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High Risk in the Rainforest

Golden Agri-Resources and Golden Veroleum's Palm Oil Project in Liberia




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the Earth
United States

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Cover Photo: A recently cleared forest in the Tartweh Estate section of Golden Veroleum's palm oil plantation in Sinoe County, Liberia. Photo by Gaurav Madan



Sustainable Development Institute
Duarzon Village
Robertson Highway
Margibi County
Liberia
managementteam@sdiliberia.org
Phone: +231 (0)330 641355



Milieudefensie
Nieuwe Looiersstraat 31
PO Box 19199
1000 GD Amsterdam
+31 205507300
www.milieudefensie.nl
service@milieudefensie.nl



Friends of the Earth U.S.
Washington, D.C.
1101 15th Street NW 11th Floor
Washington DC 20005
Please visit us at
www.foe.org

Industrial palm oil concessions, Liberia

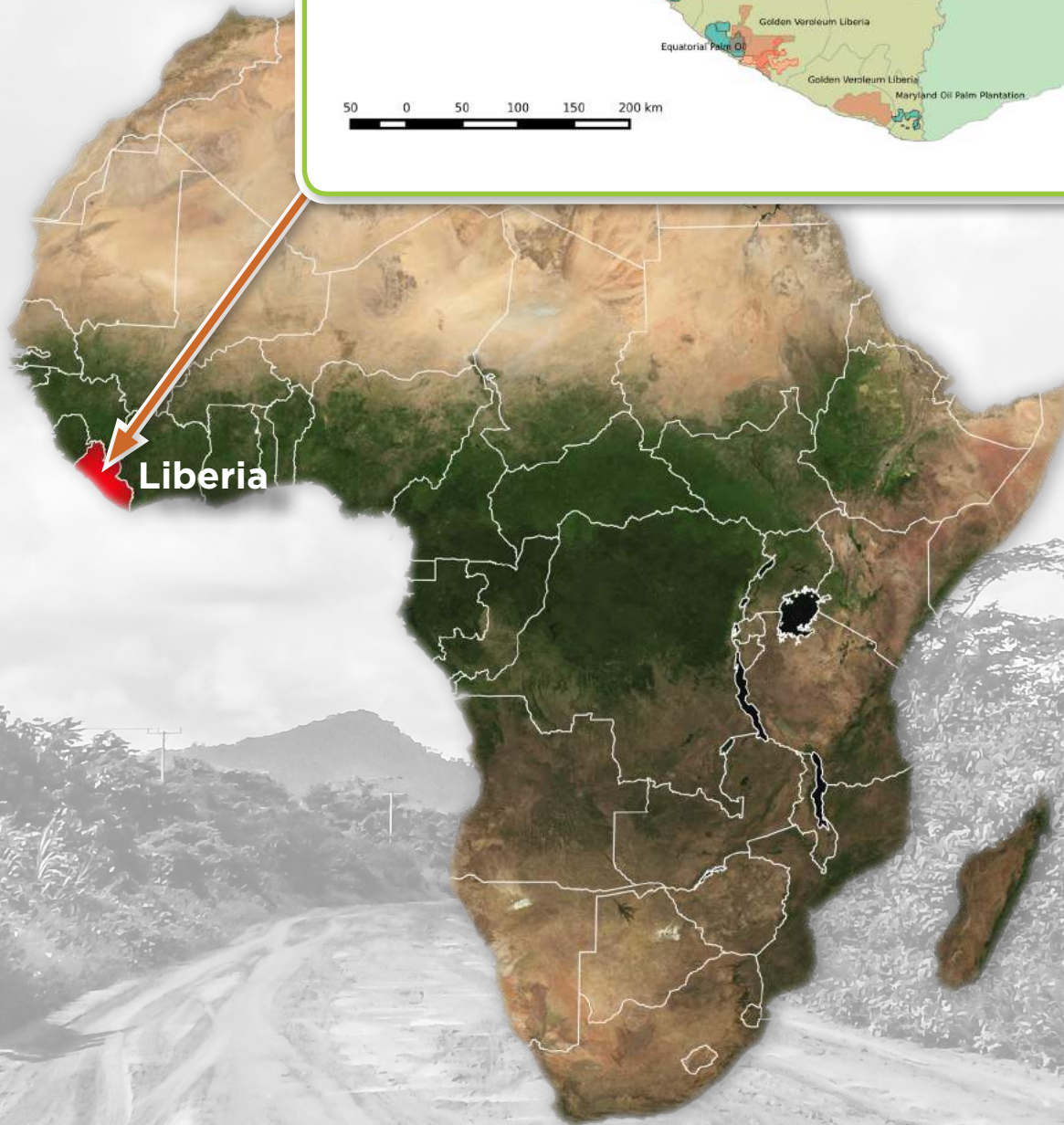
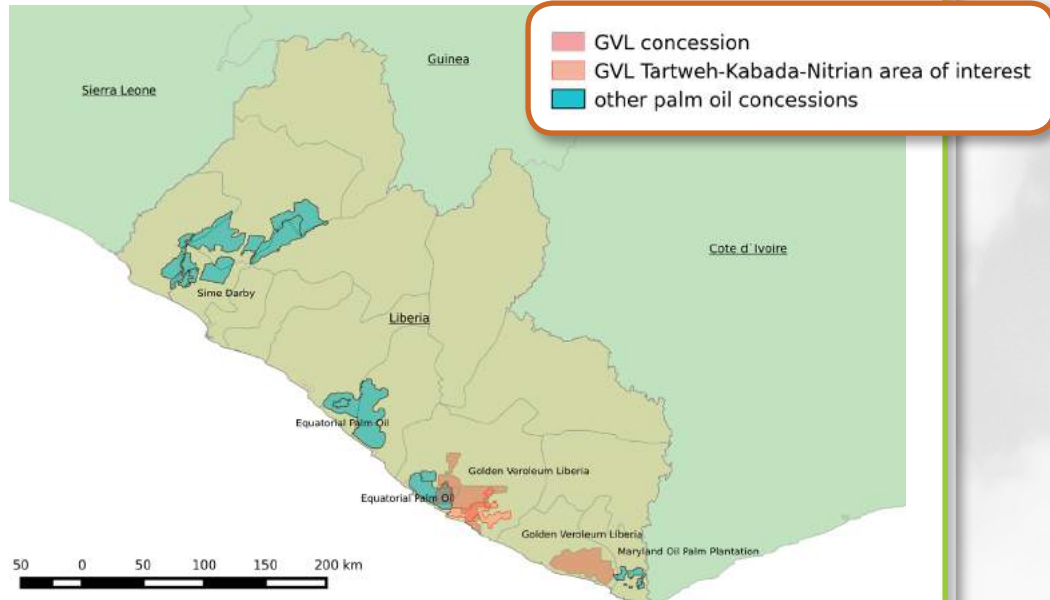


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Executive Summary

In August 2010, Golden Veroleum Liberia (GVL) signed an agricultural concession agreement with the Government of Liberia covering 350,000 hectares, or approximately 2.3 percent of the country's land mass. The land indicated in the concession agreement is densely forested, rich in biodiversity and customarily owned and used by rural communities as the source of their food and water, livelihoods and culture. Since GVL's arrival in Liberia, the company has faced consistent and well-documented allegations of human rights violations, environmental degradation and disregard for communities' land rights. New findings indicate that GVL has failed to reform its operations, despite numerous complaints filed with the Roundtable on Sustainable Palm Oil (RSPO) since 2012, including a comprehensive set of complaints affirmed by the RSPO Complaints Panel in February 2018.

GVL's primary investor is Singapore-listed palm oil company Golden Agri-Resources (GAR)—one of the world's largest palm oil companies. GAR established GVL through a series of investment vehicles in order to expand its palm oil plantations from Indonesia into West Africa while shielding itself from liability for the risks of the endeavour. As GVL's primary investor, GAR bears substantial responsibility for the risks and impacts of GVL's operations.

