividing people.

GAROMONDEH BANWUN

Sustainable palm oil

The business model of commercial palm oil production is based on large monoculture plantations. Almost always, these result in the destruction of forests and the trampling of land rights of indigenous peoples.

The Roundtable on Sustainable Palm Oil (RSPO) certifies plantations and palm oil companies as 'sustainable' and gives manufacturers the right to use its widely-recognised label on packaging. 75% of total palm oil imports to the UK are RSPO-certified.¹⁴ EPO is a member of the RSPO.

However, the RSPO has been widely criticised as weak. A letter endorsed by more than 100 organisations, ranging from mainstream charities to local groups across the world, claims that "the RSPO has been used by the palm oil industry to greenwash corporate destruction and human rights abuses".¹⁵ RSPO certification is not adequately supported by monitoring and sanctions.

The RSPO has not revoked the membership of EPO, even though the company has manifestly failed to meet RSPO's core standards in Liberia. Communities live in suspicion of further land grabs.

Palm oil sourced from smallholders, with safeguards to ensure that purchasing is done fairly, may be the best way forward. The major palm oil companies in Liberia, including EPO, are contractually obliged to develop 'outgrower' programmes, but these have not been prioritised.¹⁶ More successful schemes do exist. Serendipalm in Ghana is a cooperative made up of local farmers who produce sustainable palm oil to fair trade and organic standards.¹⁷ Their oil can be found in Traidcraft's Clean and Fair cleaning products, as well as in Dr Bronner's toiletries.

Ethical land deals

Although the recent Land Right Act clarifies that the land belongs to the people, land ownership in Liberia has often been complex, and the government, private investors and communities claim rights over different sections of land. Land deals therefore require honest and fair engagement if they are to uphold human rights. Too often, land deals have been signed off by national governments without the consent of citizens, or by individuals with a bogus claim to represent the community.

Free, prior and informed consent (FPIC) is a process, now enshrined in Liberian law, that provides a model for fair and transparent land deals.¹⁸ It requires that, in advance of any land transaction, potential buyers secure the consent of community representatives, who must be given all relevant information to inform their choice and must not be subjected to coercion.

EPO failed to secure FPIC from the past and present communities whose land was subsumed into Palm Bay estate. It is clear that any forthcoming UK law must require that companies conduct FPIC as part of their plan to mitigate the risks that they pose to human rights.

What next?

The agreements made between the Government of Liberia and EPO include farmland that was previously used for oil palm cultivation before falling out of use during the wars of the 1990s. EPO replanted these areas and has concentrated on rapidly expanding into adjacent areas.

But EPO is finding out that annexing new land cannot be done as quickly and cheaply as it had assumed. That land is owned and farmed by local communities, who have appealed to international NGOs and the media when they came into conflict with EPO staff.

However, communities are at pains to emphasise that they are not against foreign investment or palm oil farming; indeed, they recognise it as a possible route to much-needed development. They just want to avoid entering into an unequal, unfair relationship that would ultimately see them pay the price with their future.

The portion of land that's left here with us here is very small....and then if EPO is having to take this portion of land from us...where are we going?

LUKE FREEMAN

It is fine for a company to come here because it's a development. But the land that people agree to give. That's what they should use. They shouldn't force nobody from their land to plant palm there

GAROMONDEH BANWUN

The case for a new law protecting human rights

Equatorial Palm Oil has brought some investment and employment to Liberia, a poor country in urgent need of economic development. But this investment has come at too high a cost to those people who have been beaten, lied to and left destitute. And this is far from the only example of a UK company abusing human rights overseas: evidence of abuses can be found in a range of sectors, from mining to agriculture to private security.⁹ If the UK's commitments to defend human rights are to mean anything, companies must be held accountable for their role in commissioning and benefitting from human rights violations.

Companies should act responsibly and be held accountable

The UK government should introduce a law that does two things: Requires UK companies to conduct due diligence on their human rights and environmental risks. EPO should have been obliged to assess the potential impact of a large-scale land acquisition on communities in rural post-conflict Liberia and make a plan to mitigate those risks. Instead, they pushed ahead in pursuit of quick profits. Conflict with the communities was a predictable, and therefore preventable, consequence.

