

Business Impacts on Human Rights, the Environment and Peacebuilding

A toolkit for women and women human rights and environmental defenders in Liberia and Sierra Leone



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List of abbreviations

ADR	Alternative Dispute Resolution
BHRE	Business, Human Rights, and the Environment
CEDAW	Convention on the Elimination of Discrimination against Women
CSO	Civil Society Organization
ESCR	Economic, social and cultural rights
FDI	Foreign Direct Investment
FPIC	Free Prior and Informed Consent
GAI	Green Advocates International
ICCPR	International Covenant on Civil and Political Rights
IESCR	International Economic, Social and Cultural rights
ILO	International Labour Organization
OHCHR	UN Office of the High Commissioner for Human Rights
SGBV	Sexual and gender-based violence
SiLNORF	Sierra Leone Network on the Right to Food
UN	United Nations
UNEP	United Nations Environment Programme
WEHRDs	Women environmental and human rights defenders

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1. Introduction

Both Liberia and Sierra Leone have a recent history with civil wars that displaced millions and killed hundreds of thousands. Although the armed conflicts ended in 2002/2003, both countries have experienced violent unrests in recent decades. In such post-conflict settings, economic activities, foreign direct investment, and trade can bring both opportunities and risks for development and peacebuilding. Business operations can have significant environmental, social, and human rights impacts, which in turn, can contribute to the fostering or hindering peace. On the positive side, it can contribute to employment opportunities, local development, and prosperity. However, if environmental concerns or human rights are overlooked, adverse effects from business activities can worsen existing grievances over poverty, unemployment, injustices, and power imbalances. Adverse impacts from company actions can initiate, worsen, or prolong intra- and intercommunity conflicts over livelihoods and resources, like land, forest, water, or other natural resources. It can also start, worsen, or prolong conflicts between business, local communities, and government.

Women in Liberia and Sierra Leone are highly impacted by company operations but often lack the same access to land, resources, livelihoods, rights, voice, and access to remedy- and grievance mechanisms. Women environmental and human rights defenders (WEHRD) face the same challenges of shrinking civic spaces as their male counterparts, but additionally face challenges of gender-based violence, discrimination, and harassment. These constitute extra barriers when WEHRD mobilize to hold leaders and businesses accountable for adverse impacts on local communities, environment, and human rights.

This toolkit on business, human rights, and the environment (BHRE) in post-conflict situations is developed as a practical tool for human rights and environmental defenders and local civil society organisations to gain knowledge on how corporations impact conflict dynamics, efforts to sustain peace and how BHRE impacts women. It focuses on Liberia and Sierra Leone, but much of the content is also relevant beyond the two countries, especially in the West African context. It also provides an overview of national and international guidelines on women's rights and an international guidance on business conduct and BHRE in conflict-affected settings. The toolkit also outlines how to organize when business operations adversely affect environment, human rights, or peacebuilding efforts and the challenges women and WEHRDs face when doing so. The content can be used in training and education effort by CSOs to increase the capacity of women in communities affected by large-scale land concessions and other business operations to understand their rights to land, natural resources, and human rights, enabling them to better advocate and demand their rights to their lands and natural resources.

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The toolkit contains six chapters outlining: Introduction; Business impacts on human rights, environment and social conflict in Liberia and Sierra Leone; Know your rights - human rights and the responsibilities of businesses; Where to turn in cases of business-related environmental harms and human rights abuses; and How to organize in the face of women's rights abuses. Each chapter ends with a literature overview relating to the topic of the chapter. The sources are sorted by themes as a hands-on literature guide for human rights defenders and local civil society organisations in their research, trainings, workshops, or other efforts to raise awareness on the impacts of business on human rights, the environment and peacebuilding.

In the end of the toolkit, there is a list of further readings on the topics of BHRE, women and peacebuilding, beyond the topics in this toolkit.

2. Business impacts on human rights, environment and social conflict in Liberia and Sierra Leone

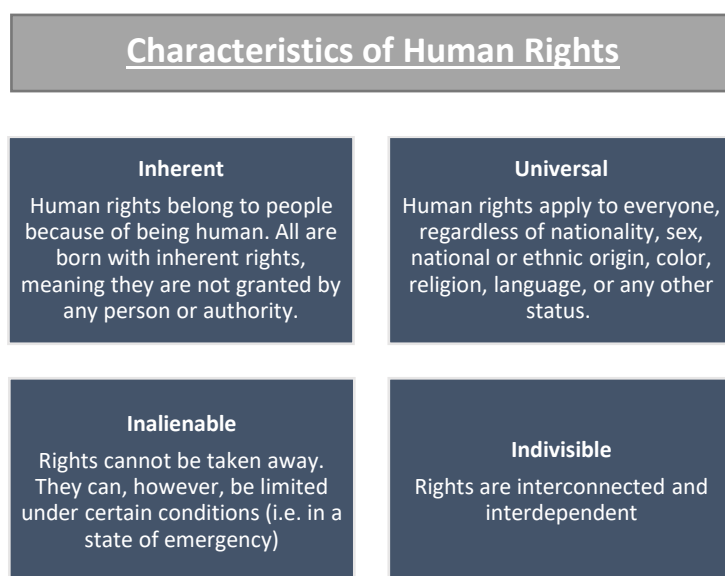
2.1 Business and human rights

2.1.1 What is business?

A business is an organization or enterprise involved in commercial, industrial, or professional activities, like producing and selling goods and services. Business activities can provide opportunities, like employment that generate income, capacity-building, and improvement of people's quality of life. It can also strengthen bilateral and multilateral relationships and contribute to local and national development. However, if business activities are not conducted sustainably and with respect for human rights and the environment, they can have adverse effects on local communities affected by business activities, for instance by contributing to pollution, water scarcity, loss of livelihoods, intra- or intercommunity conflicts over land or natural resources.

2.1.2 Human rights and their importance

Human rights can be defined as those basic standards without which people cannot live in dignity as human beings. Human rights are rights that are inherent to all human beings, regardless of nationality, domicile, sex, national or ethnic origin, colour, religion, language, or any other status, according to the United Nations Office of the High Commissioner for Human Rights (OHCHR). Without prejudice, as stated in chapter one of the Universal Declaration of Human Rights, all human beings are born free and equal in dignity and rights.



These rights are the foundation of freedom, justice, and peace. Their respect allows individuals and communities to develop fully. The protection of human rights is expressed and guaranteed by law, in the form of treaties, customary laws, general principles, and other sources of international- and national law. International human rights law imposes obligations

on governments to act in certain ways, or refrain from acting in certain ways, to promote and protect the human rights and fundamental freedoms of individuals. Human rights are a crucial tool for providing equitable protection for all people, particularly those who may be subjected to abuse, neglect, or exclusion. Most importantly, these rights empower people by allowing them to speak up, resist ill-treatment and to hold public officials, businesses, or others accountable for their actions.

According to human rights law, public authorities should not interfere with people's human rights. Only in very limited circumstances can rights be partially or fully be suspended, and only for a limited time. In a state of emergency rights are temporarily suspended for the safety and protection of citizens, for instance in times of armed conflict, civil unrest, natural disasters, pandemics, or other crises. States also have a duty to protect people against human rights abuses by third parties, including business enterprises.

Examples of Categories of Human Rights

Economic, social, and cultural rights

Focused on standard of living and social security, including the rights to education, work, an adequate standard of living, food, shelter, health, and to take part in cultural life.

Civil and political rights

Focused on freedom and liberties, including the right to life, liberty and security of the person, freedom from slavery, freedom from torture, freedom of opinion, expression, thought, conscience and religion, and freedom of association and assembly.

2.1.3 Businesses, human rights, and defenders

Businesses have a responsibility to prevent, mitigate and remedy human rights abuses that occur in connection to their operations. This obligation is outlined in internationally established frameworks like the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises.

In "The Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders", the UN has also outlined special responsibilities that apply to businesses when it comes to the protection of defenders. Defenders across the globe are threatened, attacked, and face different forms of reprisals for shedding light on human rights impacts from business activities. These whistle-blowers often report on large scale investment projects that negatively affect access to land, livelihoods and resources like water or food. How business act around defenders can therefore impact peacebuilding since

economic activities and exploitation of natural resources can create social tensions that might spur conflict. Human rights violations against defenders can also be a source of social conflict.

