



# The right to food:

## An assessment of land grabbing in Mali

CASE DOSSIER

A stylized illustration of a rural landscape in Mali. In the foreground, a body of water reflects the sky. The middle ground shows a herd of cattle grazing in a field. A large, leafy tree stands on the left, and several smaller trees are scattered across the background under a clear sky.

**HANDS OFF THE LAND**  
TAKE ACTION AGAINST LAND GRABBING

---

# The right to food: An assessment of land grabbing in Mali

## CASE DOSSIER

March 2014

The case dossier has been prepared by Timothé Feodoroff (TNI) based on a study by Philip Seufert and Valentin Hategekimana *Accaparement des terres et droits humains au Mali*, FIAN, March 2014. The study would not have been possible without the unique contribution of the CMAT – Convergence Malienne contre l'Accaparement des Terres (Malian Convergence Against Land grabbing)

Published by FIAN and TNI for Hands off the Land Alliance

FIAN is an international human rights organization that has advocated for the realization of the right to adequate food for more than 25 years. FIAN's mission is to expose violations of people's right to food wherever they may occur. We stand up against unjust and oppressive practices that prevent people from feeding themselves. The struggle against gender discrimination and other forms of exclusion is integral part of our mission. We strive to secure people's access to the resources that they need in order to feed themselves, now and in the future.

[www.fian.org](http://www.fian.org)

The **Transnational Institute** was founded in 1974. It is an international network of activist-scholars committed to critical analyses of the global problems of today and tomorrow. TNI seeks to provide intellectual support to those movements concerned to steer the world in a democratic, equitable and environmentally sustainable direction.

[www.tni.org](http://www.tni.org)

The **Hands off the Land** project aims to raise awareness about land grabbing amongst the European public, politicians, policy makers, students and professionals. The project presents case documentation, fact sheets and thematic studies of transnational land grabs in Mali, Mozambique, Zambia, Colombia and Cambodia.

For more information contact:

[tni@tni.org](mailto:tni@tni.org)  
[office@fian.at](mailto:office@fian.at)  
[fian@fian-nederland.nl](mailto:fian@fian-nederland.nl)  
[fian@fian.de](mailto:fian@fian.de)  
[info@fdcl-berlin.de](mailto:info@fdcl-berlin.de)  
[igo@igo.org.pl](mailto:igo@igo.org.pl)

All opinions expressed in this publication are those of contributing authors and do not necessarily represent the views of the publishers.

Contents of this publication may be quoted or reproduced, provided that the source of information is acknowledged. The publishers would like to receive a copy of the document in which this report is used or quoted.



**MISEREOR**  
IHR HILFSWERK

Produced with financial support from the European Commission and Misereor. The views expressed herein are those of TNI/FIAN/IGO/FDCL and not of the EC.

Made possible in part with financial support from the Dutch Ministry of Foreign Affairs.

---

## HANDS OFF THE LAND

### TAKE ACTION AGAINST LAND GRABBING

a joint project of TNI, FIAN International, FIAN Netherlands, FIAN Germany, FIAN Austria, IGO in Poland and FDCL in Germany.



**IGO**  
Instytut Globalnej  
Odpowiedzialności



---

## Introduction

In recent years, land issues have re-emerged on the international stage alongside the surge of large-scale (trans) national land deals, which are linked to the production of food and non-food commodities by agro-industrial complexes. Often referred to as land grabbing, this phenomenon is a process whereby individuals, corporations or states enclose land and other natural resources, such as water, in order to control the benefits of its use. Ultimately, they capture the power to decide how these resources will be used now and in the future.

This global wave of land grabbing has intensified over the last decade, affecting countries globally, including the West African state of Mali. Land grabbing in Mali is mainly the result of activities led by agribusiness operators, along with local authorities and government policies that promote large-scale agro-industrial projects and facilitate land acquisitions by private investors. Several estimations indicate that more than 800,000 hectares of land have been grabbed in Mali, negatively impacting the local peasant communities that depend on access to land and natural resources for their livelihoods. Land is extremely important for Mali's food security, due to the fact that peasant agriculture accounts for more than 80 per cent of national employment and roughly three quarters of the country's cultivated land feeds local populations and domestic markets.