GVL's ownership structure may prevent GAR from being held legally liable for GVL's activities in Liberia. However, GAR's sustainability policies clearly indicate its responsibility for GVL's business practices. GAR identifies the scope of its social and environmental policy to extend to "all upstream and downstream palm oil operations that we own, manage or invest in, regardless of the stake,"ⁱ thus clearly including GVL's operations. GVL notes on its website that, "As an indirect investee company of Golden Agri-Resources, (GAR), we adhere to GAR's Forest Conservation Policy (FCP), which applies to all farms GAR invests in regardless of stake."ⁱⁱ Financiers of GAR are therefore linked to GVL's environmental and human rights violations and land conflicts, and may face material financial and reputational risks as a result.ⁱⁱⁱ



Key findings

- From 2010-2016, GVL cleared and planted some 15,000 hectares of land^{iv} – some 7 percent of its granted plantation area – which consists of a mosaic landscape of forests, fallows and farmland. GVL has not yet established any of the 40,000 hectares of outgrower plantations it is supposed to deliver.
- Based on a field sample in Kpanyan district, Sinoe County, since 2015 GVL has cleared or fragmented at least 380 hectares of High Carbon Stock (HCS) forest patches, of which some 268 hectares were high priority patches for conservation. Since March 2017 GVL also cleared or fragmented some 320 hectares of High Conservation Value (HCV) areas, including chimpanzee habitat identified by the company through its own biodiversity assessments.
- GVL continues to damage streams, wetlands and riparian buffer zones and has failed to provide compensation for previous damage to community water sources.
- GVL has consistently violated human rights through failure to implement adequate free, prior and informed consent (FPIC) procedures, destruction of sacred sites and ongoing development of disputed land, as affirmed by a February 2018 RSPO Complaints Panel decision.^v
- The RSPO Complaints Panel reaffirms a previous stop-work order for the Butaw area and orders GVL to cease all land development, including the construction of a mill on the disputed lands of the Blogbo community.
- GVL has rejected the RSPO Complaints Panel findings and appealed the decision.^{vi} GVL continues operations, including land clearance and mill construction, in the disputed areas.
- GVL's operations and GAR's investment constitute violations of international standards including the United Nations Guiding Principles on Business and Human Rights (UNGPs), Free and Fair Labor in Palm Oil Production Principles, Liberian national laws and GVL and GAR's corporate sustainability policies, as well as the No Deforestation No Peat No Exploitation (NDPE) sourcing policies of several of GAR's downstream customers.
- GVL's land acquisition processes violate Liberia's Community Rights Law and Land Rights Policy, as they disregard communities' land and natural resource rights. GVL's 65-year concession agreement contravenes Liberia's Public Lands Law, which states that no such lease shall exceed 50 years.^{vii} GVL's concession agreement allows the company to withhold tax payments for 65 years^{viii}, in violation of Liberian tax code.
- As GAR is the primary investor in GVL, investments in GAR expose financiers to a set of material ESG risks, including reputational risk, operations risk, legal and regulatory risks related to human rights violations, stranded assets risk, and Responsible Business Conduct Risk as defined by the OECD Guidelines for Multinational Enterprises.
- Given GVL's ongoing violations, GAR's creditors and investors may also be in violation of international norms guiding responsible financing, including the OECD Guidelines on Responsible Business Conduct,^{ix} the UNGPs and Human Rights and the United Nations Principles for Responsible Investment.

The evidence

Mapping conducted between September 2017 and April 2018 revealed that GVL is clearing and fragmenting areas it had identified as High Carbon Stock (HCS) forest patches and High Conservation Value (HCV) areas. HCS forests and HCV areas are the forest areas of greatest importance for carbon sequestration, biodiversity and community livelihoods. GVL is a member of the HCSA Steering Group—a body whose sole function is to establish best practices in the preservation of HCS forests—making its destruction of HCS forest patches especially troubling.^x

A February 2018 RSPO Complaints Panel decision affirms a series of ongoing violations by GVL, including failure to implement adequate free, prior and informed consent (FPIC) procedures, destruction of sacred sites, coercion and intimidation of community members and continued development of disputed land. The RSPO Complaints Panel has ordered GVL to cease operations in multiple locations in its concession area.^{xi} GVL has called the RSPO decisions “factually inaccurate in many respects,” and has appealed the decision.^{xii}

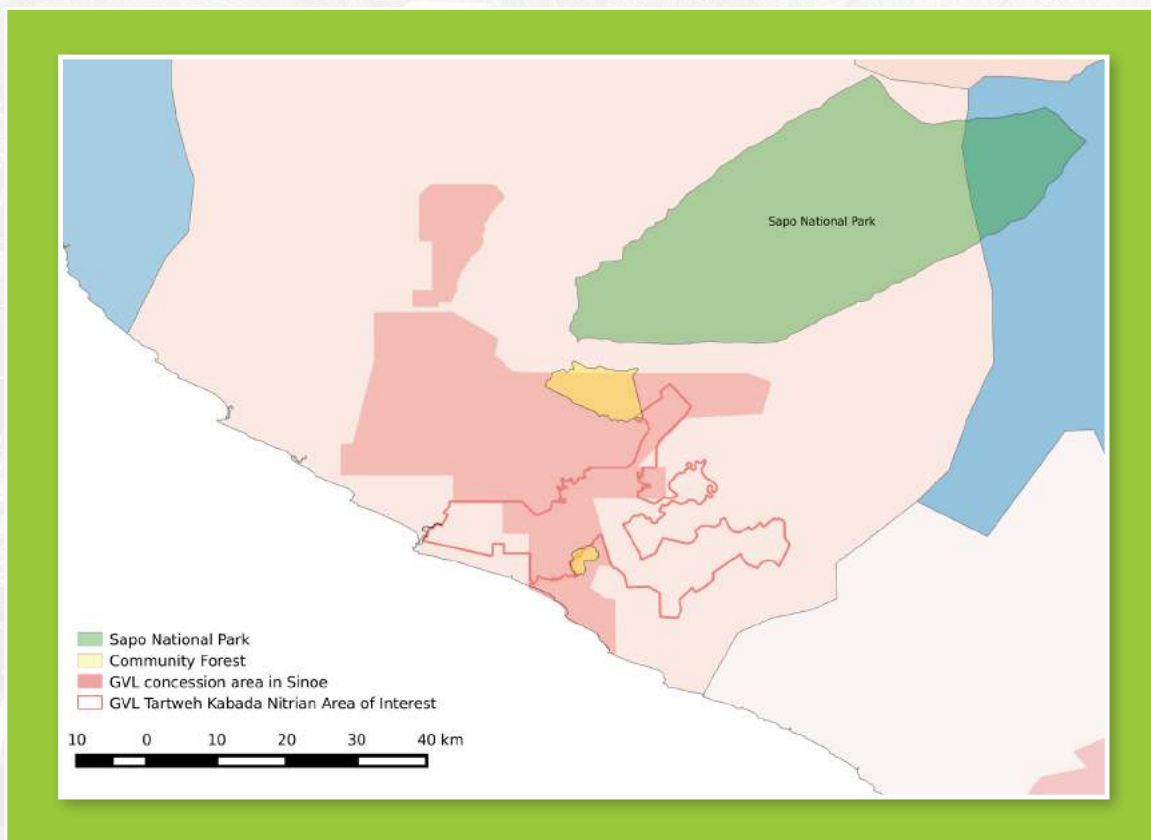
Fieldwork was conducted by Friends of the Earth from September 2017 to April 2018 in a sample area in the Tartweh-Kabada-Nitrian (TKN) area of interest, Kpanyan District, Sinoe County. In a 1180 hectare area mapped with handheld GPS devices and overlays with GVL’s 2014 HCS maps, 158 hectares of cleared HCS patches were identified. Another 222 hectares of cleared HCS patches were identified from overlays of GVL’s HCS maps and geo-referenced satellite images. Additional and overlapping clearance of High Conservation Value (HCV) areas was mapped by geo-referencing satellite images and compared to maps generated by its 2014 biodiversity assessments.^{xiii} Based on this analysis, Friends of the Earth has found the following:

Since 2014, GVL has cleared at least 380 hectares of High Carbon Stock (HCS) forest patches and some 320 hectares of High Conservation Value (HCV) areas. As of April 2018, GVL was continuing to clear these areas. Using the HCS Approach methodology,^{xiv} the 380 hectares of HCS forest patches includes:

- **268 hectares in high priority protection patches (core area of more than 100 hectares) that are prohibited from clearing;**
- **66 hectares in connected patches (border less than 200 meters from high priority patch) which are crucial for landscape scale connectivity and forest size;**
- **46 hectares that, to the best of our understanding, might have been allowed for clearing in exchange for restoration elsewhere following biodiversity and other assessments. However these assessments are not publicly available and could not be reviewed.**

In addition to ongoing deforestation activity, independent interviews with community members conducted in Sinoe and Grand Kru Counties in Liberia affirm the RSPO's findings and confirm existing reports of social and human rights violations linked to GVL's operations. These include desecration of sacred sites, labor violations, disregard for communities' customary land rights and increased food and water insecurity, including cases where crops had been destroyed without adequate compensation and access to farm lands, hunting grounds and fisheries have been curtailed without community consent. Despite continued efforts by affected communities, national and international civil society organizations and the RSPO, there has been a lack of substantive change in GVL's activities, resulting in consistent violations of international norms, company policies and national laws.

