



Large Scale Land Acquisitions: A Human Rights Framework for Mitigating Impacts

By now we are familiar with the challenge: investors are traversing the globe to acquire and develop tracts of land. Some of these investments are creating jobs, increasing environmental stewardship and improving lives. Some are resulting in forced evictions, violence, and negative impacts on the rights to health, education, livelihood, political participation and other human rights. These negative outcomes are, I would venture, never deliberate. Impacts occur not because companies are ill-intentioned, but because so few senior management teams understand the communities that inhabit the land they purchase.

To address the negative impacts, policy-makers have proposed that companies, essentially, “be better.” Codes of Conduct, Core Principles, Legal Frameworks -- these are valuable recommendations and laudable goals. But principles-based solutions don’t account for the complex overall package land acquisitions are part of, and they also don’t give companies concrete guidance. A consortium of leading land experts has proposed that each project should be assessed individually. The FAO Voluntary Guidelines reiterated this, calling on business enterprises to “identify and assess any actual or potential impacts on human rights and legitimate tenure rights in which they may be involved.”

How does a company “identify actual or potential impacts on human rights”? Nomogaia built a methodology for project-specific human rights impact assessment. Our methodology has been and is being tested on large-scale land acquisitions in the oil, mining, agriculture, hydroelectric and manufacturing sectors around the world. The methodology uses “rights topics” to draw out key information about project, context and company, and organizes the topics into catalogs of information where they are linked with the human rights and rightsholders most likely to be impacted. Nearly 300 rights topics are examined, including over 60 that are directly related to land issues. Regardless of the perceived simplicity of the context or project, all 290 rights topics are examined. Because rightsholders perceive land as integral to life and dignity, land cannot be comprehensively analyzed independent of human rights issues associated with a project.

I want to demonstrate the integration of land in human rights issues through two specific case studies, which present dissimilar projects and contexts but both involved well-intentioned, CSR-savvy companies. The first is a tree farm in southern Tanzania, and the second is a national-level oil development program in western Uganda. The methodology and case studies summarized in this presentation are available in full online.

Uchindile is a eucalyptus and pine plantation owned and operated by Green Resources AS, a Norway-based company that sells timber within Africa. The plantation is Green Resources’ oldest tree farm, with plantings beginning in 1996 and first harvest in 2008, the year assessment began. Prior to planting, local soils were poor and crops were relatively feeble in the area, supporting only a small population. Project opposition had been minimal from the start, with some community members expressing optimism about jobs. The human rights impact assessment process, started in 2008, verified these contextual conditions and found that none of the 60 land-related rights topics raised concerns. So, no problems, right? Instead, rights topics pertaining to labor, nondiscrimination, right to food, right to health and right to education were linked to the most significant impacts. We in MC 13-121 are familiar with the story now – unfulfilled CSR promises, union-busting and low wages had spinoff impacts. Workers and their families resented the conditions under which they’d labored for a decade. Assessors predicted harvesting would exacerbate resentment; the company planned to bring in external workers to harvest, rather than train



locals to operate chain saws and other tools. What does this have to do with land? Bear with me. We brought these existing and predicted human rights issues to the company.

Shortly after harvesting began, a disgruntled worker set fire to over 100 acres of plantation. The fire posed little danger to people and it had minimal impact on operations, but it sent a clear message. Frustration with the company provoked the sense that Green Resources was an interloper, failing to reciprocate the community's contribution of land with promised benefits. After the arson the company increased pay to a living wage as determined by assessors. New worker dormitories were constructed, equipped with electricity and water. Midday meals were instated. The company replaced the farm manager, increased access to protective gear and finished construction on two schools.

The improvements didn't meet the threshold for respecting human rights in all areas, but in feedback sessions, rightsholders told us the company's presence had gained legitimacy in the wake of changes. They also said another arson was unlikely. Their contentment is unlikely to be permanent – rights are still not respected, and eventually communities will demand that the company respect health and unionization rights – but it demonstrates a shared understanding between GR and rightsholders at present. Sound land management policies and effective environmental monitoring systems continue to be important, but insufficient, components of the company's approach to land, which now incorporates labor rights and social license.