Defenders are central to the safeguarding of rights. They hold governments, businesses, and others, accountable for human rights violations and adverse impacts on the environment. In this toolkit, defenders are understood as anyone that seeks redress for rights violations, whether that is violations to women's rights, land rights, environmental or other rights. While defenders can be formally organized within CSOs and engage in activism in more organized fora, most defenders do not necessarily identify themselves as defenders. Defenders can be any citizens speaking up or exercising their rights, by submitting a complaint, talking at a conference or in one form or another seeking redress or shedding light on rights issues. UNEP considers an environmental defender to be anyone (including groups of people and women human rights defenders) who "is defending environmental rights, including constitutional rights to a clean and healthy environment, when the exercise of those rights is being threatened" (UNEP, 2018). Women human rights defenders (WHRDs), or WEHRD, "are all women and girls working on any human rights issue" (OHCHR, 2021).

Human rights law constitutes an important instrument that WEHRDs may utilize to hold corporations and government agencies accountable for rights violations. Human rights defenders are internationally recognized for their essential role "as part of the business and human rights "ecosystem", including their role in human rights due diligence. Defenders can enable companies to understand the concerns of affected stakeholders and facilitate access to justice and remedy" (UN, 2021). An enabling environment for defenders is therefore crucial both for sustainable business operations and for ensuring human rights.

2.1.4 Business and human rights in Liberia and Sierra Leone

The impact of business on human rights in Liberia and Sierra Leone manifests itself in many ways, for instance by non-compliance of international human rights obligations by multinational companies, or infringement on local labour laws. Corporations have a social responsibility, and social factors are oftentimes linked to environmental factors. A company's management of natural resources directly impacts local communities and their way of life, rights, access to land and livelihoods, food, and water.

In many cases, businesses do not comply with the principle of Free Prior and Informed Consent (FPIC). In both countries, multiple report outlines a broad range of human rights violations including the rights to adequate housing, food, water, health, education, work, security of the person, freedom from cruel, inhuman, and degrading treatment, and freedom of movement. In both countries, forced evictions and violations of land rights have been documented in connection to company activities and large-scale land acquisitions.

When workers and defenders decide to protest or report on rights violations, they are oftentimes faced with obstacles or reprisals. People have been hurt or even killed during workers' lawful protests, when met with police brutality, the use of teargas, and firearms.

Impacts from company activities often differ based on different groups, like gender, socioeconomic- and ethnic background, etc.

2.2 The impact of business activities on women

Women in Liberia and Sierra Leone tend to have less access to resources, livelihoods, and opportunities and are, as a result, disproportionately affected by changes in these areas. When it comes to business activities, women are impacted in various ways, including in their reproductive- and productive roles, community management roles and as WEHRDs.

When women's rights are violated as a result of business activities it is not only a rights violation. It can also increase tension and the risk of conflicts in or between communities, between communities and companies, and between communities and the government. Women are often disproportionately affected business activities like adverse impacts from land concessions, loss of livelihoods, or lack of access to water. Additionally, women engage in unpaid work at home to a larger degree and tend to be hindered from participating fully in decision-making, both at the workplace and at the community level.

2.2.1 Women's access to and ownership of natural resources

A central aspect of gender relations in Liberia and Sierra Leone is the unequal access to, and ownership of, natural resources like land, water, forest, fishery, crops, and minerals. Women beneficiaries are side-lined in the process of acquiring and passing land on. Arrangements do not take into consideration the specific needs of women like access to water sources and distance to farm sites and local markets.

Land is an essential source of livelihood for a majority of Liberians and Sierra Leoneans. Most of the population in each country lives in rural areas and livelihoods are largely based on agriculture. The population depend on crop farming, animal husbandry and fishery, which depend largely on access to and ownership of land where smallholders mostly cultivate rice, cassava, cocoa, coffee, cashew, groundnut, palm oil, vegetables and other fruit trees for food and income.

Many challenges continue to impede the realization of basic human rights, particularly women and children, in the area of accessing and owning land. In Sierra Leone, women have little say in land arrangements since land is owned by household and families which are headed by males, land lease fees are evidently paid to and shared by male family members. Customary marriages tend to dominate, yet these are not valid by the statutory law. Customary marriage that has not been registered with the local council cannot confer any property rights on the husband or wife. This has repercussions through women's life, including if a spouse passes away. Women often operate and depend on the land but have little rights if a husband dies or if the marriage is dissolved. In such cases, the women can be forced by the husbands' family to leave the land. In Liberia, land rights for women are more extended. The Liberian land rights act 2018 was a milestone in acknowledging women's right

to access, inherit and own land. This was an important step for women's rights by granting legal acknowledgment of their right to land, independent of their husband or marriage status. However, implementation is still weak, especially in rural areas.

During land acquisitions for commercial purposes, women's access to land are directly impacted and the effects vary from the impacts on men. The abovementioned underlying social-, cultural and legal context for women makes them vulnerable to changes in access to land and traditional livelihoods, and volatility in the job market. It is therefore crucial to apply a gendered lens when assessing the impact that land concessions and business activities might have.

2.2.2 Women's reproductive roles

In Liberia, large-scale land investments have contributed to loss of land, forests and water resources has serious implications for women in their reproductive, productive and community management roles because they are responsible for food and water provision in their homes as well as all the activities that are involved in caring for the workforce (i.e. husband and working children) and the future workforce (infants and school-going children). In Sierra Leone, reports show a similar situation. Women have been directly impacted by large-scale investment projects, but due to their low status, they have had less access to information, grievance mechanisms and less chances to find new job opportunities.

Women's reproductive roles refers to all activities necessary for the maintenance and survival of human life. The reproductive role of women includes the care and maintenance of the actual and future workforce of the family. Examples include childbearing, looking after and educating children, cooking food, washing clothes, growing, or foraging for food for home use. Women's reproductive roles are often perceived by society to be natural and generally do not generate income. Such roles are often invisible at the national economic level, even though the same tasks do constitute a professional profile. For example, if a mother or other female relations take care of children during working hours, they are not financially rewarded; however, professional carers receive remuneration for the same tasks and are considered in economic statistics.

2.2.3 Women's productive roles

The productive role of women relates to work performed by women for pay in cash or kind (market production, informal production, home production, subsistence production). Although women in Liberia, in Sierra Leone and across the world do engage in paid work or income-generation activities, they tend to lose out in terms of access to, control over, and benefits from productive resources.

The government of Liberia signed onto large scale concession agreements to meet Liberia's 2008 Poverty Reduction Strategy vision with the promise that the benefits of Foreign Direct Investment (FDI) will "accrue to the nation as a whole and not just a few" (IMF, 2008).

Moreover, the first goal of undertaking concessions worth over US\$16 billion in the extractive sectors was to provide job opportunities to less fortunate communities. Therefore, an important outcome by which one can make judgments about the usefulness of such concessions is the provision of job opportunities for all affected communities, especially women because they have less access to natural resources at large. Women are therefore expected to be beneficiaries of these concession agreements.

With the establishment of multinational corporations in Liberia and Sierra Leone, it was expected that companies would create employment opportunities, not only as a means of compensation, but also as a direct benefit from the business operations. Instead, women have often been adversely affected when land and natural resources that women depended on for survival have been lost.

Even though companies have tried to employ some members of the affected communities, there are still pertinent issues remaining that need to be addressed. For example, there have been sudden layoffs of women workers without any concrete reasons provided and with no assurance of re-employment. In other instances, affected communities have been deprived of much needed jobs in favour of employment opportunities given to non-affected communities. Whether large-scale land deals lead to more employment opportunities and access to new technology/services, or contribute to resource scarcity, depends not only on land reform and titling, but also legislation to promote gender equality.

Case Study 1: Loss of land, natural resources and livelihoods, Sierra Leone

The establishment of NED OIL Company by Lion Heart Foundation in Sierra Leone, August 2006, showcases how companies can adversely impact women and their access to natural resources used for subsistence agriculture when there is a lack of human rights due diligence and FPIC. The company leased 45 hectares of land for 25 years, from five communities for oil palm plantation. The plantations were located on the only fertile land used by the five communities for subsistence agriculture, their main source of livelihood.