GVL claims that it is in compliance with "all laws regarding its operations and acquisition of land."^{xv} However, analysis of Liberian laws and the 2018 RSPO Complaints Panel Decision indicate that the company is, at best, at risk of non-compliance with several national laws and policies, particularly those that pertain to communities' rights and decision-making authority over their customary lands, forests and natural resources. Furthermore, GVL's concession agreement may also violate Liberian national law, despite the fact that it passed through the legislature and was approved by the president, as stated by the company.^{xvi}



Liberia's Community Rights Law specifies that, "Any decision, agreement, or activity affecting the status or use of community forest resources shall not proceed without the free, prior, and informed consent of the said community."^{xvii} GVL's land acquisition and Memoranda of Understanding (MoU) signing processes have not been FPIC-compliant and are therefore in violation of the Community Rights Law.

According to the Liberian Extractive Industries Transparency Initiative (LEITI) and auditing firm Moore Stephens, the concession awarded to GVL by the Government of Liberia did not follow correct legal procedures and did not go through a proper competitive bidding process.^{xviii} In addition, GVL was granted its concession for 65 years, in contravention of section 70 of Liberia's Public Lands Law, which states that no such lease shall exceed 50 years.^{xix} Finally, GVL's tax optimization strategy, which allows GVL to withhold tax payments for 65 years, may be in violation of Liberian tax code, which authorizes tax stabilization "for a period not to exceed 15 years."^{xx}

Some of GAR's major customers



Risks to investors

Deforestation, environmental degradation and associated human rights issues, including social conflict stemming from violations of communities' land rights, can significantly undermine economic development and stability and can pose material financial risks to donors and investors. Ongoing land conflicts and tensions linked with GVL's operations, as well as existing stop-work orders, can be expected to cause project delays. These issues constitute operational risks, which may migrate into material legal and regulatory risks, market risks and business risks for GVL and GAR's investors. GVL's exemption from Liberia's tax code raises serious concerns for reputational risk when increased public and regulatory scrutiny result in lower brand value, capital risk if tax regulations change and economic development risk as successive governments receive inadequate tax income to fund basic needs such as infrastructure, education, water, sanitation and health services. All of these risks should also be a serious cause of concern for GAR's and GVL's customers, as well as for the Government of Liberia and its donors.

As of the second quarter of 2018, 50.35 percent of GAR's issued shares are held or controlled by GAR's founding family through the Widjaja Family Master Trust and by Silchester International Investors LLP (10.97 percent), while 38.64 percent of GAR's shares are held by the public^{xxi}. GAR's largest international creditors and investors include the U.S. firms Vanguard, BlackRock, Kopernick Global Investors, Dimensional Fund Advisers, Northern Trust and CitiGroup, the Dutch firms Robeco and Rabobank and the Asian firms CMB Bank, Maybank Indonesia and Bank Mandiri, among others.^{xxii} GAR's largest commercial customers include Nestlé,^{xxiii} Procter & Gamble^{xxiv}, Unilever,^{xxv} PZ Cussons^{xxvi} and Pepsico.^{xxvii} All of these corporate customers have sustainability policies that extend to their upstream suppliers and may be breached by aspects of GVL's operations.

This report highlights one example of the impacts that industrial-scale palm oil plantations have for people and the environment, whether companies and plantations are RSPO-certified^{xxviii} or not. These problems are structural in a sector whose predominant business model thrives on cheap land, forced labor^{xxix} and income from deforestation, including from the illegal harvest and sale of conversion-timber.^{xxx}

Some of GAR's key creditors and investors



“

I stayed in my village for three years. I left cocoa trees and other cash crops. But they cleared it all in my village. Who will I go to? They never came to me to say 'old man we have spoiled your place.' Who will listen to me?

JOHNSON JULUKON, JACKSONVILLE, SINOE COUNTY, MARCH 21, 2018

”



Recommendations

Given GVL's inability to comply with its own sustainability policies as well as international business norms related to preventing deforestation and respecting human rights and land rights, investors have a fiduciary responsibility to take urgent risk mitigation measures.

International banks and investors

Banks and investors should consider the palm oil industry to be a high-risk sector^{xxxi, xxxii} and should put in place appropriate due diligence and risk management procedures. This should include pro-active engagement with all palm oil suppliers to ensure compliance with international norms and exclusion of companies from investment portfolios when engagement fails to resolve ongoing structural issues. In the case of GAR, international banks and investors should take the following steps:

- Lenders should halt existing financial ties with GAR and provide no new financing to GAR, GVL or any of their business partners found to be connected to land grabs, deforestation and related human rights violations.
- Investors should undertake proactive, time-bound and transparent engagement with GAR as a matter of risk management. If engagement fails to resolve issues to the full satisfaction of affected stakeholders, or if shareholders choose not to engage, GAR should be excluded from their portfolios. This applies to passive index holdings and externally-managed funds as well as active funds.
- Both lenders and investors should take public action to support the integration of ESG criteria in investment decisions and support improved regulation of financial services in line with the Paris Agreement and the Sustainable Development Goals.
- Financiers should support efforts to halt the expansion of industrial-scale palm oil plantations and support sector transformation through responsible financing for smallholders to promote agro-ecology, community-based forest management and other sustainable livelihoods.

Golden Agri-Resources

As GVL's primary investor, GAR must take full responsibility for GVL's operations and operational failures. In order to take responsibility, GAR should:

- Provide GVL a strict deadline to resolve all issues raised by the RSPO Complaints Panel. If the company fails to comply with the RSPO Complaints Panel decision, GAR should halt GVL's operations in Liberia.
- Disclose material risks from GVL's operations to its customers, creditors and investors. These include risks related to past or ongoing destruction of HCS forests and HCV areas and water sources, RSPO-issued stop-work orders, ongoing land conflicts and tax liabilities and irregularities in GVL's concession agreement.
- Ensure that GVL provides redress of grievances in accordance with the U.N. Guiding Principles for Business and Human Rights.

Golden Veroleum Liberia

GVL has a responsibility to provide ongoing redress of grievances, and should:

- Halt operations on disputed land and in all instances where communities have not provided their consent for operations.
- Renegotiate and finalize all provisional Memoranda of Understanding (MoUs).
- Ensure that all land acquisition includes proper FPIC procedures and redo participatory mapping where the RSPO or communities require this.
- Return land to communities if requested during renegotiations of MoUs.
- Compensate communities and individuals whose land has been acquired without their consent and whose crops have been destroyed.
- Compensate and reinstate residents from Butaw who were jailed for extended periods of time due to ongoing company-community conflicts.
- Ensure that all benefits guaranteed in MoUs with plantation-affected communities are adequately delivered, including establishing palm oil outgrower schemes, providing training and skilled employment and creating Community Development Fund(s).
- Improve information sharing and transparency with communities and civil society, including information and maps on the extent of developed land, integrated land use and future palm oil estate expansion.
- Work with HCSA experts to improve HCS assessments and ensure independent review.
- Ensure that all operations are consistent with GVL and GAR's own policies for forest conservation and human rights as well as with international standards, including the U.N. Guiding Principles on Business and Human Rights and Liberian national laws.

The Government of Liberia

The Government of Liberia should fully integrate the rights of its citizens and the full value of its richly forested lands into its economic development priorities. In order to do so, the Government of Liberia should:

- Champion the rights of the Liberian people and foster peace and security by passing the 2014 draft of the Land Rights Act.^{clxxxviii}
- Work toward the development and enactment of a national agriculture law that supports national growth and ensures food security for local farmers.
- Ensure that there is accurate and effective monitoring of palm oil companies by strengthening the capacity within the National Bureau of Concessions.
- Review GVL's concession contract and ensure the company pays all taxes due.
- Take a proactive role in ensuring that GVL and its primary investor GAR respect and protect human rights by imposing sanctions, assuring compensation and initiating investigations when violations occur.
- Take a proactive role in ensuring that GVL and its primary investor GAR respect and protect human rights by imposing sanctions, assuring compensation and initiating investigations when violations occur.
- Ensure that palm oil outgrower schemes are oriented around rights-based approaches and not limited to a conservation approach in which the only communities involved are those with direct interests in forest preservation.
- Provide ample space for farmers to engage in their livelihoods independent of GVL and other industrial agribusiness interests.