This study examines three cases – Sanamadougou/Saou, Sansanding and San – which highlight the different dimensions of land grabbing in Mali. First, land grabbing involves a vast range of actors ranging from domestic investors (Sanamadougou/Saou) to foreign investors in partnership with the state (Sansanding) and local actors (San). Second, lands targeted by investors are not 'available' or 'marginal' as often portrayed. Sanamadougou/Saou and Sansanding illustrate how communities have been dispossessed from land that they owned under customary law and were using to produce their own food and livelihoods. These lands are attractive for agro-industrial projects

due to their tilled and well-maintained state. Third, in relation to the previous point, access and control over water is a key dimension of land grabbing in Mali. The three cases clearly show that interest in Malian land is due to the existence of irrigation infrastructures. Despite the differences between these three cases, the commonality they share is communities' loss of and access to land, and the violation of their human rights – particularly the right to food.

These violations, and the corresponding obligations of the Malian government, are analysed in the last section of this study, viewed through the lens of the right to adequate food as well as the FAO's *Land Tenure Guidelines*. The analysis goes beyond the three cases and is embedded within the broader land context in Mali, focusing on issues of land access, customary land rights and the model of agricultural development supported by the government.

## The Sanamadou/Saou Case

The case of Sanamadougou and Saou villages involves a land dispute between members of these communities and the agro-industrial company Moulin Moderne du Mali (M3). The activities of this company caused the complete loss of ancestral lands by the inhabitants. Sanamadougou and Saou villages, which are in the rural municipality of Sibila, not far from the dam Markala in the Segou region, are 3,000 and 2,000 inhabitants respectively.

M3 settlement in the area and on lands claimed by the villagers is based on two documents: a special investment agreement and a lease. The undated agreement between the Government of Mali and M3 is represented by a politically well-connected businessman named Modibo Keita, and provides the group with 20,000 hectares of land in the irrigated area of Kala, or other hydraulic systems if necessary. It further grants M3 unlimited use of surface and groundwater. The agreement does not establish a rent to be paid for the allocated land, only a water fee to be paid by the company. The lease bestows 7,400 hectares of "vacant" land to the company in the Séribabougou district, part

of the M'Bewani area, for wheat. Similar to the investment agreement, the lease contains no provision regarding rent to be paid for the land, but only stipulates that M3 must pay an annual fee for water.

Prior to obtaining the lease, M3 tried to negotiate with the people of the rural town of Pogo in the Niono circle, located a little further north of Sibila. Following the refusal by Pogo inhabitants, the company began negotiating with the communities in the Sibila circle. According to documentation, Modibo Keita came to Sanamadougou Saou and facing similar refusal from the population to give up their land, tried unsuccessfully to convince them by offering them gifts. He also offered to exchange every ten hectares of villagers' land for one hectare of irrigated land elsewhere. Two communities reportedly agreed to give up their land – the Diado village, which was approximately 800 hectares, and the Sanamadougou-Marka village, which contained 7-10 households. Despite the overall refusal by other villages, in June 18<sup>th</sup>, 2010, bulldozers began to destroy villagers' fields and cut down their fruit trees. When they opposed the destruction of their fields, police intervened on behalf of M3 to ensure the successful execution of operations, using excessive force against the villagers and carrying out many arbitrary arrests.

Since that day, M3 agents and the police have prevented villagers from accessing their land. According to the communities, Sanamadougou and San lands are not part of those that were granted to M3 by the lease, and as such the company occupies them illegally. Representatives from the communities further argue that the fact that M3 has attempted to negotiate an agreement with the communities for the sale of their lands is an implicit acknowledgment by the company that the land actually belongs to the communities. The particular interest in this land is due to it, having been cultivated and well maintained for generations, as well as its proximity to the canal Macina, which supplies the area with water. In addition, M3's occupied the land up to this day, around 2,000 hectares, are mainly producing potatoes and corn, and not wheat as stipulated in the lease.