Due diligence and FPIC was never followed as the discussions and negotiations for the surface rent and other compensations only took place among a Minister of Parliament, the Paramount Chief and the company. Many of the promises made by the company such as employment, scholarship, construction of a water well and feeder road, building of technical institute, dry floor, and stores construction, were never delivered. During an assessment by SiLNORF, 67 years old Ramatu Conteh, a farmer with seven children, noted that after the company started operating on their land, women no longer enjoy the right to their land, not even to fetch firewood.

“My plantations (rice, potato, cassava, and corn) were destroyed by the company’s officials with no compensation. I am powerless because the company was brought to us by our own son (the current Member of Parliament). [There is] no lease agreement since the inception of its operation and my children are languishing unemployed” (Ramatu Conteh, 67).

Ramatu Conteh also expressed disappointment that violations around land acquisitions are still happening in the 21st century.

Source: SiLNORFs reporting.

2.2.4 Women Community Management Roles

According to the European Institute for Gender Equality, the community management role of women includes work mostly related to care and unpaid work, and provision of collective resources as water, healthcare, and etcetera. This term is used to describe activities usually carried out by women for the benefit of the community, as an extension of their reproductive role. Women community management roles includes the provision and maintenance of scarce resources of collective consumption, such as water, health care and education. This work is mostly unpaid and voluntary. Community management activities performed by men tend to be of more visible and higher social value than women community management roles. (e.g., administration of local justice). Community management roles are often perceived to be 'natural': as they do not generate income, they are often invisible at the national economic level, even though the same tasks do constitute a professional profile.

A study conducted in Liberia by the Natural Resource Women Platform shows little deliberate effort by male members of the community or representatives of companies operating in Liberia to include women in discussions on the companies' operations, agreements, and responsibilities. Consequently, their views have not been solicited or incorporated in community development, social impact-, and action plans.

2.2.5 Women environmental and human rights defenders

Business activities in Liberia and Sierra Leone also directly impact women in their role as land-, women-, human rights-, and environmental defenders. WEHRDs face the same reprisals and shrinking civic spaces as their male counterparts, but additionally also face obstacles in the form of gender-based violence, discrimination, and exclusion from decision making. This does not only have direct effects for the life, security, and well-being of the WEHRDs directly targeted, but also has ripple-effects of silencing and suppressing women's voices in general.

2.3 The impact of businesses on the environment

Natural resources, like land, water, food, minerals, or other resources, are essential in the day-to-day life of communities. They constitute means of sustenance, sources of income, and have an entrenched cultural value. Business activities can impact environment in a range a way, in turn, affecting the life quality of communities, cultural practices, and livelihoods. Natural resource- and environmental concerns can also interact with already existing social tensions, worsening or mitigating the risk of conflict. For instance, environmental degradation alone does not create conflict, but loss of livelihood resulting from environmental degradation might fuel conflicts between groups that already live close to the poverty line, experience discrimination or other disadvantages. Environmental stresses are seldom the only root of conflict, but it can fuel underlying tensions or prolong an ongoing conflict.

2.3.1 Environment and its importance

Environment is everything that is around us, which includes both living and non-living things such as soil, water, animals, and plants. People are dependent on the environment for food, air, water, and other needs, in this sense it plays a crucial role in healthy living. Environmental disasters are not all manmade, but there are numerous types of environmental disasters that are directly linked to human activities, including climate change, deforestation, depletion of the ozone layer, disposal of hazardous waste, global warming, pollution, degradation of arable land and a number of others.

2.3.2 Business impact on the environment in Liberia and Sierra Leone

Businesses can affect the environment in both positive and negative ways. In the case of Liberia and Sierra Leone, companies have contributed to adverse environmental impact by for instance pollution of water bodies, water scarcity, degradation of arable land, and deforestation. The establishment of a business comes with a shift in management of natural resources, which in turn can result in loss of traditional livelihoods for farmers, because of casual employment that leads to low farm cultivation and yield. Some companies have monopolized markets of a certain natural resource, in order to maximize profits.

Mismanagement of natural resources, or changes in who can access certain resources, can interact with other underlying grievances like unemployment, inequalities, poverty or lack of access to decision-making, to exacerbate or create new conflicts.

However, if managed in an inclusive and sustainable way, with social- and environmental impact assessments and respect for human rights, companies can contribute to a sustainable management of scarce natural resources and prevention of environmental damage and potential conflicts around resources. Environmental impact and management of natural resources are also linked to other rights and opportunities. It can create employment for local communities which enable employees to earn income and maintain a stable housing. Companies can cultivate concession catchment areas for food crops for those without an employment, thus helping community members to sustain their livelihoods. The establishment of a business can help educate farmers on modern agricultural practices for abundant food production and promote a development into a non-farm economy.

Businesses have a large opportunity to use management of natural resources to improve the effective use of natural resources, while contributing to development and peacebuilding efforts. This can happen via the inclusion of stakeholders (employees) in business decisions about natural resource management, technical developments, or increased cooperation in the use of scarce resources, among others.

Case Study 2: Water pollution from a rubber production, Liberia

One of the world's largest rubber plantations is located in Liberia, 50 km west of the capital Monrovia. The rubber plantation is managed by Firestone Liberia, an indirect subsidiary of Bridgestone Corporation, one of the biggest tyre companies in the world. While natural rubber processing provides livelihoods for millions, it is also one of the world's worst water polluting industries that frequently contributes to serious health risks and depletion of food sources.

In the report "Murky Waters: Environmental and human rights impact of natural rubber processing in Liberia", the NGOs Green Advocates International, Swedwatch and Source International reported on multiple adverse impacts on human rights and environment from the Firestone rubber production. According to the report, local communities experienced water pollution, a lack of fish to eat, and pollution-related health problems. Water samples gathered from around the rubber plantations found the presence of heavy metals like manganese, phosphate and nitrogen and aluminium. These pollutants pose a severe health risk for humans as they bio-accumulate throughout the food chain and can cause serious illness. There were also high phosphate and nitrogen levels and evidence of eutrophication, known to deplete fish stocks.

Source: GAI reporting.

2.4 Business impact on social conflict

The operations of business enterprises, especially those that operate on large scale and at a multinational level, normally affect the relationship between concessional communities, companies/enterprises, landowners in the same community and intra-community relations. Overlapping interests around business activities can create tensions, competing demands, and ethical dilemmas. Most of these tensions had little or no effects on the people or communities prior to the inception of business enterprises. After the establishment of business operations, local authorities and CSOs are typically charged with the responsibility to institute conflict resolution mechanisms to ameliorate conflicts that erupt.

2.4.1 Land disputes

Land issues and natural resources fuelled Liberia's and Sierra Leone's cataclysmic civil wars. Although the civil wars are over, security of tenure has not yet been achieved for most rural dwellers, especially rural women. That, among many other factors, still pose risks to renewed conflicts.

Most current land-related challenges are related to large-scale projects that are supposed to spur rural development, but instead impacts social tension and result in social conflicts over resources like land or water. Primarily, land disputes relate "to a lack of transparency and consent regarding the transfer of land, corruption, environmental issues and, in some cases,

the individual agendas of the paramount chiefs. Another conflict line runs between land-using and land-holding families in the chieftaincies and related power disparities. Notably, women and the youth remain excluded from land tenure decision-making process and have little say in shaping land investments” (Land Portal Foundation, 2020).

Land tenure tends to be complex in both Liberia and Sierra Leone. In Sierra Leone, for instance, land rights and regulations are divided between state ownership, private ownership, communal as well as family ownership. “Statutory laws recognize private freehold land in the Western Area and the capital Freetown, while customary laws govern land tenure in the rest of the country. In the Southern, Northern and Eastern Provinces, statutory law places land rights into the hands of land-holding families and recognizes paramount chiefs as custodians” (Lanportalen, n.d.). This system has given extensive control to male paramount chiefs at the chiefdom level and to a few landholding families, traditionally controlled by the male head of family. This leaves women and youth excluded from decision-making and from influencing land acquisitions and land-related investments. In Liberia, more extensive land rights are given to youth and women in the Land rights law 2018, but in many rural areas, implementation of the law is still lacking.

In both countries, many of the serious rights violations that spur tension and social conflict occur in connection to large-scale investment project and large-scale acquisitions of land. When business actors engage in land acquisitions, it often has a profound impact on the livelihood of local communities, especially women, and threatens not only their livelihoods but also their cultural heritage.