Methodology

This report examines GVL's operations in Liberia with a focus on evidence gathered since the publication of multiple high-profile reports in 2015 and 2016. The report evaluates company practices in light of several sets of norms and standards to which GVL and GAR, as well as their financiers and investors, are beholden, including:

- **International norms and industry standards:** U.N. Guiding Principles on Business and Human Rights (UNGPs),^{xxxiv} RSPO Principles and Criteria,^{xxxv} Free and Fair Labor in Palm Oil Production Principles;^{xxxvi}
- **Corporate environmental and social policies:** GVL's Forest Conservation Policy (2014),^{xxxvii} GVL's Social and Community Engagement Policy (2014),^{xxxviii} GVL's Human Rights and Sustainability Policy (2014)^{xxxix} and GAR's Social and Environmental Policy (2015);^{xl}
- **Liberian national laws:** Community Rights Law (2009),^{xli} Land Rights Policy (2013),^{xlii} and the Public Procurement and Concessions Act (2010).^{xliii}

Research and analysis was carried out in several overlapping phases:

A literature review was conducted examining existing open-source materials as well as primary data collected by SDI on GVL's policies and practices.

Field research was conducted in Sinoe and Grand Kru Counties in February and March 2017 using ethnographic research methods including public community forums, key informant interviews with GVL plantation workers and managers and surveys with GVL workers and community members. Field research findings were then discussed with GVL management.^{xliv}

SDI and Milieudefensie conducted fieldwork and data analysis from September 2017 to April 2018 to map a sample of recent plantation development in Tartweh-Kabada-Nitrian area of interest, Kpanyan district, Sinoe County using GPS handheld devices. Field data was analyzed in QGIS with overlays of GVL's 2014 HCS maps. The HCS Approach Toolkit and complementing information from GVL on biodiversity^{xlv} were used to identify the status of cleared HCS forest patches.^{xlvi} Additional calculations were conducted on the basis of geo-referenced satellite images and GVL's HCV assessments.^{xlvii}

Analysis of industry standards, international business guidelines, company policies and domestic laws was conducted in relation to research findings.

Friends of the Earth groups shared a draft report with GVL and GAR management and civil society organizations, with relevant feedback integrated into the report prior to publication. GAR responded to Friends of the Earth as follows: 'GAR has no direct management control over GVL operations; we consider it both important and appropriate that the allegations are investigated by and responded to by GVL management. As an investor, we can and will ask them to ensure a prompt response to you and will ask to be copied on the same.'^{xlviii} GVL stated that an earlier draft of this report "does not lead to a comprehensive understanding of the actual situation and underlying challenges which need to be resolved."^{xlix} GVL's perspective is noted throughout the report, where relevant.



INTRODUCTION

PLANTATIONS, POVERTY, RIGHTS AND RISKS IN LIBERIA

Palm oil is the most widely consumed vegetable oil in the world today, estimated to be present in roughly half of all consumer goods on supermarket shelves in the United States and Europe. In Europe, more than half of imported palm oil is used in biodiesel despite widely published research into its negative climate impacts.ⁱⁱ While palm oil companies promise economic development, rapid plantation expansion has been accompanied by consistent charges of human rights violations, deforestation and land grabbing. In Malaysia and Indonesia, palm oil plantations have been a major driver of forest loss and social conflict for over two decades.ⁱⁱⁱ Across tropical Africa's rain-forest belt, a similar story is unfolding, with palm oil expansion threatening high-carbon forests, community livelihoods and wildlife habitats from West Africa to the Congo Basin and parts of East Africa.

Since its founding in 1847, Liberia has maintained a dual-land tenure system over statutory and customary lands characterized by unclear terms of ownership. Most rural Liberians depend on common resources such as forests and water bodies for their survival and cultural practices. These resources are largely communally owned, used and managed. The Liberian government, however, has effectively treated all un-deeded land as public land to be managed and administered by the state. This designation has un-

dermined the land rights of the majority of Liberians.ⁱⁱⁱⁱ A nearly 100-year history of granting large-scale land concessions to foreign investors and national elites has also weakened land tenure security, with communities' customary lands often targeted for development by foreign investors.

Liberia has made substantial efforts toward land reform through legislation and policies such as the Community Rights Law (2009) and Land Rights Policy (2013), as well as a pending Land Rights Act. These laws recognize communities' rights to own and manage their customary lands and resources. They also affirm communities' rights to provide or withhold their free, prior and informed consent for any development on their customary lands. However, the continued expansion of concession areas, including land acquired for palm oil plantations, has exacerbated tensions between local communities, companies and the state, with increasing, documented claims that communities' lands have been appropriated against their will.

Liberia is a primary target country for large-scale land acquisitions by foreign investors. According to the Land Matrix,^{liv} an incredible 17 percent of the country is under lease to foreign business interests, and nearly 10 percent of the country's land mass is devoted to industrial plantations, mainly for rubber

and palm oil.^{lv} Despite research showing that large-scale palm oil investments may contribute little to GDP, fail to increase rural employment, increase reliance on food imports and depend largely on cheap land and labor,^{lvi} large agribusiness plantations are central to Liberia's Poverty Reduction Strategy.^{lvii} This approach has undermined the land rights of the majority of rural Liberians who own, access and manage land based on customary tenure arrangements,^{lviii} with the result that many rural communities have been displaced or dispossessed of their lands.

Today, there are four industrial palm oil plantations in Liberia, alongside extensive mining, logging and rubber concessions.^{lix} All four companies have struggled with community relations, with consistent reports of human rights violations, degradation of forests, waterways and critical biodiversity and exploitative labor conditions.

Ongoing land conflicts due to palm oil companies' operations pose significant risks to investment, development and stability. Notably, all four Liberian palm oil plantations were established on land banks that far exceeded their current ability to develop. For example, in 2009 Sime Darby signed a 63-year concession agreement to develop 220,000 hectares of industrial plantations and 44,000 hectares for outgrowers.^{lx} But, due to ongoing land conflicts, civil society complaints and demands from the global marketplace for more stringent environmental standards, the company has planted only 10,440 hectares.^{lxi} In 2018, Sime Darby announced that it would halt planting palm in Liberia pending potential new environmental rules from

the Roundtable on Sustainable Palm Oil.^{lxii} In the perspective of Sustainable Development Institute (SDI), the real reason Sime Darby has ceased planting may be that most of the forested land in its concession has already been cleared, leaving only farmland claimed by communities. Similarly, GVL to date has been able to develop only 15,000 of the 220,000 hectares in its plantation agreement^{lxiii} —and this development has been fraught with conflict and controversy.

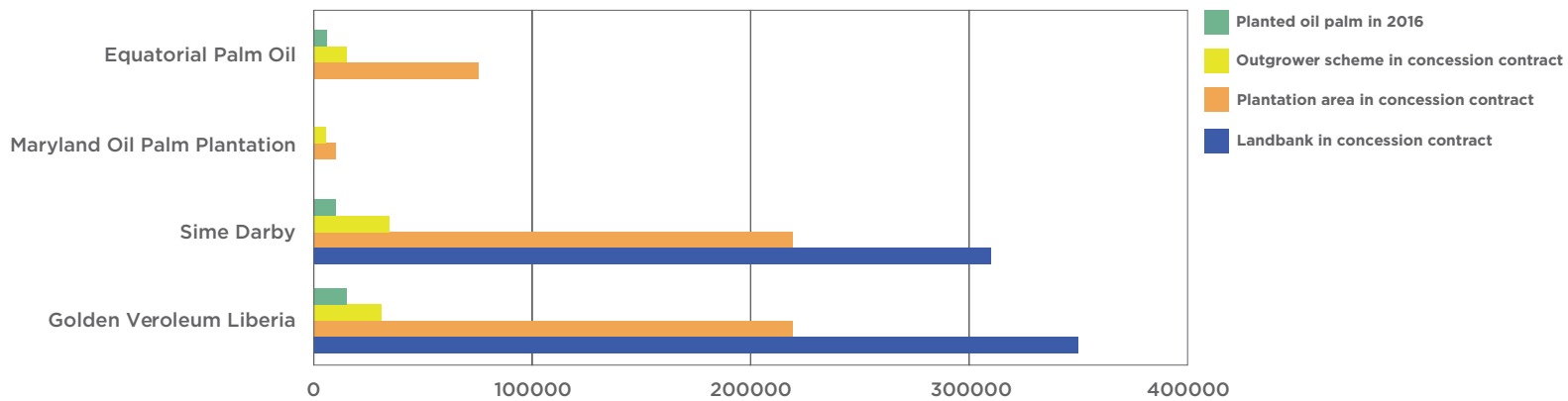
For investors, these conflicts, operational failures and changes in the operating context may constitute unrecognized stranded assets^{lxiv} and associated material risk. As one study has argued, "unresolved conflicts over land tenure significantly augment the financial risks for companies in infrastructure, mining, agriculture and forestry. By themselves, delays caused by land tenure problems can inflate a project's expenditures by an order of magnitude – and in some cases these losses have even been great enough to endanger the future of the corporate parent itself."^{lxv} Another study found that "companies ignoring pre-existing or customary local land rights in their acquisition process experienced financial damage ranging from operating costs increased by as much as 29 times to outright abandonment of operations."^{lxvi}

In sum, GVL's operations and the current model of plantation development in Liberia pose clear risks to the land rights and livelihoods of rural Liberians—and these risks must be recognized as material risks to the palm oil companies themselves as well as to their customers, financiers and investors.