Holds companies accountable in the courts if they abuse human rights. If UK companies are acting with impunity overseas, they should be tried in UK courts for their human rights violations. This already happens for other types of 'cross-border' crime such as bribery or tax evasion. A law clarifying the responsibility of a company to respect human rights in its international operations would make it much easier to bring cases to the UK courts.

This should be a UK law

Equatorial Palm Oil enjoys the economic and legal stability and access to investment that comes with being registered in the United Kingdom. This should come with an enhanced responsibility to protect human rights and the environment.

This is a position with majority support amongst business leaders in the UK. A 2015 poll found that 89% of UK business leaders agreed with the statement 'British companies operating in developing countries should have adequate systems in place to prevent any harm being caused to workers or local communities by their operations in those countries'. Furthermore 69% agreed that 'British companies operating in developing countries should be held accountable in the UK for any harm they cause to workers or local communities in the developing countries'.¹⁰

It would be preferable for crimes in Liberia to be prosecuted in that country. Liberian law does enshrine human rights and land



rights. However, the relative lack of resources and experience available to Liberian prosecutors may make it difficult for them to hold large international investors properly accountable in the courts. And even if that were not the case, there would be nothing to stop a company establishing itself in a neighbouring country with laxer regulations. Also, these are often 'cross-border' violations where decisions made in the UK result in violations overseas. The individuals to be tried may be based in the UK and profits may accrue to a UK bank account. Clearly, if UK companies are to be a force for good globally, it is UK legislators that must take the initiative.

The urgency of this is underlined by the role of the City of London, which is a major centre for land grabbing. Many businesses that finance big land deals are headquartered in the City and registered on the London Stock Exchange. Investment comes from UK financiers, from pension funds to venture capitalists to UK aid money. And where profits are made, they are often paid into UK accounts.

The UK has been pioneering when it comes to laws relating to business and human rights. The Companies Act specifies the duties of Directors, while the Modern Slavery Act requires companies to publish information about the modern slavery risks in their operations and supply chains.

Yet in recent years the UK has lagged behind other countries. The French Devoir de Vigilance law, passed in 2017, requires large companies to properly assess the human rights risks in their supply chains, and take measures to address them. And similar laws are under discussion in Switzerland, Germany and the Netherlands.

Response from Equatorial Palm Oil

“Thank you for reaching out to us and for sending us the results of your research in Liberia. We were sorry that the individuals that you spoke to felt there had been broken promises.

As a company, EPO believes it is fundamental that we respect human rights in everything we do. Our Sustainability Policy commits us to respecting, supporting and upholding fundamental human rights, and we encourage the application of our policy amongst our business partners including contractors, suppliers, trading and joint venture partners.

The issues discussed in your report date from 2013, and matters have evolved since then – as further described in the EPO Sustainability Reports from 2015, 2016 and 2017.

In 2016, after a year-long consultation process including the local Jodbahn clan communities on Palm Bay estate, Liberian government, SDI (local NGO), other international NGOs a Memorandum of Understanding (MoU) was signed such that EPO would seek to respect the customary rights of the local communities to their land and respect their wishes to develop, or not develop, as the case may be.

This was a significant milestone, and we were pleased to see that our MoU was widely reported as a showcase for the development of oil palm with local communities. To this day, we commit to the RSPO industry standard of free, prior and informed consent, and we do not develop on land that communities do not wish us to do so.”

Equatorial Palm Oil's full response can be found:

www.traidcraftexchange.org/responsefromEPO



Conclusion

The fundamental purpose of a new law would be to ensure that the rights of communities in places like Liberia are not infringed by powerful corporations allowed to run wild by the failure of the UK to properly regulate corporate behaviour. This is imperative.

However, there is also a case to be made that such a law would be helpful to businesses. EPO is not a successful undertaking. It has sunk millions of dollars into Liberia for little profit. Given the relations between the company and the nearby communities, the prospects of further expansion seem slim. EPO is now seeking to sell off at least half of its plantations, and land disputes are referred to in corporate documents as 'factors outside of the Company's control, which resulted in slower than planned development of the concession areas'.¹¹

If EPO had been required to conduct and publish an assessment of its plans it might have concluded that expanding its plantations into land that was already occupied and farmed was incompatible with protecting human rights. At the very least, it would have given greater priority to securing community consent and gained a greater understanding of the local dynamics and how to best engage with the community.