Case study 3: Social conflict between business and local communities over cultural sites, Sierra Leone

Disputes and social conflict can arise when companies fail to conduct due diligence that takes into account the social- and cultural context in the local area where they operate. If such tensions are not managed and de-escalated, they can result in violent unrest, and other acts of violence.

In 2010, there was a dispute between the community of Kemedugu in Sierra Leone and a company over the use of a little river by the Kemedugu for mining purposes. The river had been used for both traditional secret societies of the women and men, and for laundry by the villagers. The villagers resisted the use of the river by the company. When these demands were not heard, villagers held some of the companies’ expatriate staff hostage.

Local reporting indicated that the escalation of violence led the police to fire live bullets causing injury to a lot of victims. Surrounding villages not affected by the incident were also allegedly targeted by the police as mass arrests and detention were carried out. The police were also accused of looting properties belonging to the affected community people such as goats, sheep, fowls, money, rice, and local beans. The allegations by the community people were confirmed by local CSOs.

Source: SiLNORFs reporting.

The destruction of farmlands, food crops, cash crops and the pollution of drinking water makes it hard or even impossible for women to sustain their livelihoods. The destruction of their burial sites and sacred areas threatens and destroys not only their customs but their value systems and traditions.

This has resulted in serious conflicts, contests, complaints, grievances, and protests. As an example, reports have documented violent protests related to land acquisitions in more than ten of Liberia's fifteen counties where the Government of Liberia has granted rights to Multinational Corporations covering mining, logging, and agricultural concessions.

2.4.2 Intra-community social conflict

In Liberia and Sierra Leone, the operations of business enterprises often fuel social tensions among landowners or between landowners and land users. On several instances, company operations have had negative impacts on people within the same community when landowners demonstrate unfairness in the use of and disbursement of surface rent or other social opportunities, particularly when the landowner is a family head and the land is owned by families. Those family members who feel aggrieved do revolt thereby causing turmoil for the community and the company. Land users are often left vulnerable during land acquisition as a result of isolation from negotiation and the utilization of benefits (if any) provided by companies.

Intra-community tensions can also arise in business concessional communities due to the altering of the landmarks and historical milestones that were used as boundaries before the inception of the company. If not properly handled, intra-community conflict has the potential to weaken community resistance against violations of human rights and result in violent conflict.

Often, there is dispute over leadership accompanied by intents to replace outspoken people in the community leadership who have been leading community advocacy and demanding respect for economic, social, and cultural rights. In some cases, people within the community leadership with close ties to company executives end up in conflict with others that disagree with the business line. The risks of social conflict worsen if corruption and bribery is involved.

Vocal critics of business practices are often penalized in different forms, ranging from denial of employment opportunities to security threats and attacks, at times forcing those who speak up to flee their communities.

At times, a once vibrant community that firmly held together in defence of community rights might become unable to protect its people and environment against unwanted land acquisitions, displacement, pollution, water scarcity, loss of access to protein sources and forest resources such as medicinal plants, as a results of business activities.

2.4.3 Inter-community social conflict

Inter-community social tension is described as the conflict that occurs between communities within a clan, district, or county. Inter-community conflict may occur as a result of competition or disagreements over resources (land, jobs) or political power. Violent fighting can result if such disputes escalate.

In both countries, the influx of large-scale business operations has resulted in numerous demands, conflicts, and tensions between and among communities and has negatively impacted the long-standing relationship between many communities. Boundary land disputes between communities have resulted in serious social tension between communities due to the inappropriate surveying process by corporations and lack of complete involvement of landowners during the surveying process. The use of Global Positioning System (GPS) as a relative new device used in land survey and failure to adequately train landowners to operate the device and determine the acreage of their land before lease has led to generational conflict between communities.

In Liberia, since the end of the civil war, the country has attracted FDI in several sectors ranging from forestry, mining, to agriculture. Unfortunately, these large-scale concessions have ignited social tension in the host communities often as a result of a lack of proper community involvement. While these investments seem to have a positive impact on the country's economy, they have also put a massive strain on the existing resources on which local communities are dependent.

On many occasions, local communities face each other with so much hostility and belligerence, that it is threatening community cohesion. At times, rival groups are neither ready nor willing to meet members of other opposing groups. Tensions remain that could easily be exploited to further generate inter-group hostility. This is particularly pertinent when corporations or concession holders in such communities show little interest in exploring the differences between the rival groups in order to identify common ground that helps to reduce tensions.

Inter-community conflicts have occurred all over Liberia and Sierra Leone, especially in areas where there is mining, forestry, and agricultural concessions or in areas earmarked for the expansion of large-scale concessions. Where social conflicts have occurred, CSOs have observed an established the following patterns that increases the vulnerability of the affected communities and their ability to act collectively against environmental harms and violations of human rights:

- **Decision-making:** Decision making is often difficult and chaotic in cases where company representatives bribe, or in other ways tries to influence, community meetings and the community leadership;
- **Employment opportunities:** Employment is often delayed or denied groups opposing or questioning investment or business operations.

Case Study 4: Disputes arising from strains on employment opportunities, Liberia

In some cases, social tensions and disputes can arise between community groups and companies over promised employment opportunities, and expansions of land concessions. This can also create pressure and social tension within the community, if some community members request more work opportunities and others are against expanding land concessions.

In Liberia, 500 workers were laid off from a Liberian oil palm company in 2014 and 2015. This placed pressure on the community leadership to give more land for expansion of oil palm concession. The community group representing the community interest refused, which put enormous tension on them from ordinary community members. In some instances, the company also laid off relatives of people in the local leadership. Other employments were also rolled back, reducing many in the workforce to mere contractors. Strains on employment opportunities create lot of social tensions in the affected communities.

Source: GAI's reporting.

- **Disagreement over management of shared resources:** Disagreements often surge regarding how to manage scarce resources in communities where multinational corporations are active. For example, one group will claim that the government has authority over community-based resources and the right to allocate the same as it wishes, especially to create job opportunities for rural communities. For such groups, promises of job opportunities are the most important aspect. These groups tend to support the views of government, local authorities and elites and businesses. On the other hand, other groups assert communities' rights to FPIC and Economic, Social and Cultural Rights (ESCR). The group insists that investment in the community is only possible if there is a delicate balance between business and environment. The group is easily branded as an enemy of development and its leaders face security threats and attacks.

2.4.4 Social conflict between a company and the community

Social conflict can also arise between communities and the business operating in an area. Such tensions can surge for many reasons, such as the establishment of a company, disputes about appropriate compensation, grievances from company impacts or disagreement on how a business reacts to criticism from communities (for instance, in cases of layoffs, discriminatory legal procedures, or reprisals on human and environmental defenders).

There is often a serious disagreement regarding how to handle compensation owed affected communities. In some communities, their demand is for just compensation for loss of crops and lands. Other community members are closer to the position of the government and company, and they disagree with the position of the broader community.

Case Study 5: Social conflict about just compensation, Liberia

Compensation handling can be a contentious topic between the business and those affected by land concessions and other business activities. There have been cases where some community members agree, against the wishes of the broader community, to let a company spend outstanding payments on development in the community instead of granting it to workers affected by business activities.

For example, in 2017, Salala Rubber Corporation (SRC) in Liberia confirmed that it had utilized outstanding payments owed local communities for damaged crops to build a feeder road, connecting Gleagba Town to the town of Wang. This decision angered lots of farmers who argued that they were not consulted by SRC and that the decision was not binding on them.

Source: GAls reporting.

2.4.5 Displacement and resettlement

The displacement of people refers to the forced movement of people from their locality or environment and occupational activities. It is a form of social change caused by a number of factors, like natural disasters, famine, development, and discriminatory laws and economic changes and loss of livelihoods – whether caused by economic decline, changes to other forms of occupations or failed investments that impact local communities. The effects of displacement are particularly negative for the poor. Forced evictions often push people into homelessness and poverty. Effectively, many find themselves without means of earning a living and in a situation without access to judicial- or non-judicial remedy mechanisms. OHCHR (n.d) has highlighted how “forced evictions intensify inequality, social conflict, segregation and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women”. These situations also pose a heightened risk factor for social conflicts. In Sierra Leone and Liberia, an important social issue around large-scale mining operations have to do with resettlement, land and surface rents, and the provision of social services.