Palm oil concessions in Liberia: concession land bank compared to planted area (in hectares)



Company	Landbank in concession contract (hectares)	Plantation area in concession contract (hectares)	Outgrower scheme in concession contract (hectares)	Planted oil palm area 2016 (hectares)
Golden Veroleum Liberia (GVL)	350,000	220,000	40,000 ^{lxxvii}	15,005 ^{lxxviii}
Sime Darby	311,187	220,000	44,000 ^{lxxix}	10,411 ^{lxxx,lxxi}
Maryland Oil Palm Plantation	Unknown	8800	6400 ^{lxxxii}	Unknown
Equatorial Palm Oil (EPO)	Unknown	70,524	18,201 ^{lxxxiii}	8158 ^{lxxxiv}

Stranded assets risk: Three Liberian palm oil plantations, GVL, Sime Darby and EPO, were established on land banks that far exceed their current ability to develop



GVL AND GAR IN LIBERIA

In August 2010, GVL signed an agricultural concession agreement with the Government of Liberia for 350,000 hectares. Of this area, the company is permitted to convert 220,000 hectares into plantation and devote 40,000 hectares to an outgrower scheme. The contract is for 65 years until 2075, with an opportunity to extend the contract for a further 33 years until 2108.^{lxxv} The agreement covers approximately 2.3 percent of the country's land mass, spanning four counties in Liberia's southeast. An estimated 41,000 people live within the immediate operations area, and the land indicated in the concession agreement is customarily owned and used by rural communities as the source of food and water, livelihoods and culture. These communities are largely dependent for their livelihoods on shifting agriculture, undeveloped water sources and hunting and gathering in community forests.^{lxxvi}

GVL and GAR are members of the Roundtable on Sustainable Palm Oil (RSPO), and GVL is seeking RSPO certification for its plantation and mill. Since GVL began operations, communities and civil society have submitted multiple complaints to the RSPO. The first complaint, in 2012, alleged that GVL was non-compliant with FPIC standards and RSPO Principles and Criteria for new planting procedures.^{lxxvii} The complaint

stated that community members had been subject to intimidation and arbitrary arrest and that the company had destroyed community wetlands, sacred areas and drinking water sources. Subsequent RSPO complaints stated that GVL cleared land without receiving communities' consent and did not conduct comprehensive, participatory social and environmental impact assessments.

In February 2018, the RSPO Complaints Panel sent a decision letter to GVL based on an April 2017 RSPO Verification Mission to GVL and subsequent Verification Mission report.^{lxxviii} The decision confirmed reports that GVL had not received the free, prior and informed consent of local communities, had utilized methods of coercion and intimidation to convince communities to sign MoUs with the company and was continuing to operate on disputed lands. GVL contests the findings of the April 2017 Verification Mission report^{lxxix} and cites a September 19, 2015 Complaints Panel decision which states that, "There is now a systematic FPIC process in place but GVL needs to demonstrate that it has followed the process on each MOU that has been signed."^{lxxx} GVL has appealed the 2018 RSPO Complaints Panel Decision, as it rejects most or all of the Complaints Panel's recommendations^{lxxxi}.



GVL clearings and planting from 2017 north of Panama town (Du Wolee Nyennue MoU). This whole area was identified by GVL as cleared open land, but significant patches of forest were found, raising concerns about the quality of the HCS assessment. September 2017, near 29N 506597E 553375N

DEFORESTATION AND THREATS TO BIODIVERSITY

Liberia is globally recognized as an important conservation priority country, as it has high levels of biodiversity, species endemism and the largest section (42 percent) of West Africa’s remaining Upper Guinean forest. Liberia hosts the highest population of elephants in the region and is home to pygmy hippopotamus (*Choeropsis liberiensis*) and scattered populations of western chimpanzees (*Pan troglodytes verus*). The expansion of palm oil plantations is identified in Liberia’s national biodiversity strategy and action plan as a direct threat to forests and biodiversity.^{lxxxii}

In order to prevent forest destruction and environmental degradation, GAR and GVL have adopted environmental sustainability policies. These include GAR’s Social and Environmental Policy and GVL’s Forest Conservation Policy.^{lxxxiii} These policies require GVL to conserve High Carbon Stock (HCS) forests and High Conservation Values (HCV) areas—key conservation activities that, if implemented at scale, will have significant impacts in reducing CO2 emissions from deforestation, as well as minimizing localized impacts such as biodiversity loss and degradation of water sources. GAR’s sustainability policies extend to “all upstream and downstream palm oil operations that we own, manage or invest in, regardless of the stake,”^{lxxxiv} thus clearly including GVL’s Liberian operations.

The legal requirements of GVL’s concession agreement specify the company’s obligation to comply with Liberia’s Environmental Protection and Management Law, regulations of the Environmental Protec-

tion Agency, and RSPO Principles and Criteria.^{lxxxv} Notably, GVL is a member of the High Carbon Stock Assessment (HCSA) steering group—a convening of private sector and civil society experts whose objective is to advance, pilot and perfect a robust HCS assessment methodology.^{lxxxvi}

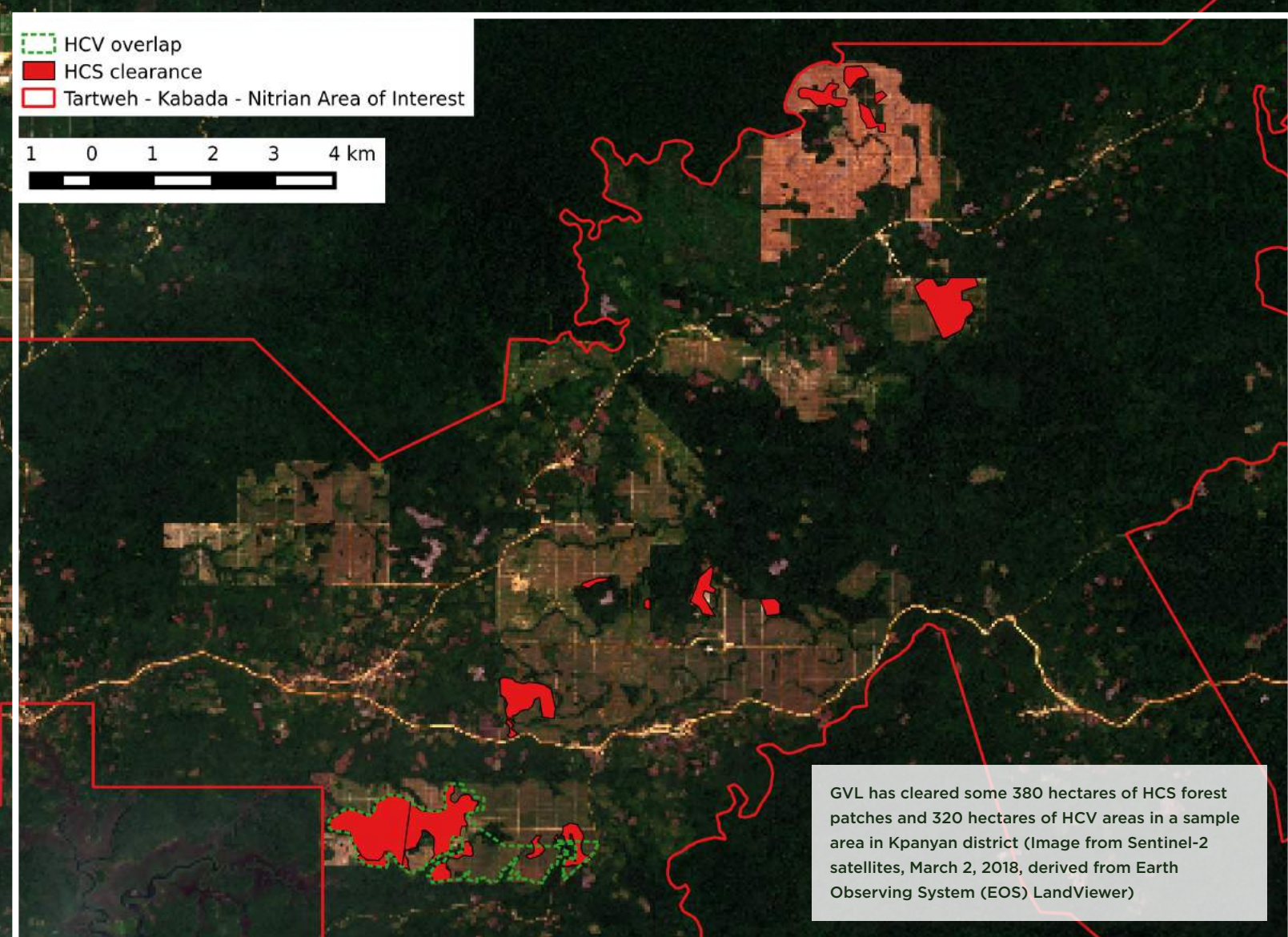
While GAR and GVL’s policies are developed in principle to guide the companies’ approaches to reducing deforestation, they also serve a risk-mitigation function in regards to GAR and GVL’s customers and financial backers, in offering a guarantee that company activities will not expose GAR and GVL’s supply chain customers and financiers to risks related to deforestation and associated social conflict.