To address their situations, villagers from Sanamadougou and Saou sent several letters to the different levels of Malian authorities. They also filed

a complaint with the court of Markala, requesting the return of their land based on the arguments outlined above. These calls remain unanswered. At the local level, authorities justified their inactivity by their lack of capacity to resolve the conflict; at the national level, the Malian authorities have openly sided with the company and Modibo Keita. In parallel, communities publicly explained their situation in various regional peasants' forums. Following this process, their case has been brought to the attention of an ad hoc governmental commission that examines complaints in several land disputes. In March 2013, the commission signed a decision demanding M3 to stop its operations and return the land to the villagers, but this provision has not yet been implemented by local authorities or by M3, which pursues and expands its activities.

Meanwhile, communities remain in a critical state of food insecurity. It is important to stress that this situation affects villages that were not previously experiencing hunger – agriculture was their main activity, whereby land provided stable, diversified livelihoods and income for the local economy. In addition to pastoral activities, the village lands have been cultivated for generations, producing millet and sorghum. The trees were also an important additional source of food and income, and were used for their medicinal properties, firewood, as well as for cultural and spiritual value.

Since they lost access to their land, villagers and farmers are no longer able to feed themselves. Gardening activities on marginal lands are not sufficient to compensate for the loss of their fields. Any income-generating activities have become more difficult. Peasants are being forced to rent land located far from their villages and many say they would not survive without the support from other villages. The cattle farmers have been forced to sell their animals, due to no longer having access to their pasture or water points. When animals enter the fields guarded by M3, company operatives or police catch them and villagers have to pay a fine to get them back. They further prevent villagers from moving freely or approaching their fields. A water canal that was dug by M3 for its operations causes an additional constraint. It requires inhabitants to take a detour of several kilometers to get from one village to another. Pesticides used by M3 in the fields also pose a health risk for communities.

## The Sansanding Case

The Markala Sugar Project (PSM) is a large-scale agro-industrial project currently being promoted by the Malian government in the region of Ségou. The PSM is a public-private partnership between the Malian government and private investors, with financial support from several multilateral development agencies. The project involves 20,245 hectares, including 14,132 for the establishment of sugarcane plantations and processing facilities for sugar and ethanol exports.

PSM was established in 2006, after the arrival of the South African company Illovo – the first sugar producer in Africa – as a strategic partner in Markala Sugar Company (SoSuMar), which is responsible for developing the industrial aspect of the PSM. Following Illovo's withdrawal in 2012, after having converted only 142 hectares into nurseries, PSM became temporarily idle, though was not completely abandoned by the Malian government. In June 2013, the government announced the arrival of Uttam Sucrotech, an Indian sugar company that would be the new PSM strategic partner. Despite the unclear legal status of PSM, members of local communities could not recover the lost 142 hectares of land, and never received adequate compensation from the SoSuMar. Thus, the threat for communities in the impacted area to lose all of their land remains real.

Located in the area of the Office du Niger, the project includes the territories of six rural communities, populated by more than 150,000 people. The two municipalities most affected by the project, mainly because of their water infrastructure, are Sansanding and Sibila, which have approximately 20,000 and 17,000 inhabitants each. In addition to discussions and confrontations with local authorities, the police and agents of the company, the chiefs of the area have been voicing their concerns about the implementation of the project since 2008 with the Governor of Office du Niger and the Malian government. A complaint was also filed with the court of Markala in 2012, but it was overruled and a new complaint was filed in May 2013.

The resistance of the local population is primarily based on the lack of proper consultation and consent. Community members testify that the operations for developing the site began before they were informed or consulted about the project. They add that local and

national authorities were not willing to provide information regarding details of the project. More importantly, the residents of the area very clearly state that they do not want their fields to be converted into sugar cane plantations. Testimonies reveal that serious pressure was put on those who spoke out against the project, including the illegal removal of a village chief for allegedly encouraging other chiefs to reject the project.