The present global rush for hectares of land or extraction of natural resources for economic development has, in many cases, caused displacement and resettlement of local communities. There is a lot of discontent among community members about the way resettlement has been carried out. Some local stakeholders think the design and implementation of resettlement projects must be done with significant inputs from them because they are directly affected. Multinational companies for its part have tried different strategies to resettle villages but they have all come with complications.

These strategies have for instance included identifying a suitable piece of land and supplying building materials and labour so that the affected people would be involved with every aspect of the construction of a new home of their own choice. The result has been that many of the affected parties chose to sell their building materials and use the money for other pursuits. Another strategy employed by companies have been to construct new settlements themselves. This strategy also has serious problems because some villagers were dissatisfied

with the designs and location of their new settlements. There have also been complaints by some stakeholders that the lands where they have been relocated are not suitable for agriculture and are far from other resources on which they depend.

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3. Know your rights - human rights and the responsibilities of businesses

3.1 The human rights responsibilities of businesses

As the examples from Liberia and Sierra Leone have shown, business operations can adversely affect the rights of people in local communities and the environment in a variety of ways, which can spur or worsen social conflict or contribute to development and peacebuilding. The situation in Liberia and Sierra Leone was outlined, with special attention to the adverse human rights and environmental impacts by companies. Human rights, and the duties of businesses to protect and forward these rights, are well established in international, national, and local laws and treaties, as well as in non-binding recommendations. In this chapter, relevant legal framework for business, human rights, and the environment will be outlined.

The human rights duties of businesses are outlined in several international guidelines, treaties, and, in a few cases, incorporated into national legislation. At the international level, two crucial ones are the OECD Due Diligence Guidance for Responsible Business Conduct and the UN Guiding Principles on Human Rights.

The responsibility of business enterprises to respect human rights refers is outlined in internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights, outlined in the five core human rights treaties of the United Nations: the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), and the optional protocols of the ICCPR, as well as the fundamental rights set out in the International Labour Organization’s (ILO’S) Declaration on Fundamental Principles and Rights at Work.

The human rights duties of a business include the “Do no harm” principle that makes it necessary to carry out due diligence in assessing and addressing the human rights impacts of business practices. Companies need to take all necessary and reasonable precautions to prevent harm.

Further, the state has the duty to protect individuals within its territory or jurisdiction against human rights abuses committed by non-state actors, including business. Victims of rights violations have the right to access an effective remedy.

The OECD Due Diligence Guidance for Responsible Business Conduct is one of several important instruments to improve responsible business conduct. The Guidelines recommend that enterprises conduct due diligence in order to identify, prevent or mitigate and account for how actual and potential adverse impacts are addressed. Implementing these recommendations can help enterprises avoid and address adverse impacts related to workers, human rights, the environment, bribery, consumers, and corporate governance that may be associated with their operations, supply chains and other business relationships. This Guidance also seeks to promote a common understanding among governments and stakeholders on due diligence for responsible business conduct.

Another important instrument to ensure responsible business activities is the UN Guiding Principles on Business and Human Rights (UNGPs). The UNGPs are a collection of guidelines for governments and businesses to follow in order to avoid, address, and rectify human rights

violations in their activities. Protect, respect, and remedy are the three pillars of these Guiding Principles. Each one lays out specific, tangible procedures for governments and businesses to adopt in order to fulfil their respective roles and responsibilities in terms of preventing and responding to human rights violations in business operations.

3.2 Women's rights

3.2.1 What are women's rights?

"Women's rights are human rights," as the now-famous adage goes. Women have the right to all the basic rights for their well-being. Women's rights include the freedom from violence, servitude, and discrimination, as well as the right to education, property ownership, voting, and a fair and equal wage. For nearly 70 years, the United Nations and the world have prioritized the protection of women and the elimination of all forms of discrimination against their fundamental human rights.

The principles and practices relating to women's human rights are continuously evolving. Since the signing of the universal declaration of human rights, several international treaties, agreements, and commitments geared at improving and protecting women's human rights have been developed. As a result, over the past several decades, women have been provided with an alternative vision, and legal instruments to defend and confront violations of their human rights. Such instruments are important tools for political activism and a framework for developing concrete strategies for change.

3.2.2 Legal Protection of Women's Rights

International human rights law provides that (1) women and men are to receive equal treatment and (2) special protections apply to women because of the discrimination women face. Because of historically unequal power relations, women's rights require special protection under international law.

Women's rights have been at the forefront of a number of international conferences that have resulted in important commitments and steps to ensure that women's human rights and equality are protected. Liberia and Sierra Leone have signed and/or ratified several international legal instruments that regulate the rights of women and girls.

Convention on the Elimination of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women prohibits gender discrimination and requires its signatories to remove discriminatory legislation and provide gender equality in the areas of health, employment, and education. The Convention's Optional Protocol is an add-on agreement to the Convention that guaranteed the enforcement of the convention.

Articles 1-6 focuses on non-discrimination, gender stereotypes, and sex trafficking. Articles 7-9 outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality.

Article 6 of the convention on the elimination of discrimination against women calls upon States parties to suppress all forms of trafficking and exploitation of women. Article 1 of the Convention on the Elimination of Discrimination against Women defines discrimination against women as any distinct or restriction made on the basis of sex.

UN Declaration on the Elimination of Violence against Women

The Declaration on the Elimination of Violence against Women defines “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” Since the beginning of the 1990s, violence against women has gained much attention in the human rights discourse. However, it took a long and persistent struggle by the women’s rights movement to persuade the international community to discuss violence against women as a human right.

UN Resolution 1325 on women, peace and security

Gender-based violence is a serious violation of human rights of global importance which poses a threat to human development as well as international peace and security. *The UN Resolution 1325* is a landmark framework for women, peace, and security. It was the first formal and legal document from the Security Council that makes it mandatory for parties in a conflict to prevent women’s rights violations, to support female participation in peace negotiations and in post-conflict reconstruction, and to protect women and girls from sexual violence in times of war and conflict.

Aside from the above-mentioned documents, the following international legal instruments particularly affect women, land, and natural resource acquisition:

The Universal Declaration of Human Rights

Article 2 of the Universal Declaration of Human Rights ensures that men and women have equal access to all rights and freedoms, and forbids discrimination based on gender. Equal pay for equal work, the right to health, and the right to an education for all are among these freedoms and rights.

In 1948, the Universal Declaration of Human Rights was adopted to proclaim the equal entitlements of women and men to the rights contained in it, “without distinction of any kind, such as ... sex,”. This addresses the problem of violence against women, a term defined in article 1 as any act of gender- based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threat and deprivation of liberty.

International Covenant on Economic, Social and Cultural Rights (IESCR)

All peoples have the right to self-determination and can freely select their political status while pursuing their economic, social, and cultural development, according to the International Covenant on Economic, Social, and Cultural Rights. It also assures free and obligatory primary education for all children, as well as equal employment opportunity for all.

The IESCR have particular significance for women because ESCR are at the centre of the challenges and inequalities that women face related to poverty and inequality. For examples, food, employment, housing, education and healthcare are considered basic human rights, but women have often lack the same access to these rights and resources, face obstacles or lack the ability to claim or enjoy them.

African [Banjul] Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. Individual civil and political rights, such as the right to life, the right not to be tortured, the freedom to publish and speak freely, and the freedom to own property, are all guaranteed by the charter, as stated in article 14 of the charter. There is also a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Other international treaties and declarations

There are numerous other international binding and non-binding treaties, declarations and principles at the international and regional level that protect the rights of women and girls. For example, The Beijing Declaration and Platform for Action (1995) and the Sustainable Development Goals (SDGs), especially SDG 5 on Gender Equality, also outline standards and rights for women and girls.

National laws – Liberia

At the national level, a number of laws have strengthened the role of women. Since the end of the civil wars in Liberia and Sierra Leone, both countries have made great strides in protecting women's rights. In the case of Liberia, the enactment of the land rights law and customary marriage law were important milestones for women's rights.

Unequal rights of inheritance are and have long been a major hinder the gender equality in Liberia. Therefore, the customary marriage law of Liberia, the Equal Rights of Customary Marriage Law of 1998, is an important legal document as it establishes rights of inheritance for spouses of both statutory and customary marriages.

Liberia's land rights law of 2018 establishes that men, women, and youth can own land, should participate in management of and in decision-making around land. Free, Prior and Informed Consent (FPIC) is required before a third party or non-community member uses customary land, and women also needs to be consulted. Women can also inherit land from husbands, parents, brothers, and sisters.