Earlier reported violations of GAR and GVL’s policies include:

2012 Butaw community complaints regarding clearance of HCV areas integral to community livelihoods, including wetlands. This was later confirmed by Tropical Forest Trust (TFT)^{lxxxvii} which made corrective recommendations. GVL claims that it has since complied with TFT’s recommendations, but this claim is contradicted by community testimonies and independent findings noted throughout this report.

In 2014, Greenpeace reviewed the implementation of HCS and HCV assessments carried out by RSPO-approved assessors and identified “unacceptable weaknesses” that overlooked chimpanzee presence, identified clearing of chimpanzee habitat and left an important large river buffer unprotected.^{lxxxviii} GVL redid the assessments and states that the company used RSPO and HCVRN approved assessors to conduct HCS and HCV assessments.^{lxxxix}

Forest Peoples Programme reported extensively on the lack of participation in HCV and HCS mapping. FPP noted that GVL has not been compliant with its own forest policies by developing degraded lands and leaving communities with no choice but to move into the remaining forest for agricultural purposes.^{xc}



HCS forest clearance

The April 2017 RSPO Verification Mission found that GVL had cleared 29,072 hectares of land in Sinoe County^{xcvi} - a figure which GVL contests as “one of many factual errors in the Verification Mission report.” GVL reported to the RSPO 15,005 hectares of planting and construction and 14,067 hectares of future planting by 2016, where 2017 data was not yet available.^{xcvii}

Based on fieldwork and data analysis conducted from September 2017 to April 2018 in Tartweh-Kabada-Nitrian area of interest, Kpanyan district, Sinoe County, and overlays with GVL’s own 2014 HCS maps, Friends of the Earth has found the following:

In a 1180 hectare sample area mapped with handheld GPS devices, 158 hectares were identified as cleared HCS patches. Another 222 hectares of cleared HCS patches were identified from geo-referenced satellite images.

These add up to some 380 hectares of HCS forest patches cleared by GVL within a small sample area. As of April 2018, GVL was continuing to clear in the area.

Clearing in the south of above map (Nitrian MoU) started in March 2017 and was still ongoing in November 2017. Clearing in the center part of the map was done mainly in 2015 and 2016. In the north (Tartweh-Drapoh Chiefdoms MoU), the area of bare earth has been cleared since December 2017 according to communities living there.

Using the HCS Approach methodology,^{xcviii} of the 380 hectares cleared by GVL:

268 hectares were in high priority protection patches (core area of more than 100 hectares).

66 hectares were in connected patches (border less than 200 meters from high priority patch) which are crucial for landscape scale connectivity and forest size

46 hectares might have been allowed for clearing in exchange for restoration elsewhere after biodiversity and other assessments. However, these assessments are not publicly available and could not be reviewed.^{xcix}



GVL clearing and planting (from March 2017) in HCS patch of low-density forest in the Nitrian MoU area. 29N 513985E 550111N

Dubious HCS assessment

Friends of the Earth's mapping north of Panama town (Du-Wolee-Nyennue MoU) raises questions about the quality of GVL's HCS assessment. Friends of the Earth mapped three clearances (approximately 190 hectares) in September 2017 in areas that appear to have been forested. However, in GVL's 2014 HCS assessment, these areas were identified as HCS vegetation class of cleared open land. At the time of publication of this report, the GVL HCS assessment has not yet undergone independent peer review by the HCSA steering committee.^{xcvi}

GVL has claimed that "there is no planting on HCS as alleged,"^{xcvii} arguing that a cleared area around Geebiah (in the Nitrian MoU estate south of Kabada) was indeed low-density forest, but was allowed for development after a Rapid Biodiversity Assessment (RBA) from 2015.^{xcviii} However, according to the HCS Approach, patches with a core size bigger than 100 hectares – which is the case here – cannot be developed.

A 2015 Rapid Biodiversity Assessment also found medium and low density and young regenerating forest in the same area and recommended that the medium density forest receive a High Conservation Value status,^{xcix} and not be developed.



GVL's expansion maps are not publicly available, but communities in Nyennue, Numopoh and Tartweh indicated in April 2018 that land clearance is ongoing. Particularly in Nyennue and Tartweh this raises concerns over further clearances of HCS forests and HCV areas.



GVL clearing and planting from 2017 north of Panama town (Du Wolee Nyennue MoU). Clearing waste pushed into streams over hundreds of meters. September 2017. 29N 505351E 553284N



The landscape in and around the GVL concession area is important to chimpanzee survival.

Destruction of chimpanzee habitat

Liberia is home to the second largest population of Western chimpanzees, a critically endangered species,^{ci} and is therefore a priority country for conservation of the species. Chimpanzees have a home range between 15 and 65 km²^{cii}, and research has found that the areas of greatest chimpanzee diversity lie outside protected areas, making areas like those given to GVL for concession development extremely important for their survival.^{ciii} A nationwide chimpanzee survey shows the presence of chimpanzees around GVL's concession area^{civ}. GVL's 2014 HCV assessment found signs of chimpanzee habitation in the south and west^{cv} of GVL's Tartweh-Kabada-Nitrian (TKN) Area of Interest, and signs of pygmy hippo habitation in the west. The assessment specifically noted that "The chimpanzee is an HCV 1.2 species of particular concern in the [TKN- Area of Interest] and surrounding landscape."^{cvi}

Clearing in this critical area started in March 2017. Hunters and other community members from the Nitrian MoU area^{cviii} confirmed to Friends of the Earth in April 2018 that before GVL arrived, there were several "big animals," such as pygmy hippopotamus and groups of chimpanzee moving in and out of the Nitrian MoU area. Communities report that currently these chimpanzees are only seen in the Nitrian community forest area east of GVL's plantation estate, as "the GVL tractors have chased them away."^{cix}

In 2015 GVL conducted a rapid biodiversity assessment consisting of a rapid transect walk through the area and community interviews conducted by the Liberian Forest Development Authority (FDA), and reported no signs of chimpanzee inhabitation. However, the area had previously been recognized as chimpanzee habitat, and it is unlikely that community members would willingly share information with FDA rangers who are known to enforce anti-poaching measures. Notably, GVL did not deny to Friends of the Earth that it cleared and converted potential chimpanzee habitat in this area.^{cx}

Destruction of riparian zones

Field surveys in September and November 2017 revealed several cases of destruction of riparian buffer zones. Destruction of riparian buffer zones can result in the pollution of drinking water due to erosion and chemicals used on the plantation, as well as drying out of streams and loss of aquatic biodiversity. These activities contravene RSPO Principles and Criteria,^{cxii} as well as GVL^{cxiii} and GAR's policies.