Resistance revolves around the communities' claim of customary rights to the land they occupy and have worked for generations. Documents developed during the preparation of the project confirm that the villagers have customary rights over use of this land, prior to its appropriation by the state for the PSM. Malian law protects customary rights holders and affirm that they cannot be forced to surrender their rights, except for public purposes and after they are given fair compensation. However, anticipated impacts drawn from the environmental and social impact assessment (EIES) cast doubt on the public utility of the project and its contribution to the development and food security of affected communities.

Concerning the agricultural aspects, the environmental impacts of the project include the irreversible loss of natural vegetation and biodiversity, and a high risk of erosion due to the introduction of sugarcane monocultures. The EIES also clearly indicates that the large amount of forest being cleared for the implementation of the project will lead to the destruction of local ecosystem. Meanwhile, the industrial aspect of the project will result in the pollution of air, soil and water, which will negatively impact the health of local populations. The high water demand of sugarcane crops and the government's commitment to prioritising the PSM in every season may become a major concern for people in the entire area, which consists mainly of small farmers using water diverted from the Niger River to irrigate their plots. While local populations are not currently experiencing water shortages, the PSM introduces a real risk of generating a water supply that is insufficient for their needs.

The PSM will also have a major impact on access to land and forests for local communities, who depend almost exclusively on agriculture and livestock for subsistence and income. Agriculture and livestock account for 90 per cent of the economic activity, and

occupy 95 percent of cultivated land in the project area. The EIES estimated that 40,000 people will lose access to their farmland, with more than 1,500 villagers being displaced. Conditions of relocation and compensation for these villagers remain unclear. In addition, more than 100,000 people who live in the area neighbouring the land targeted by the PSM will be indirectly affected, to the extent that the project will involve a restructuring of the local economy.

The SoSuMar pledged to mitigate risks of food insecurity by distributing irrigated plots in areas between the sugarcane cultures, as well as creating between 5 and 8,000 jobs either on the plantation or through contract farming. However, this figure remains well below the number of affected people, and highlights the potential of smallholder agriculture vis-à-vis the agro-industrial model for the creation of employment opportunities in order to reduce the rural exodus. Given the number of affected households, land redistribution would be insufficient to ensure food security, as only half a hectare is given to a household of 10-25 people. The inhabitants stress they have always fed themselves via their agricultural activities, livestock and fishing, and want to maintain their self-sufficient lifestyle instead of becoming workers on sugar plantations.

The loss by local people of their traditional livelihoods and independence become so problematic to the point that even in areas where contract farming will be allowed, the population will depend entirely on sugar cane, which will be sold to a single company – SoSuMar. This puts them in a position of total dependence on SoSuMar, which presents additional negative impacts on their income and food security.

## The San Case

In the San circle of the Ségou region, the inhabitants of seven villages from the Djéguena and N'Goa municipalities lost their land in 2011 following a reallocation implemented by the prefect. Through this administrative decision, these communities have been dispossessed of their productive ancestral lands in the immediate vicinity of their villages, at the benefit of other villages in the area. According to the communities, the reallocation was made based on kinship connections between the sub-prefect and the mayor of the municipality who is the administrator of the villages that have benefited

from the decision. The former head of Office du Niger, Kassoum Denon, who is a native of the area, has reportedly been involved in the reallocation process, which benefited inhabitants from neighbouring villages who had not cultivated these lands for years.

The land in this area, which is difficult to cultivate given the limited and irregular rainfall, has gained new value after the 2007 construction of the Talo Dam, which transformed it into 8,000 hectares of potentially irrigated land. Communities in the seven villages began to grow rice, and this new activity significantly improved their income and standard of living, sparking interest from local authorities and other villages in the area. In May 2011, the prefect of San signed a decision reallocating 3,810 of the 8,000 hectares of potentially irrigated land, which included around 300 hectares of rice crops grown by the seven villages. These are reallocated to other villages located further away. While expropriating the immediate farmlands of the seven villages, the decision allots the villagers distant land that must be cleared and developed before it can be cultivated. It is important to note that through this decision, the prefect diminishes villagers' customary rights and oversteps his authority, since he is not legally authorized to reallocate more than 5 hectares.