National laws – Sierra Leone

In Sierra Leone, the government commitment to enact the three Gender Acts seeks to minimize incidences of gender-based violence (GBV) in the country. It seeks to strengthen the mechanisms that protect women and children; improve women's human rights by enhancing their access to justice through improved knowledge of their rights, legal reforms, and enhancement of the capacity of law enforcement agencies. The Gender Acts also aims to improve access to political leadership and decision-making at all levels; encourage sectorial ministries to ensure the integration of gender-oriented goals into fiscal policies, processes and programmes and meaningful resource allocation focusing on women's needs.

In terms of women's rights to land and tenure, the Community Land Rights and the Devolution of Estates Acts (Property rights) sensitization is gradually bridging the gender gap in Sierra Leone. The 2007 Devolution of Estate Act criminalizes depriving a woman from inheriting her husband's property after his death. It recognizes customary marriage, the rights of polygamous spouses, and imposes penalties for evicting a spouse or child from the marital home. the act only recognizes an individual's right to land, not a family's, and the vast majority of Sierra Leonean women live under traditional land tenure structures that do not recognize a woman's right to own property.

In response to improving women's rights situation in Sierra Leone, the government passed the three Gender Acts in 2007. The three Gender Acts consist of the Domestic Violence Act 2007, The Devolution of Estates 2007 and The Registration of Customary Marriage and Divorce Act 2007. The Acts were meant to bridge the large gender gap between men and women in Sierra Leone. Even though, the 2007 Devolution of estate Acts grants women inheritance rights, customs and traditions bar women form inheriting land and enjoying full tenure rights in the north which discriminate women rights to land. Despite the efforts of government and its development partners in promoting human rights, several challenges still continue to impede the realization of basic human rights particularly women and children and also in the area of accessing and owning land. Women had little in the arrangement since land is owned by household and families which are headed by males, land lease fees are evidently paid to and shared by male family members.

While some progress was indeed made in the quest for gender equality and women's empowerment, Sierra Leone and Liberia still have many challenges affecting the efforts to ensure the full and equal enjoyment of rights by women and men.

3.3 Good business practices on human rights, environment, and peacebuilding

Chapter 2 focused on business practices that fail to account for human rights and environmental standards, and how this in turn can spur or worsen social conflict, when interacting with a number of pre-existing grievances and injustices. This chapter focuses on good business practices on human rights and environment, which in turn can sustain peace and prevent conflict. These good business practices come from businesses, investors, and

other private sector actors in their direct activities and indirect impact via suppliers. Good business practices are also fomented at the State level - in the legal framework in place; availability, independence, and function of redress mechanisms; culture of impunity and other functions that influence business operations.

Community members, including women and girls, are not against investments by mining, forestry or agricultural companies, but local populations typically want an investment that is able to balance business, human rights and environmental concerns. Local communities want to be protected as they exercise their Economic, Social and Cultural Rights.

Post-war economic recovery in both Liberia and Sierra Leone has relied heavily on Foreign Direct Investment (FDI). While FDI can create employment opportunities, improved infrastructure and raise tax revenues, such a rapid investment have not been sufficiently conflict-sensitive and is becoming detrimental to sustaining peace in the Liberian and Sierra Leonean experience.

Working jointly with government, civil society and other stakeholders, businesses can protect human rights in Liberia and Sierra Leone in different ways:

Step 1: Companies should conduct **Human Rights- and Environmental Due Diligence**, with an emphasis on conflict and gender-sensitive human rights due diligence. Human rights, environmental- and social relations are interlinked in producing risks of conflict or opportunities for peacebuilding. The gender dimension is one of the dimensions that is often overlooked when assessing impact from business activities.

Step 2: Investments should **go beyond the “Business Case”**, it should also be about the Social Case. This includes working toward a business model that can create a “win-win” scenario for all. This means, a business model in which companies or businesses can invest and make supper profit; government is able to collect enough tax revenues to deliver social services, create jobs, reduce poverty and deliver the promised “better day” and communities can truly benefit from employment opportunities, improved social services and respect for their rights;

Step 3: Companies should be aware of the risks when investing in conflict-affected areas. They should be careful to invest in an economy where there is a mismatch between the “Business Case” and the “Social Case” for investment. It is important to conduct a conflict assessment with a **conflict-sensitive and human rights-based analysis prior to investment**;

Step 4: The State should take the lead and **address the culture of impunity** and investigate past crimes and violations committed by business actors and their investors. It is very difficult to build lasting peace in a conflict-affected area without addressing the past;

Step 5: The state should **develop a human rights culture** and stop the state suppression of environmental and human rights defenders and the insensitivity to human rights;

Step 6: The state should be **transparent in the information** they provide to businesses about “the investment climate”, including the social issues. This is very important in informing decision-making processes for both investors and local communities;

In the Liberian and Sierra Leonean experience, investors are often told concessions that the land earmarked or given out for concession was “unencumbered” or that the land was free and not inhabited by anyone. The situation is completely different on the ground. Communities are claiming the same lands given to the concession holders as their ancestral lands and many of the concessions are currently stalled. Now, the companies or investors have to pay compensation to local communities in amounts they did not anticipate, thus reducing the size of the investment envelope and return on their investment. In other words, the state has to provide reliable information to businesses. Companies or businesses need the right information to decide whether to invest or not invest in a country. In other words, investments in areas of insecure land tenure have not only impacted human rights and social relations, it has also been very costly for businesses to invest in areas of insecure land tenure (Rights and Resources Initiative).

Companies can protect women’s rights in various ways. One important step is to conduct a gender-sensitive due diligence at the inception of the operations, throughout the operations and during a potential exit of the business. This includes establishing a knowledge of the local context, the role of women and girls, and the obstacles they face in terms of access to decisions making, access to natural resources, and livelihoods. Business operations will affect girls and women differently based on the local context.

Corporations should also ensure that they do not have discriminatory practices and policies in place internally. There should be internal and external redress mechanisms in place for reporting on discrimination, sexual- and gender-based harassment, sexual violence, or other discriminatory treatments of women. A good practice is to have female safety representatives in companies, which can increase the likeliness that women will report on discriminatory treatment.

Representation and access to decision-making within companies are other ways in which companies can positively impact women’s rights. Seeing other women in administrative-, operational- and decision-making positions can serve as an inspiration, break boundaries and foment new norms in man-dominated spheres.

During consultation processes with local communities, business actors should ensure that women are included. FPIC should imply consultations with both men and women in local communities.

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4. Where to turn in cases of business-related environmental harms and human rights abuses

4.1 Intro - where to turn?

When business-related environmental harms and human rights abuses occur, there are both judicial and non-judicial mechanisms that can be utilized to seek redress and hold relevant actors accountable. These mechanisms exist at the local, national, regional, and international levels.

4.2 Non-judicial grievance mechanisms

Principle 31 of the UNGPs sets out a number of criteria that non-judicial grievance mechanisms should meet in order to be effective:

- *Legitimate*: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- *Accessible*: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- *Predictable*: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- *Equitable*: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- *Transparent*: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- *Rights-compatible*: ensuring that outcomes and remedies accord with internationally recognized human rights;
- *A source of continuous learning*: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances
- *Based on engagement and dialogue*: consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances.

Non-judicial grievance mechanisms can take many different forms. These can be divided into two main categories: state-based-, and non-state based non-judicial grievance mechanisms.

4.2.1 State-based non-judicial grievance mechanisms

State-based non-judicial mechanisms exist at various levels of governance - the local, regional, and national level. Administrative, legislative, and other non-judicial mechanisms fulfil a complementary role to the judicial grievance mechanisms.

As outlined in the OHCHR's Accountability and Remedy Project II: Enhancing effectiveness of State-based non-judicial mechanisms in cases of business-related human rights abuse: "Haphazard legal and institutional development in some jurisdictions has led to unevenness

and gaps in the extent to which different human rights are protected through these mechanisms. Particularly in a serious or complex case, it can be difficult to identify a mechanism (or combination of mechanisms) with a sufficiently broad mandate to address the case in its entirety; responses can therefore be fragmented, and remedial outcomes may not meet international standards”.