This problem of international investors grabbing land and then becoming mired in conflict with the residents of that land is found elsewhere in Liberia, in West Africa, and beyond.¹² Responsibility lies in large measure with companies and their investors, but it is also clear that a new legal framework is urgently needed.

Businesses will still be able to invest, providing jobs and economic development. But it does call time on the model of prioritising profit over people and planet.



Recommendations

To the UK government

- Legislate to require UK-linked companies to respect human rights and the environment, and hold them accountable for failure to do so¹³
- Support the development of the UN Binding Treaty on Transnational Corporations

To the Liberian government

- Ensure that the Land Right Act 2018 is properly implemented and enforced
- Provide support for fair negotiations between companies and communities
- Support the education of communities about their rights under the Land Rights Act
- Monitor the compliance of the palm oil companies with international laws and standards
- Support a transition from a plantation model of oil palm production to a more socially and environmentally sustainable smallholder model that protects the land rights of communities

To investors and financiers

- Require that any investment in companies engaged in land transactions is subject to enhanced due diligence, including a full human rights and environmental impact assessment

To consumers and citizens

- Call on the Prime Minister to introduce a law requiring UK companies to respect human rights and the environment
- Call on your MP to support the development of such a law
- Write to companies using palm oil asking them to share their evidence that the palm oil in their products isn't grown on illegally grabbed land. This may be a list of the sites where the palm oil is produced.





Endnotes

- 1 p15, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578007/EXPO_STU\(2016\)578007_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578007/EXPO_STU(2016)578007_EN.pdf)
- 2 World Bank, 2018, <https://data.worldbank.org/indicator/ny.gdp.pcap.cd>
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- 4 From Friends of the Earth interview with a Liberian government official from the Ministry of Planning and Economic Affairs (https://www.foeeurope.org/sites/default/files/news/rap_liberiaen1.pdf)
- 5 <https://www.wwf.org.uk/updates/8-things-know-about-palm-oil>
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- 8 <https://www.reuters.com/article/klk-africa/malaysias-kl-kepong-acquires-liberian-palm-oil-operations-idUSL3N0IS3P520131107>
- 9 Examples are collected by the Business and Human Rights Resource Centre, <https://www.business-humanrights.org/en/is-the-uk-living-up-to-its-business-human-rights-commitments>
- 10 'Decision makers in business' polled by YouGov for Traidcraft Exchange, July 2015
- 11 Company announcement of 17 March 2017, <https://markets.ft.com/data/announce/detail?dockey=1323-13162119-oToEUSD3SU9EoP85CH4DLO7U1P>
- 12 ODI/TMP analysis concludes that land tenure disputes can lead to palm oil investors losing up to \$22.1m, <https://landportal.org/library/resources/qtr-brief-palm-oil/palm-oil-companies-risk-losing-221-million-land-tenure-disputes>
- 13 https://corporate-responsibility.org/wp-content/uploads/2019/04/190417_UK-mHRDD-campaign-statement_FINAL-with-logos.pdf
- 14 <https://www.bbc.co.uk/news/science-environment-49553703>
- 15 <https://www.foei.org/news/rspo-violence-destruction>
- 16 The concession agreements between the Government of Liberia and the four major palm oil concession-holders require the companies to invest in sourcing from smallholders. Liberian civil society reports that only one company, Maryland Oil Palm Plantation, is investing in this approach.
- 17 <http://serendipalm.com/about-us/>
- 18 It also features in multiple international covenants to which Liberia is a signatory, most significantly the UN Declaration on the Rights of Indigenous Peoples

About

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Traidcraft Exchange is an international development charity which uses the power of trade to bring about lasting solutions to poverty. It runs development programmes in South Asia and Africa, works directly with businesses to improve their supply chains, and does advocacy and campaigning in the UK to promote justice and fairness in international trade. Exchange is a registered charity, no. 1048752.

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