Villagers claim not to necessarily stand against the reallocation of land, but rather oppose the reallocation of land in their vicinity to inhabitants of villages located more than 20 kilometers away. Communities view these lands, on which they have customary land rights as their living space and crucial for their food security. In July 2011, after they refused the land reallocation, the villagers were victims of forceful police enforcement, during which many people were arrested and arbitrarily detained. The police have also set fire to houses and granaries, which destroyed the stored harvest and nearly all of the villagers' belongings. Those opposing the reallocations are regularly harassed by the police and criminalised and treated as rebels by the local authorities. These communities have not been able to grow food for three years, which has put them in a position of food insecurity. According to the villagers, communities are suffering from hunger because families can no longer sustain themselves with agricultural activities. They also lost access to water points for animals, and grazing is difficult without access to the fields.

## Right to Food analysis

Sanamadou/Saou, San and Sansanding farming communities' loss of access to the land they have farmed for generations has seriously interfered with their human rights, such as the right to water, housing, work, health, education, information, and involvement in decision-making. However, this analysis will focus on the communities' right to adequate food by relying on two legally binding elements for Mali – the right to food and the *Tenure Guidelines* for land governance.

The importance of equitable and secure access to and control over land and natural resources was recently stressed as a prerequisite for the right to adequate food in the Voluntary Guidelines on the 'Responsible Governance of Tenure, of Land, Fisheries and Forests in the context of national food security', (hereinafter *Tenure Guidelines*) which were adopted by the FAO's Committee on World Food Security (CFS) in May 2012. Approved by the CFS Member States, in which Mali is included, this document establishes internationally recognised human rights-based standards for land governance. These Guidelines are consistent with the existing obligations of states under international human rights law and provide guidance to improve the governance of the tenure of land, which aims towards the eradication of hunger and poverty. It also promotes the sustainable use of the environment with "the overarching goal of achieving food security for all and to support the progressive realization of the right to adequate food in the context of national food security" (as stated in its preface).

Mali is bound to respect the right to adequate food under various international declarations, covenants, protocols, charters and conventions that the State has ratified and signed. The UN Committee on Economic, Social and Cultural Rights has interpreted this as "the right to food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement." Physical and economic accessibility to productive resources, such as land, is part of the core content of the right to adequate food for individuals and groups who decide to exercise their right in this way, especially in rural areas.

In light of the three cases presented, the Malian government has not complied with its obligations to respect, protect and fulfill the right to food. These three requirements will be discussed consecutively, in relation with the *Tenure Guidelines*, around issues of land access, customary land rights and the model of agricultural development supported by the government.

## The importance of land access for respecting the right to food

The obligation to *respect* means that the Malian government should not take actions that prevent individuals or groups from securing their right to food. It should therefore not deprive communities of access to land, should not prevent them from seeking access to land in order to meet their basic needs, and shall respect the right of people to participate in decision-making processes on land governance and natural resource management.

Since the three cases described peasant communities that rely almost exclusively on family farming and livestock for their basic needs, loss of access to land – complete loss in Sanamdougou/Saou and San, and partial loss in Sansanding – puts these communities in a critical situation of food insecurity. Their ability to produce food to feed themselves and generate additional income has been destroyed. People are forced to buy food without having sufficient means to do so, and depend largely on the help they receive from neighbouring communities or family members who have migrated elsewhere. It is important to note that this affects villages that were not previously experiencing issues of hunger.

The Malian government has clearly violated its obligation to respect the right to food. In all three cases, communities were previously achieving their right to food by cultivating their land. But the state has redistributed the land, which was developed and used by the villagers for their livelihoods, to other actors, without proper consultation. In addition, in the case of Sanamadougou/Saou, M3 expanded its operations on lands that the villagers claim were not those granted in the lease. In San, the prefect is not authorized under Malian legislation to redistribute such vast areas of land. The potential threat of forced displacement in the case of Sansanding also neglects the obligation to respect the right to food.