Some of the common state based non-judicial mechanisms include:

NHRIs

National Human Rights Institutions (NHRIs) get their mandate from the state but operate independently from government involvement. These institutions are tasked with a broad protection and promotion mandate and are central to promoting, monitoring, and implementing international human rights nationally.

Labour inspectorates

Labour inspectorates conduct labour inspections to investigate work conditions, follow-up on claims on labour violations and issue reports to secure compliance with ILO standards and national legislation. Both Liberia and Sierra Leone are members of the ILO and have ratified the organization’s fundamental treaties on forced labour, child labour, discrimination, freedom of association and a number of others. These, as well as national legislation, can be leveraged in cases of BHRE violations around labour rights.

OECD National Contact Points

National Contact Points raise awareness among businesses and other stakeholders about the OECD Guidelines for Multinational Enterprises standards and the connected grievance mechanism. These contact points also take on ‘specific instances’, or grievances, when there are allegations against a company for not meeting the Guidelines’ standards. Many multinational enterprises operate outside of the OECD country. Contact points can handle allegations on a company with headquarters in the NCP country, but where breaches have occurred somewhere else in the world.

Employment- and environmental tribunals

These tribunals work as non-judicial governmental dispute resolution mechanisms. They are often located under the administrative, executive, or ministerial government bodies.

The accountability and remedy project also outlines a number of other examples of state-based non-judicial grievance mechanisms, such as consumer protection bodies, privacy and data protection bodies, public health and safety bodies and professional standards bodies. All these mechanisms can handle grievances related to business-related environmental harm or human rights violations.

4.2.2 Non-State-based non-judicial grievance mechanisms

Non-state based non-judicial grievance mechanisms as formal complaint, dispute and accountability processes that can be utilized by individuals, workers and communities to seek redress, outside of the legal procedures.

As a result of the operations of multinational operations, local communities usually report threats to their livelihood to government agencies, or civil society organizations. These grievances may raise human rights issues or, if neglected or poorly handled, may lead to escalating social tensions and confrontations that in turn have an adverse human rights impact. It is important to have a means to identify and effectively address such grievances. This is also part of the business investor's responsibility to respect human rights, which requires that a business enterprise should facilitate the remedy of human rights harm that it causes or contributes to, and that it should establish or participate in an effective operational-level grievance mechanism.

Company-level grievance mechanisms

Many companies now also recognise the value of operational level grievance mechanisms as a means to help resolve issues without resorting to the courts, while recognising that these mechanisms should not impede access to judicial systems. Operational-level grievance mechanisms can form part of a company's and investor's ongoing human rights due diligence process. It also increases the access to grievance mechanisms and enables adverse impacts to be remedied early and directly by the investor or the company.

Company-level grievance mechanisms have developed largely as a result of pressure from civil society that have shed light on accountability gaps. These mechanisms are also employed by large investors and development banks with the aim of providing an accessible avenue to resolve grievances for communities who have suffered, or anticipate, harms on human rights or environment. Employing company-level grievance mechanisms can also help a business actor avoid costly judicial processes.

Since the UN Human Rights Council endorsed the UNGPs in 2011, more companies have established their own grievance mechanisms to deal with community complaints about their operations. The UNGPs set out a framework for governments and businesses with the aim of ensuring that business activities do not violate human rights and that remedies are provided if violations do occur. One of the principles is that "business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted" by their operations. The purpose of company grievance mechanisms is to create a direct channel of communication between aggrieved communities and the company. This ensures that the company can learn about community concerns and address them before they escalate into larger conflicts.

For affected communities, it can be useful to find out about the relevant company's grievance mechanism, and what the process entails. However, many critics have highlighted that these mechanisms are still far from fair or effective in providing meaningful remedies. In many ways,

this is connected to the fact that the grievance mechanism is established by the company itself – and hence is not independent or impartial.

Some companies also hire community liaison officers who closely work with communities to identify pressing environmental and rights issues. These grievances are then addressed, mitigated or remedied by the business under supervision of civil society organizations.

Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) refers to “any means of settling disputes outside of the courtroom. ADR typically includes early neutral evaluation, negotiation, conciliation, mediation, and arbitration” (LII). The two most common forms of ADR are arbitration and mediation, with negotiation almost always attempted first to resolve a dispute.

Case Study 6: Non-judicial grievance mechanisms, Sierra Leone

Tonka is one of the communities whose land was leased by Addax Bio energy company limited, in the Northern region of Sierra Leone. The community is a river line community with approximately five hundred inhabitants who are traditional farmers or support themselves from fishing and hunting activities.

After the establishment of Addax Bioenergy, the community raised several grievances to local CSOs. For instance, the community’s drinkable water had been contaminated from factory operations and as a result, the community lacked safe drinking water. The water table would be polluted in the long run from the chemicals in the production process of the ethanol, making the water from the bigging of the water well non-advisable to drink. Additionally, it was reported that the sound of the machines caused noise pollution and that the smell from the operations was distorting.

The paramount chief informed the community members that they would be relocated by the company, without having conducted a process of prior consultation. The community turned to SiLNORF for assistance, who in turn wrote a letter to the company explaining the community complaint. An engagement with the paramount chief was done in connection to the allegations, and a multistakeholder session was organized inviting all key government stakeholders and local authorities.

The process resulted in the following recommendations and results:

1. The company should provide an alternative source of drinking water for the community. After a series of follow-up actions and publications of the story at national and international news media, this claim was adhered to.
2. The company denied any plans to relocate the community. They also denied that they had informed the paramount chief about any relocation.

After the intervention and multistakeholder dialogues, the Paramount chief pleaded with the community and promise to work with them and represent their interest in the future.

Source: SiLNORFs reporting.

According to the Legal Information Institute, “mediation is also an informal alternative to litigation. Mediators are individuals trained in negotiations, who bring opposing parties together and attempt to work out a settlement or agreement that both parties accept or reject”.

Arbitration is more formal than Mediation and constitute a simplified type of a trial with simplified rules of evidence. Before the dispute, parties typically enter into a binding arbitration contract or any other form of agreement.

Other ways to solve disputes via ADR is through chieftom security committee which comprise of stakeholders at the chieftom level who at the time use alternative dispute resolution. These typically consist of the paramount chiefs and assistance, youth, and women leaders as well as a chieftom security coordinator.

A district security committee works to maintain peace at district level by the use of ADR methods. It includes heads of government ministries, department and agencies and the different security sector heads, civil society and representative of two traditional leaders within the district.

Provincial security committee: In charge of keeping peace and security regionally. Such a committee, includes heads of Ministries, Department and Agencies of government and the different security sector heads, civil society and representative of two traditional leaders within the district.

4.3 Judicial mechanisms

Apart from non-judicial grievance mechanisms, there are also judicial grievance mechanisms. When CSOs and defenders use judicial grievance mechanisms, it implies taking up a legal process at the national, regional or international level in response to environmental harm or rights violations.

In cases where the judicial system is weak or fragmented, reliance on non-judicial mechanisms can be particularly important. Some CSOs and local community members also prefer to turn to non-judicial mechanisms before turning to judicial ones. Solving the problem “closer to the core” might cause less friction and conflict in the long-run, especially if parties are going to live, work or operate in each other’s vicinity for a long time. Non-judicial mechanisms can also be employed beforehand to avoid reaching the point of a legal complaint that could bring further divide or damage to the local community, company or others involved. Legal claims can also be costly in terms of time and money, which makes non-judicial mechanisms more accessible to some rights-holders and vulnerable groups. However, if women human rights defenders have exhausted the different options regarding non-judicial mechanisms and the company and/or public officials fail to properly address their concerns about a human rights- or environmental issue, they can consider taking legal action against said company or public official(s). National and international laws on land and property rights are considered important factors in the abilities of local communities, in particular, women and girls, to claim, protect and realize land tenure and property rights.

Domestic judicial mechanisms

In Liberia and Sierra Leone, women environmental and human rights defenders can work with human rights lawyers and go to court in their respective countries. This way, defenders can take advantage of existing legal frameworks that explicitly protect women's rights to participate in community-based decision-making processes pertaining to the management and control of community land, especially legal provisions that are interpreted to include women's rights to own and govern land, property or natural resources. The national constitution is the first legal document to consider, followed by applicable laws regarding land and natural resources.