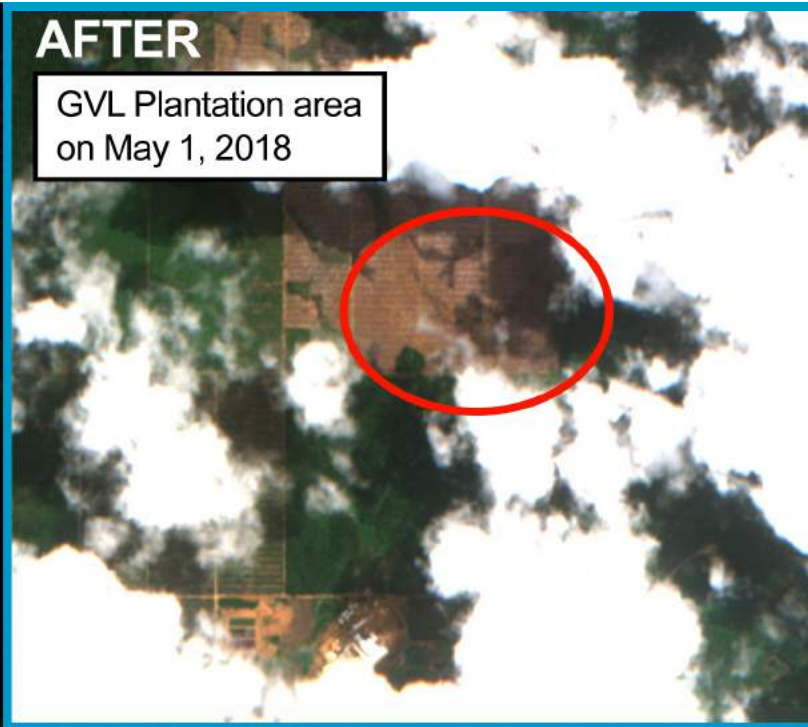
BEFORE

GVL Plantation area
on February 25, 2018



AFTER

GVL Plantation area
on May 1, 2018



Ongoing clearance on land disputed by the Blogbo clan following the RSPO Complaints Panel stop work order from February 2018.

DISRESPECTING HUMAN RIGHTS AND FREE, PRIOR AND INFORMED CONSENT

Free, prior and informed consent (FPIC) is a central principle in international human rights frameworks and is increasingly recognized as core to responsible business practices, as outlined in the U.N. Guiding Principles on Business and Human Rights. FPIC is a core principle of GAR's Social and Environmental Policy and GVL's Forest Conservation Policy. FPIC is also central to several Liberian laws and policies, including the Community Rights Law and Land Rights Policy.

FPIC standards seek to ensure that local communities are engaged in development processes and that their rights are respected. Proper implementation of FPIC procedures can provide companies and investors assurance that they have a "social license to operate" and that conflicts surrounding land acquisition and use will not undermine the viability of investment projects. In proper FPIC processes, communities must be free to say "no" to developments, and their input needs to be reflected in the decision documents. Community self-determination is crucial for

sustainable governance of forested landscapes, but is often lacking in frontier areas for agro-commodities development, where industrial concessions are frequently handed out by governments without communities' consent.

Development on disputed lands

FPP's 2015 FPIC assessment found that "GVL's concession contract suggests GVL's early human rights due diligence to have been negligible or non-existent."^{cxiv} "The concession agreement purports to grant a government lease to GVL over land and resources already under customary ownership of communities, coupled with a lack of any procedural safeguards to mitigate the potential land grab of community property (including a lack of any FPIC requirement)."^{cxv} In the concession agreement the Government of Liberia ensures the land given to GVL will be "free from encumbrances,"^{cxvi} which summarily ignores the customary rights of people living on and using those lands.



GVL palm oil mill operating on disputed land of the Blogbo clan. 25 April 2018. 29N 499360E 601136N

Free: consent given voluntarily and without coercion, intimidation or manipulation. A process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed.

Prior: consent is sought sufficiently in advance of any authorization or commencement of activities.

Informed: nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process.

Consent: collective decision made by the right holders and reached through customary decision-making processes of the communities.

(Source: United Nations Food and Agriculture Organization)^{cxiii}

“

When GVL came to this land, it never consulted the citizens of Butaw. They brought in machines and started operating and clearing towns, villages, money trees, and food supplies.

RICHARD SHERWIN
BUTAW JUNCTION, SINOE COUNTY
MARCH 22, 2018

”



FPP’s detailed analysis of GVL’s Standard Operating Procedures for FPIC revealed that it does not ensure communities’ consent to operations on their land, but merely provides for consultation in which communities may “have a say in whether development proceeds and how it proceeds.”^{cxvii} FPP found that “SOPs currently do not outline that FPIC is a compulsory procedural right that communities have, which is grounded in national and international law, and is not simply a voluntary commitment that is part of GVL’s corporate social responsibility.”^{cxviii}

In 2013 GVL appointed consulting group The Forest Trust to help develop and implement improved FPIC procedures, and maintains that these procedures are being updated to comply with RSPO FPIC guidance and are “subject to continuous improvement.”^{cxix} GVL continues to cite a September 19, 2015 RSPO Complaints Panel decision which states that: “There is now a systematic FPIC process in place but GVL needs to demonstrate that it has followed the process on each MOU that has been signed.”^{cxx} However, the February 2018 RSPO Complaints Panel decision indicates that since initial requests in 2013, the update of these SOPs had not taken place.^{cxxi}

Consistent with RSPO Principles and Criteria and the UNGPs, GVL and GAR’s policies prohibit development on disputed land and require the implementation of FPIC processes. In cases of potential land conflict, the RSPO requires companies to carry out participatory mapping of disputed areas. GVL claims to have met these requirements.^{cxxii} However, according to both

the RSPO^{cxixiii} and affected communities^{cxxiv}, GVL has failed to comply with FPIC principles, has not adequately conducted participatory mapping in Butaw and Tarjuowon communities as requested by RSPO, and continues to develop disputed land.

In 2016, Global Witness reported that “GVL has desecrated two important religious sites, including bulldozing the Palotro Hill at which Blogbo women would pray for fertility, turning it into a muddy construction site for a large palm oil mill. GVL is fully aware that it is building on a sacred place, having been told by communities of the hill’s importance two years ago.” GVL argues that “the alleged sacred hill was not identified during participatory mapping in 2013 and its existence was denied by the Kulu clan in 2015.”^{cxv} However, community members confirmed to Friends of the Earth researchers in 2017^{cxvi} and again in 2018^{cxvii} that the hill is a sacred site and that they were neither consulted nor compensated for the land.

The continued development on disputed lands is confirmed by the February 2018 RSPO Complaints Panel decision which found that GVL continues to operate on disputed lands in Tarjuowon/Blogbo, and Du, Wol-ee, Nyennue and Numopoh communities.^{cxviii}

While GVL contests the 2015 Global Witness report, the 2018 RSPO decision^{cxix} and the documented testimonies of community members themselves, the conflicting versions of events are a clear demonstration of ongoing conflict between GVL and affected communities.

“

The place where my parents borne me that is my land. That is the place they left for me. This land is for every one of us. Aren't I the one working here? Let the company come and sit down and talk to us. I will say come and take this piece [of land]. Leave this piece for me, this is where I will make my farm. That's not what they want to do.

BEATRICE FLAHN
JACKSONVILLE, SINOE COUNTY
MARCH 21, 2018

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Neither free nor informed

Global Witness found in 2016 that GVL’s approach to its negotiations with communities was not only not free, it was also not informed. The company is required by the RSPO to provide communities a number of documents on the proposed project, including Environmental and Social Impact Assessments (ESIAs). GVL claims that it “has always complied with [the RSPO’s] rigorous procedure,” and notes that its ESIA summary was published on the RSPO website “for public consultation.”^{cxxx} While the RSPO did publish GVL’s summary ESIAs on its website, this can hardly be considered public consultation,^{cxxx} given limited literacy and the inaccessibility of digital technology to the affected communities. In its analysis of GVL’s ESIA, Global Witness stated that: “communities were not given adequate information about the plantation’s impacts, including whether the plantation will have positive or negative impacts on community livelihoods in the future.”^{cxxxi}

Field research by Friends of the Earth groups in 2017 and 2018 found that the situation on the ground was largely the same. Several communities spoken to knew little about the agreements signed with GVL, including the amount of land, the length of the agreements and reversibility, as well as the larger implications of

GVL’s operations for their economic well-being. Most communities interviewed said they were unaware of the company’s human rights policies.^{cxxxii}

Problematic memoranda of understanding

In the past, GVL has pressured communities to enter into “provisional MoUs,” which effectively circumvented a full FPIC process. As FPP notes, “This is explained in the SOPs as an option that enables the company to commence plantation development on community land, during which time some community members may gain employment alongside some other community benefits, but before a final FPIC based land-use agreement has been reached. This is fundamentally inconsistent with FPIC, since the provisional MOU allows the company to develop some land, without completing a full FPIC process.”