Switching gears, in Uganda nearly every major land issue is evoked by oil development – forced eviction, conflicting tenure, speculative purchasing, etc. These interact with non-land issues to produce cumulative impacts. No company names are used in this second case study. Oil operations are changing hands rapidly, and the findings here are representative of nearly all the operators in the area. Most of the companies investing are western and mid-sized, developing and processing light waxy crude oil found along the banks of Lake Albert. Uganda has never been an oil-producing country, but an estimated 2.5 billion barrels are predicted to be extracted – at peak production that will amount to 15% of the country's GDP. It's an economic game-changer.

From a land perspective, it's a social and political game-changer, too. Oil is located in a region previously barred from land titling. In the years since titling has become legal in the area, corruption within the ministry of lands has ballooned. Bribes alone cost \$100-\$300 a parcel, plus filing fees and travel costs. In a country where 80% of the population lives on less than \$2/day, the cost is prohibitive for locals. In contrast, wealthy businessmen from Kampala have had no trouble securing land rights in the oil area, which they purchase as speculators and as entrepreneurs. As locals see it, the original land grab was committed by British colonizers. Assisted by ethnic groups still in power today, the British reduced ethnic Banyoro land to a fraction of its former size. Oil is seen as an extension of that colonial land grab. Compounding tenure challenges, climate change has affected rainfall in the area, making farmland less fertile. Residents need more land to grow the same crops, but extremely high birth rates have contributed to population growth that is compounded by in-migration. Ethnically foreign, non-local pastoralists dominate the influx and have created intense land stresses.

That's just the land context. Beyond the land issues, other human rights topics have begun interacting with project development. Out-of-work fishermen have recently returned to the area in droves, sent home from Lake Victoria by a government crackdown on illegal fishing. They are jobless and resentful not to have marketable skills for the oil industry.



Monitoring the fishermen, and everyone else, is a growing military presence. Though ostensibly stationed to control instability in neighboring DRC, they threaten to use force against people who resist resettlement, oppose oil development, or interact with NGOs and foreigners. They will be employed to forcibly evict those unwilling to resettle, they've told locals. They've done this for sugar plantations to the north and palm oil plantations to the east.

In-migrating pastoralists have been accused of being military spies, partly because the plain-clothes security force is known to go under cover in the bush, and partly because tribal ties between the pastoralists and central-government leaders are understood to be strong. The cultural divide has resulted in over 30 deaths since the pastoralists arrived.

Mitigation measures for land issues – forced evictions and whatnot – are fairly well established. In addition, though, contextual security and economic challenges require remedy. To legitimize its presence in a land-stressed and socio-economically marginalized area where the companies themselves are associated with oppression, project proponents must be seen proactively respecting local rights, even in opposition to government actions. That means helping fishermen gain skills for new jobs, publicly supporting processes to protect local lands against the claims of urban businessmen, and paying compensation rates higher than the government currently permits. It is only a combination of land- and non-land remedies that will ensure that the rights of residents whose property is lost are sufficiently respected to prevent conflicts.

I want to close with a fairly high-level observation. Both Green Resources and the oil project proponents were skeptical of our findings. In Tanzania, Green Resources only acted after arson occurred. In Uganda, our assessment didn't align with what government officials told the company about evictions or landholding. Documentation that communities felt marginalized was met with company figures on the number of "stakeholder engagement sessions" conducted per year. Policies and checked CSR boxes can't substitute for actual rightsholder interviews and feedback sessions. We use 300 rights topic indicators to ensure that the whole suite of rights and the whole breadth of rightsholders are understood. Companies that try to compartmentalize land as separate from health, conflict, social cohesion or civil liberties put themselves in danger of missing the real land problems and becoming complicit in major rights violations.