
Liberia – RSPO's inability to address root causes of the conflict related to Sime Darby's operations

One would expect that RSPO members also uphold RSPO principles and criteria when they expand their operations on the African continent, not least in order to prevent a repetition of negative PR experiences from Indonesia and Malaysia. One would expect particular caution in countries like Liberia, where longstanding unresolved land tenure issues and the trauma of a recent and long civil war have led a UN panel of experts to recommend the Liberian government place a moratorium on further land leases until the land tenure clarification in Liberia has been concluded.(1)

Despite this context, Sime Darby (SD) in 2009 signed a 63-years lease with the government of Liberia for a total of 311,187 hectares. For the bargain price of US\$ 5 payable to the state of Liberia per year for each hectare planted, the company obtained rights to plant about 220,000 hectares of oil palm within a 20 years period on the land included in the lease. The contract violates RSPO principles and criteria in the sense of not recognizing customary land rights and being very weak in terms of guaranteeing community rights. It also fails to recognize the responsibility of the company to obtain FPIC from affected communities, and even allows for involuntary resettlements of communities.(2) According to the local NGO SDI (FoE-Liberia), the contract also violates the Liberian law and international agreements.

Yet, RSPO member Sime Darby comments that it “signed a concession agreement with the government of Liberia which gives us rights to land”, adding that “we have entered into a legal contract with a democratically-elected government and do not believe there is any evidence whatsoever that it violates human rights.”(3)

This view that everything is fine was strengthened by the consultancy company BSi Group Singapore Pte Ltd, responsible for the RSPO certification procedure of the SD plantations in Liberia. A letter from the consultants, which is available on the RSPO website, states that “Sime Darby's Development Plan is based on the best practices that have been applied at its oil palm operations in Malaysia and Indonesia and takes into consideration the recommendations of the SEIA [Social and Environmental Impact Assessment] and the HCV [High Conservation Value] Studies and is consistent with the applicable RSPO P&C for New Plantings and addresses the concerns and aspirations raised by affected stakeholders”. The letter further notes that “[t]he SEIA and HCV assessments are comprehensive, professional, and comply with the applicable RSPO principles, criteria and indicators for new plantings.”(4) The contract between Sime Darby and the Liberian government is mentioned as “evidence of land tenure”(5), without any critical reflection on the veracity of such a statement in the complex Liberian land tenure context. The positive certification advice the consultancy gives thus only strengthens SD's expansion plans in Liberia.

What the communities have to say, however, about their experiences with this contract is a story of bad rather than “best practices”, an experience in which their “aspirations” as “stakeholders” were not at all addressed. In 2011, the company began planting on its first oil palm plantation in Garwula District, Grand Cape Mount County. In the process, farmland used by local communities was invaded

and compensation payments for the crops lost were so low that the result was hunger in the communities when land was not available anymore for growing food, and compensation was insufficient to buy the food needed. Also forest areas, including sacred sites of very high value for the communities, were destroyed.

The RSPO complaint

In October 2011, inhabitants from towns and villages from Bomi and Grand Cape Mount County presented a formal complaint to the RSPO, detailing how their rights had been infringed. In the letter, they cite the SD Environmental and Social Impact assessment itself that describes the nature of land tenure in the areas affected by SD's expansion as "tribal land", "family land" and "community land". According to the inhabitants, these are lands "owned by us". They add that "[w]e are therefore legally entitled to free prior-informed consent with the full power to reject or accept proposals to invest on our property", complementing that "[SD] have engaged into massive destruction of our crops and culturally significant sites such as graveyards and shrines using heavy earth moving equipment, they have polluted our water sources."(6)

In its response to the complaint, RSPO states that the company has shown "commitment" to "cease their operations immediately from the said operation site", and that the company is "open for bilateral discussions among affected parties." The RSPO secretariat considers this is "a good step forward towards discovering the detail of the issues and hence moving towards an amicable solutions plan". As in similar cases in Indonesia and Nigeria where complaints have been filed against RSPO members, the RSPO response is silent on the very nature of these very important "detail of the issues"; equally, the responses fail to reflect on the adequacy of the action proposed by RSPO in light of these "details" - which in the case of SD in Liberia is the very contract that allowed Sime Darby access to the peoples lands in the first place.(7)

Sime Darby has stated that it "will not develop any land without the express permission of the local communities." SDI / FoE Liberia however has warned that if the concession agreement between Sime Darby and the Government – and the fundamental problems this contract contains - is not renegotiated in the first place, communities will continue to be vulnerable in future. But Sime Darby has not taken any initiative to renegotiate this agreement with the Liberian government.

Simultaneously, "negotiations" held between the company and communities have not been capable to solve the problems with oil palm invasion on community lands. In a meeting with 150 community representatives in November 2012, one year after communities filed the RSPO complaint, the representatives from Garwula district who attended the meeting reiterated the absence, in their case, of any consultation before Sime Darby took over their land and that they had not given their consent to the oil palm plantations (see <http://wrm.org.uy/articles-from-the-wrm-bulletin/section2/liberia-our-future-is-now-communities-gather-to-discuss-oil-palm-expansion-and-to-repair-and-prevent-human-rights-violations/>). Representatives at the conference demanded for a thorough FPIC procedure for any new company operation. They further demand that there be no displacement, that employment rights be respected and that the company commit to transparency. Furthermore, during the conference a significant number of attendees stated their unequivocal resistance against Sime Darby's presence on their community territories.