In the context of investments involving large-scale transfers of land rights, the Guidelines allow for independent evaluations to be carried out prior to the investment in order to identify the impact these transfers would have, including how it affects the right to food (Article 12.10). However, such evaluations do not appear to have been made in the case of Sanamadougou/Sao, or were at least done discreetly, despite being a requirement under Malian law. The Sansanding case shows that when carried out by the project promoters, and therefore not independently, these studies do not protect local populations from the loss of access to their land. These cases clearly show there are no measures in place in Mali to protect people against agro-industrial projects.

In all three cases, affected communities and civil society organisations informed the various levels of Malian authorities, including the national government, immediately after conflict occurred. Nevertheless, instead of taking steps towards effective remedy with regards to the claims of peasant communities, authorities have maintained their decisions or intervened in favour of agribusiness operators. This has been demonstrated via violent interventions from police forces against the local population.

In March 2012, an inter-ministerial commission and an ad hoc technic commission responsible for managing land dispute cases, including those from Sanamadougou/San and Saou, were established. It is necessary for these commissions to take concrete measures to protect and promote the land and human rights of rural communities, as well as ensuring the effective implementation of these rights, which has not yet been realized following the decision demanding M3 to stop its operations and return the land to the villagers.

## Customary land rights and protecting the right to food

The obligation to *protect* means that the Malian government must take steps to prevent third parties (individuals, groups, companies, etc.) from interfering with Malian's right to food. This means the government must adopt effective measures that prevent third parties from depriving communities of access to their land. These measures must also ensure that the

rules and mechanisms governing land access are not implemented in a discriminatory manner or causing land concentration at the expense of vulnerable and marginalised groups. In addition, the Malian government must ensure that land policies supported by international donors are consistent with the human rights standards and norms.

This obligation illuminates a key aspect in the three cases discussed here, and in Mali's rural communities in general – the question of the institutional framework for land governance. Access to and control over land is co-governed by the modern law, in the form of the Land and Estate Code (CDF) and customary systems, arising from ancestral traditions and local practices. These two systems coexist and are often contradictory. Even though customary land rights are formally recognized and guaranteed by the CDF, they are not effectively protected. The lack of standards to govern the recognition and registration of customary rights negatively impacts communities who lose their land to private investors or other villagers. In this context, the case of Sansanding and PSM is of particular interest due to the fact that the impact assessment studies carried out explicitly confirm the existence of the customary rights of the villagers in the project area. However, this recognition has had no clear impact on the design and planning of the project, which involves the displacement of thousands of people. This illustrates the gap existing between the legal recognition of customary land rights and the lack of respect and protection that exists in reality.

Considering that nearly all rural communities in Mali, including Sanamadougou, Saou, and San Sansanding, exercise their land access through customary rights, the Malian government has the obligation to respect and protect such rights. Effective recognition of customary land rights and protecting people against arbitrary loss of land is a basic principle for human rights-based land governance that is highlighted by the *Tenure Guidelines*. It places particular emphasis on the recognition and respect of customary land rights, including those that are not formally registered, and requires states to promote and facilitate the security of these rights (see Articles 3.1, 4.4, 5.3 and 8.2).

In the context of the three cases discussed here, this means that the Malian government, including local authorities, should have made an inventory of existing



land rights before proceeding with any allocation of these lands, either to other villages (in the case of San) or agro-industrial companies (in the case of Sansanding and Sanamadougou/Saou) (Article 7.3). Such an inventory would have clearly revealed communities' rights and actual possession of these lands, not simply because they cultivate it. In these cases, various authorities confirmed, as a matter of principle, the recognition of customary rights, but questioned their existence for these particular lands. The flawed argument of the Malian authorities is that proving the existence of customary rights is the responsibility of the communities, when in fact it is the duty of the authorities to demonstrate that a survey has been conducted to ensure there are no competing rights for the land in question.