Regional and international judicial mechanisms

At the regional level, if women human rights defenders cannot go through the courts in their respective countries to demand redress, they can also work with human rights lawyers to file complaints to the ECOWAS Community Court of Justice which was created pursuant to the provisions of Articles 6 and 15 of the 1993 ECOWAS Revised Treaty as the principal legal organ of the ECOWAS Community.

The mission of the Court which is based in Abuja, Nigeria, is to discharge and promote its judicial function of interpreting and applying Community texts as well as to ensure the protection of human rights in an efficient, timely and cost-effective manner with the support legal staff.

Optionally, they can work with lawyers to file complaints to the African Court on Human and Peoples' Rights. This is the judicial arm of the African Union and one of the three regional human rights courts together with the European Court of Human Rights and the Inter-American Court of Human rights. The Court was established to protect the human and peoples' rights in Africa principally through delivery of judgments. The Court is based in Arusha, the United Republic of Tanzania.

There is also a possibility to go via the UN with a complaint process. Alleged human rights violations can be brought to the attention of the UN via three mechanisms:

- Individual complaints under the international human rights treaties (petitions).
- Individual communications under the special procedures of the Human Rights Council.
- The complaint procedure of the Human Rights Council.

Literature list chapter 4: Where to turn in cases of business-related environmental harms and human rights abuses

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5. How to organize in the face of women's rights abuses

5.1. Barriers when women environmental and human rights defenders seek redress

Across the globe many women and girls still face discrimination on the basis of gender. Gender inequality underpins many problems which disproportionately affect women and girls, such as domestic and sexual violence, lower pay, inadequate healthcare, lack of access to education, livelihoods, natural resources, and ownership of land.

Due to their lack of equal access to natural resources, livelihoods and decision-making, women are often disproportionately affected by adverse impacts from business practices. In addition, women also face unique barriers in accessing effective remedies, something that has been given little attention in the context of business and human rights. Some of these barriers include sexual and gender-based violence (SGBV), exclusion from decision-making, and other forms of discriminatory practices. Here, specific women's rights issues and barriers to seeking address are outlined, followed by action points on how women can organize in the face of such rights violations.

Unequal access to land

As outlined in previous chapters, women in Liberia and Sierra Leone tend to lack the same access to land and natural resources. Women are often side-lined in the land acquisitions process. Land arrangements seldom take into consideration the specific needs of women like access to water sources and distance to farm sites and local market.

Action points

- Raise awareness on land rights and women's rights in the context of business operations
- Mobilize communities on land rights issues
- Build capacity of landowners and land users for constructive engagement with relevant stakeholders on access to land
- Create a platform for dialogue among stakeholders
- Seek dialogue with business enterprises to ensure a land rights and women's rights perspective in business due diligence processes
- Engage different actors to promote women's empowerment across sectors by focusing on increasing their access to and ownership of land. This can be done via legislation and policymaking. For business actors, women empowerment can be championed via inclusion of gender considerations in land acquisition contracts.
- Build capacity of landowners (individuals and corporate entities) and land users for constructive engagement with relevant stakeholders on access to land to reduce the risk of conflict.
- Create a platform for dialogue among stakeholders where women are invited on equal terms.

Sexual and gender-based violence

SGBV refers to any act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It includes physical, emotional, or psychological and sexual

violence, and denial of resources or access to services. SGBV may be perpetrated by anyone, including individuals from host communities, from refugee or IDP communities, companies, or humanitarian actors. Persons in positions of authority (police, security officials, community leaders, teachers, employers, landlords, humanitarian workers) may abuse their power and commit SGBV against women. Some harmful customary or traditional behaviours may amount to SGBV: early marriage, female genital mutilation/cutting (FGM/C), honour killing and maiming. During situations of armed conflict, sexual violence is often used as a weapon of war.

Violence against women is a major human rights violation. It is the responsibility of a state to protect women from gender-based violence - even domestic abuse behind closed doors or reprisals that women face for exercising their rights, or gender-based discrimination against WEHRD. Businesses also have a responsibility to not contribute to SGBV.

WEHRDs face the structural practice of SGBV in general but can also face SGBV in direct connection to their attempts to seek redress for business impacts. This can be in the form of sexual or gender-based harassment at work when deciding to report on harmful business practices, physical SGBV during protests against private sector projects or reputational campaigns that highlight their bad role as women, mothers, or other forms of sexual- and gender-based attacks.

The entry of new companies and large-scale investments open new work roles for women. When women move into non-traditional workplaces like plantations, rubber production, vehicle operations, and similar, this can cause both appraisal and opposition. CSOs have received accounts about SGBV from males in- and outside of the companies, for instance, at the palm oil or rubber plantations.

Action points

- Promote mainstreaming of SGBV prevention. Preventing and responding to SGBV is a core component of any protection mandate. Given the multi-sectoral nature of the response it requires, governments, NGO'S, businesses to mainstream SGBV prevention throughout any political policy program, development intervention or business operation.
- Seek dialogue with companies to ensure a zero-tolerance policy on SGBV in the workplace or in connection to business activities (also among suppliers or in the redress process).
- Advocate for company-based reporting mechanisms if SGBV arises in the workplace. Having a female protection representative can be an advantage since this increases the likelihood of reporting of misconduct on sensitive topics.

Social pressure

Women face unique barriers in accessing effective remedies in the form of pressure from family, husband, paramount chiefs, or other community members. This can take the form of advice of not organizing and reporting, social pressure, social exclusion or in some cases even harassment or violence to hinder women from holding businesses and leaders accountable.

Even NGO staff can be an obstacle when seeking redress. In some cases, due to lack of same social interests, NGO leaders have sided with the business or other aggressors, rather than the woman filing a specific complaint. Discrimination or personal interests can twist the complaint to not be in favour of the woman.

Action points

- Report and document social norms that can have adverse effects on women and girls. Develop monitoring and research that take into account the gender dimension.
- Organize an awareness raising campaign.
- Hold inclusive multistakeholder dialogues when disputes arise, including both women and men.
- Engage men. CSOs can have regular community engagement/sensitization with relevant community stakeholders, trainings and radio discussion programmes that tackles men's resistance to registration of customary marriage, land and property rights and domestic violence.

5.2 Steps for women to seek redress for adverse business impacts and rights violations

In order to claim or exercise their rights women and girls can organize collectively and individually to undertake a range of activities, including the following:

Step 1: By organizing around their needs: When women and girls identify their needs (such as food security, employment and healthcare) they can transform them into rights and claim that these rights be respected, protected and fulfilled;

Step 2: Identify advocacy targets based on their needs: Women and girls can identify people and institutions in government and private sector as advocacy targets and hold them accountable to respect, protect and fulfil those rights. The list may include company executives and policy makers in government such as regulatory institutions and members of parliament;

Step 3: Forming targeted campaigns to promote and protect human rights: Once women and girls have identified the appropriate advocacy targets, they can identify the best campaign method(s) that will help them get the desired results;

Step 4: Policy reform to protect women's rights: In some instances, changing the laws or policies that affect the rights of women and girls may be the best approach in helping realize women's rights. This may include identifying and removing all barriers to women's empowerment and participation. In some communities, such barriers may be based on harmful customs and traditions practiced in their communities and/or laws, policies and regulations that violates women's human rights;

Step 5: Seeking redress using judicial and non-judicial mechanisms: Women and girls can also exercise their rights by taking advantage of existing grievance mechanisms that are applicable

to the businesses involved in human rights violation or the host government. Optionally, they may be interested in taking advantage of national and international judicial mechanisms in other help realize women's human rights;

Step 6: Insisting on the right Free, Prior and Informed Consent (FPIC): Women and girls can insist on the rights to FPIC and maintain decisions that affect them are only made with them and not for them; and

Step 7: Solidarity Action and movement building: As part of their campaign, women and girls may also freely choose to connect to the broader international community that is also working to promote and protect these rights around the world. In this way, they can externalize their campaign and increase the impact of their work.

This toolkit was developed for women environmental human rights defenders on identifying and addressing the impacts of business on human rights and the environment and on the work of women environmental human rights defenders in conflict-affected settings in Liberia and in Sierra Leone. The toolkit aims at increasing the capacity of women and CSOs in communities affected by large-scale land concessions and other business operations to gain better knowledge of rights to land, natural resources and human rights.

To read more about BHRE, peacebuilding and how to seek redress in environmental and human right matters, please see the following list with further readings, beyond the content of this toolkit:

Further readings

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