In a letter dated June 2013 (8), about 20 months after the RSPO complaint was presented, SD announces that it "is engaged in full consultation with all stakeholders", including with what the company considers "responsible NGOs", adding that "we are working to ensure that our plantations are expanded responsibly and with the consent of all stakeholders". Excluding one of the key

Liberian organisations supporting communities in their struggle for justice and rights to their lands, SDI/FOE-Liberia, from its interpretation of “responsible NGOs” does not bode well for SD’s commitment to helping resolve the conflicts it has caused. However, the company statement is in line with RSPO’s response to complaints about oil palm development projects, insisting on complainants committing to ‘solutions’ through ‘amicable dialogues’ between ‘stakeholders’ - which in reality translates to a process that allows companies to continue oil palm plantations expansion even in the face of explicit community resistance.

What does the Liberian experience show?

Until now, a real dialogue with all parties about the fundamental problems with Sime Darby’s activities in Liberia seems far away. RSPO does not work towards such a dialogue as long as it allows its members to act in violation of RSPO principles and criteria without any consequence to RSPO membership. In the case of SD, meaningful intervention from RSPO in response to the violations of RSPO rules could include requesting that the company must not sign contracts with local governments in ways that violate the RSPO rules. Also, a dialogue aiming to achieve “the consent of all stakeholders” is difficult to imagine if organizations that play the crucial role of providing information that otherwise would not be available to communities about fundamental problems and impacts of the Sime Darby plantations, like SDI in Liberia, can simply be excluded by the company from the category of “responsible NGOs”. To be meaningful, engagement must include those who provide such information crucial to enable communities to make informed decisions.

The next area to be cultivated with oil palms from Sime Darby are 20,000 hectares in Gbarpolu County. Recently, research by Reading University (UK) funded by the UK Department for International Development and Rights and Resources Initiative assessed the potential social and environmental impacts of this SD project. The research showed that the plantation plans for this county are likely to lead to more major – and negative - social and environmental impacts. Sime Darby responded aggressively, claiming that the research “lacks credibility and rigour.” Reacting to an SDI and Friends of the Earth International factsheet launched to coincide with the release of the Reading University report, Sime Darby also accused SDI of making false allegations. The contention from SD’s perspective? SDI in a report about the impacts of Sime Darby in Liberia explains consequences in terms of increased landgrabbing as a result of contracts such as that signed with Sime Darby:

“(…) it is a national disaster waiting to happen. Allocating large swathes of fertile agricultural land to foreign companies for several decades is dangerous, because as these companies expand their plantations less and less farmland is available in rural areas. [...] It will also push people further into poverty, as their income generating activities are curtailed and earning capacities become limited.”(9)

As long as RSPO and SD refuse to delve into the details and roots of the conflicts caused by Sime Darby that NGOs and communities have raised with the RSPO, including through filing a complaint, any “solutions plan” proposed by the RSPO will be designed to fail.

A recent community victory in Liberia against Equatorial Palm Oil (10)

Since 2012, community people in Grand Bassa County have been accusing the UK-listed oil palm company Equatorial Palm Oil (EPO) of clearing lands and planting oil palm without asking for their permission. EPO argues that they got these lands legally, in a reference to concessions totaling 30% of the country’s territory that the Liberian government has been handing out in recent years. The affected villagers filed a complaint in September 2013 with

the RSPO. The RSPO website notes that “investigations into the complaint are on-going”.

The communities, tired of waiting for resolution of their grievance through RSPO complaints procedures, organized and marched with 200 people to the state capital Buchanan in the beginning of 2014. They were violently stopped by a group of police and company security people. 17 villagers were arrested. After this community action and protests, Liberia’s president Ellen Johnson-Sirleaf promised community people in a meeting in the capital Monrovia in the beginning of March 2014 that the government of Liberia would not allow the company to expand oil palm plantations on their lands. Silas Sikor from SDI called the promise “a victory for community rights in Liberia”. This example shows the importance of community organizing and community action and resistance when it comes to the defense of territories and forests on which communities depend.

(1) Final report of the UN Panel of Experts on Liberia submitted pursuant to paragraph 6(f) of Security Council resolution 1961, 7 December 2011 (UN Doc. S/2011/757)

(2) <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Liberia%20S2011%20757.pdf>

(3) SDI/FOE-Liberia. Factsheet about Sime Darby in Liberia, 2013.

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http://www.simedarby.com/Open_Letter_to_Friends_of_the_Earth,_in_Response_to_the_Publication_%E2%80%98Sime_Darby_and_Land_Grabs_in_Liberia%E2%80%99_June_2013.aspx

(5) http://www.rspo.org/_v2/fil/Notification%20&%20BSi_Verification%20Statement%20New%20Plantings%20Assessment%20_Stage%20II_%20of%20Sime%20Darby%20_Liberia_%20May%202011.pdf

(6) <http://www.forestpeoples.org/topics/palm-oil-rspo/publication/2011/letter-complaint-roundtable-sustainable-palm-oil-rspo-members>

(7) <http://www.forestpeoples.org/topics/palm-oil-rspo/publication/2011/letter-complaint-roundtable-sustainable-palm-oil-rspo-members>

(8)

http://www.simedarby.co/Open_Letter_to_Friends_of_the_Earth,_in_Response_to_the_Publication_%E2%80%98Sime_Darby_and_Land_Grabs_in_Liberia%E2%80%99_June_2013.aspx

(9) <http://wrm.org.uy/books-and-briefings/uncertain-futures-the-impacts-of-sime-darby-on-communities-in-liberia-2/>

(10) Based on article of Mark Olden from FERN, available on <http://farmlandgrab.org/post/view/23300>