The particularity of the Sansanding case arises from the fact that the local communities' claims of customary rights are explicitly recognised. Yet, the establishment of the sugar project is planned in an area where a land title has been registered to the state, under the CDF rules. However, it must be asked whether this title is legitimate and whether the registration has been made in accordance with all the legal provisions of the CDF. Indeed, the registration procedure requires the absence of prior existing land rights. There is no indication that an inventory had been conducted before granting the land title.

Since the CDF states that "no individual or community may be compelled to transfer their rights, except in public interest and subjected to fair and prior compensation" (Article 43), the Malian authorities often use the public interest exemption to justify reallocation or agro-industrial projects. It remains unclear whether M3's occupation of land outside the boundaries of their lease, and at the expense of Sanamadougou/Saou villagers and thousands of peasants, is in the public interest. This is especially uncertain considering there is idle land nearby those villagers who would not object to its reallocation. The alleged public interest of the sugar project at Sansanding can be also called into question. Given expropriations, evictions and displacements are very serious actions; the Malian government should clearly define what is understood to be 'public interest', in relation to Article 16.1 of the *Tenure Guidelines*. It should be noted in this context that the public interest should not be confused with the interests of the state.

This differentiation is particularly important in the Malian context where the state owns all land.

One of the arguments put forward by Malian authorities to justify their non-compliance with customary rights in the cases analysed here, is that the state has ultimate ownership of the country's land. As such, they would have the right to develop and allocate land at their discretion. This argument is based on the CDF rule that all lands that are not formally registered by third parties are part of the state's private estate. There is no question here that the Malian government has rights, the point is rather to emphasise that it must ensure that these rights are exercised in accordance with national and international law. Human rights limit the interpretation of state ownership when it comes to enable the state to dispose of land resources at its discretion. Articles 8.2, 8.5 and 8.7 of the *Tenure Guidelines* argue that the state is forced to protect existing customary rights, to involve communities in the decision-making processes regarding land policies and such policies should protect the human rights of the Malian population.

### **An agricultural development model fulfilling the right to food**

The obligation to *fulfill* means that Mali must take steps to ensure that everyone can secure their right to food and live with dignity. Mali must adopt effective measures to facilitate access to land for individuals and groups who have little or no access to it (e.g., by carrying out agrarian reform); ensure land restitution for groups that have lost access to and/or control over it in illegal or arbitrary manner; prioritize the allocation of public lands to marginalised groups; support those whose livelihoods depend on access to land; facilitate people's participation in decision-making in regard to policies and agricultural development; and ensure that land rights are recognised and protected by national laws, including customary tenure systems.

Violations of the Sanamadougou/Saou and Sansanding communities' human rights are related to agro-industrial projects. Thus, in the broader context of land grabbing in Mali, they raise the question of whether the model of agricultural development supported and promoted by the Malian government is best suited to meet the development needs of Malian communities.

The Malian government, encouraged by foreign countries and institutional donors, actively promotes and attracts private investment and agro-industrial projects, which often include the large-scale acquisition of land by domestic or foreign investors.

The authorities justify the promotion of these land acquisitions by highlighting the need to modernise Malian agriculture and increase agricultural production. They refer to, among other policy frameworks, the Agricultural Orientation Law (LOA), which requires the establishment of agro-industrial and agricultural enterprises. In reality, while containing divergent elements on agricultural development, the LOA mostly promotes sustainable agriculture based mainly on family farms, along with Article 8 explicitly stating “the right to food security for all in the context of achieving food sovereignty”.

This stance relies on the fact that the food security of the Malian population is largely intertwined with rural communities’ access to land, given that 80 per cent of the population lives in rural areas and depends on agriculture and fishing as their main methods for feeding their families. Peasant agriculture creates more than 75 per cent of employment in Mali and produces 60 per cent of the country’s staple grains. Peasant communities feed themselves and contribute fundamentally to Malian food security.

In this context, food security and the right to food should be ensured through public policies supporting peasants and small producers. The Sanamadougou/Saou and Sansanding cases illustrate how agro-industrial projects may in fact reduce food security, especially if communities are prevented from accessing the resources upon which they depend on for their subsistence. These cases show that the increase in food production does not necessarily lead to better individual food security. In these circumstances, the government must secure its population’s right to food by supporting and promoting sustainable systems of food production that are controlled by peasants and small producers. Agricultural investments should first benefit small producers, and public investment should strengthen the resilience of family farming.

In this regard, the *Tenure Guidelines* also call upon states to “consider promoting a range of production

and investment models that do not result in the large-scale transfer of tenure rights to investors” (Article 12.6). This should be understood as the promotion and support of investments undertaken by communities, and peasant agriculture in general. The importance of investments made by small-scale producers “that contribute significantly to food security, nutrition, poverty eradication and environmental resilience” is particularly emphasised by the Article 12.2 of the Guidelines. In addition, they also rely on states to “support investments by smallholders as well as public and private smallholder-sensitive investments” (12.2).

## Recommendations to Mali state

- Foster the process that examines complaints in several land disputes – that is, the work of the inter-ministerial commission set up in March 2012 (decision 2012-0042/PM-RM) and the ad hoc technical commission (decision 2012-0154/MATCL-SG, march 16<sup>th</sup>, 2012). This includes making sure that:
  - o The commissions’ recommendations are consistent with the obligations of the Malian state under international human rights law as well as take into account the demands of affected communities, especially the restitution and securing of their land, along compensation for damage;
  - o Relevant authorities implement the recommendations without delay.
- For the case of Sansanding: Take advantage of the PSM being temporary idle and return the 142 ha occupied by the project to the communities and/or families and review the project as a whole. The revision of the project should include:
  - o An independent assessment of potential project impacts on land rights, human rights, especially the right to food of potentially affected individuals and communities, as well as environmental impacts.
  - o Consultations with potentially affected individuals and communities or their appointed representatives. Establishing clear rules regarding how potentially affected individuals and communities’ claims will be taken into

account in any decision-making process regarding the PSM.

- Assessing and verify whether the registration of the land title N0 2215 of Segou circle on 23 June 2014 in the name of the State has been done in conformity with the Malian law.
  - Conduct an unbiased investigation on the violence exerted against communities, especially the police interventions in Sanamadougou, Saou and San. This investigation should particularly clarify the circumstances of the death of Kassim Coulibaly in San and Fousseyni Coulibaly in Sanamadougou, identify and punish those responsible according to Mali law and in compliance with human rights obligations.
  - Stop the criminalisation of the communities and their struggles for the defense and return of their land.
  - Ensure an inclusive and participatory process to develop a land policy and a land law that takes into account peasants and communities' proposals. The land policy and law must be based on the LOA and take into consideration the obligations of the Malian state under international human rights law. They must especially take into consideration the *Framework and Guidelines on Land Policy in Africa*, the *Declaration of Heads of States and governments of AU on Land Issues and Challenges in Africa* and the *Voluntary Guidelines on the Responsible Governance of Tenure, of Land, Fisheries and Forests* endorsed by the UN Committee on World Food Security.
  - The land and agricultural policies as well as the land laws must specifically ensure an effective protection of customary tenure rights and systems, which are recognized by the Malian law.
  - Conduct a review of all leases and investment agreements signed to date involving land transfers in order to assess their conformity with the Malian law and human rights. Terminate all leases and agreements that are not complying with the Malian law and human rights.
  - Review the current policy in Mali supporting land acquisitions, taking into account all available information on human rights violations. Ensure the implementations of effective measures to protect communities' rights, particularly their customary land rights and human rights. This also includes providing and ensuring adequate participation of potentially affected communities, in the decision-making process regarding the sale of (re)allocation of their land.
-

# HANDS OFF THE LAND

TAKE ACTION AGAINST LAND GRABBING

a joint project of TNI, FIAN International, FIAN Netherlands, FIAN Germany, FIAN Austria, IGO in Poland and FDCL in Germany.