The 2018 RSPO Complaints Panel decision calls on GVL to convert all existing provisional MoUs to permanent MoUs through consultations and negotiations with communities.^{cxxxiii} GVL argues that its provisional MOUs do follow “an extensive FPIC process, and allows both sides to make minor modifications after a period of development, usually one year.”^{cxxxiv} Notably, even this approach does not meet compliance standards for FPIC, which, under the widely accept-

ed FAO definition, is intended to be “self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed.”^{cxxxv} As of March 2018, GVL says “it has agreed to do away with provisional MOUs and now only signs final MOUs with communities.”^{cxxxvi, cxxxvii}

Violence and intimidation

Several civil society reports have documented cases of violence, intimidation and coercion linked with GVL’s operations. This has included allegations of intimidation of community members opposed to GVL’s plantation by local officials and GVL staff. One of the most extreme cases was in May 2015, when violence broke out following protests by GVL workers and community members in the Butaw section of GVL’s plantation, as Liberian police fired tear gas.^{cxxxviii} Community members claim that police initiated the violence by attacking protestors.^{cxxxix} Thirty-seven community members were arrested, 16 remained in custody for a year without a hearing of which one person died according to anecdotal reports.^{cxli} According to the

group, they were released on bail and are still facing charges nearly two years later. This has prevented them from finding adequate employment and education. The group is seeking for compensation as well as reinstatement. Following the incident, claims were made of arbitrary arrest and detention, violence and intimidation and police ransacking community residences.^{cxli} While GVL denies direct involvement in these events, and “strongly objects to any attempt to link acts of violence to GVL,”^{cxlii} the company has clear responsibilities regarding the conditions of social tension generated by its activities.

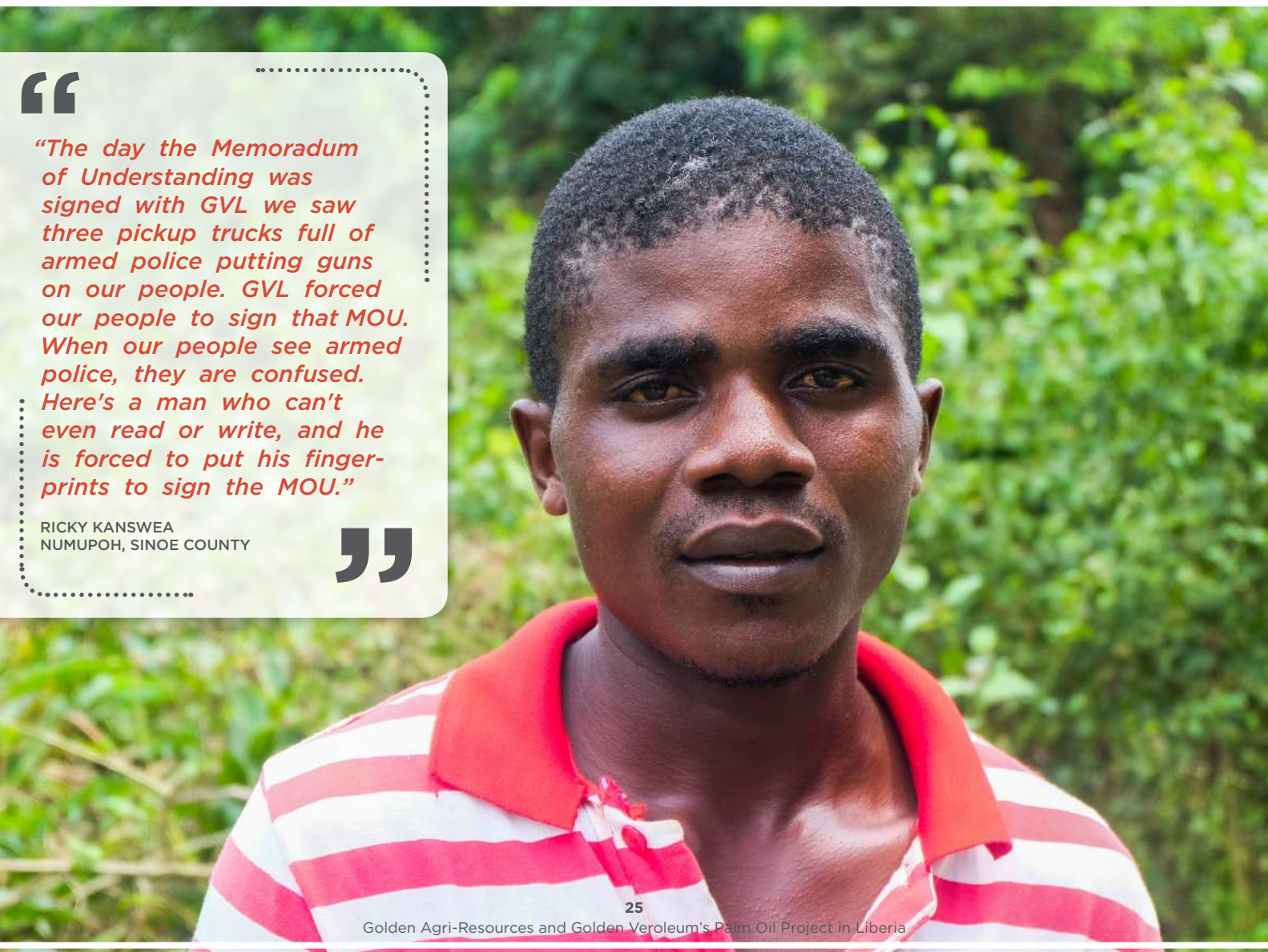
Most recently, the February 2018 RSPO Complaints Panel decision confirmed that GVL had engaged in coercive methods to pressure members of the Butaw, Tarjuowon/Blogbo, Du Wolee, Nyennue and Numopoh communities^{cxliii} to sign MoUs, withdraw official complaints and appoint new groups to represent the communities. The RSPO decision, contested by GVL, highlighted instances where MoUs were signed under the coercive presence of heavily armed troops.^{cxliv}

“

“The day the Memorandum of Understanding was signed with GVL we saw three pickup trucks full of armed police putting guns on our people. GVL forced our people to sign that MOU. When our people see armed police, they are confused. Here’s a man who can’t even read or write, and he is forced to put his fingerprints to sign the MOU.”

RICKY KANSWEA
NUMUPOH, SINOE COUNTY

”



“

According to Liberian labor law if someone works for three months they should be employed. But now contractors work for over a year and they are still on the contractor level.

SACKOR, BUTAW JUNCTION
SINOE COUNTY
MARCH 22, 2018

”



STOP-WORK ORDERS

As far back as December 2012, the RSPO requested that pending resolution of a complaint filed on behalf of Butaw communities in Sinoe County, GVL cease all related land clearance.^{cxlv} Due to ongoing disputes between Butaw communities and the company, the February 2018 RSPO Complaints Panel decision reinforced this stop-work order “until the content of the MoU is no longer disputed or is maintained for a period of six months from the date of the decision.”^{cxlvi}

The RSPO Complaints Panel decision also issued a new stop-work order effective immediately: “GVL is to cease all land development, including the construction of the mill in the Lower Kulu areas disputed by the Blogbo community...The lifting of the Stop-Work order is conditional on the completion of the Participatory Mapping of the land contested by the Blogbo Community and on the agreement of the terms of renegotiated MoU that includes the Blogbo Community.”^{cxlvii}

In April 2018, Friends of the Earth and community-based forest monitors documented ongoing clearance on the land identified as disputed by the Blogbo community as well as construction work on the mill, which is now producing palm oil. During the same

field mission GVL was found to be constructing buildings and houses and harvesting palm fruits on the disputed land of the Du, Wolee, Nyennue and Numopoh communities.



Forest clearance on land disputed by the Blogbo clan following RSPO Complaints Panel stop-work order. Photo taken by local forest monitor. 27 April 2018. 29N 499911E 602086N



POOR LABOR PRACTICES

While a comprehensive labor audit has yet to be conducted, field interviews conducted with GVL workers in 2017 indicated labor practices and conditions that likely violate companies' obligations under the UNGPs, RSPO Principles and Criteria, and the Free and Fair Labor in Palm Oil Production Principles,^{cxlviii} in addition to GAR and GVL's policies. Workers in the Numopoh area undertook a two-day work stoppage on April 25-26, 2018 due to unfair treatment and the recent arbitrary firing of a worker.^{cxlix}

Many workers interviewed about health and safety issues cited that on-site job training by supervisors was insufficient^{cl} and that broken safety gear was not replaced or was only replaced every six months.^{cli} Notably, one senior GVL manager said he could not defend current safety conditions and the lack of proper safety regulations.^{clii} Representatives of the Concerned Workers Committee of Kpanyan Numopoh district reported that sick workers who report to the clinic are categorically given a "fit to work" statement, and that when workers have family medical needs they are categorically noted as absent.^{cliii}

Safe transport was another area of concern highlighted by GVL workers. Workers are transported to GVL plantations in overcrowded trucks or tractors, in many cases with as many as 200 people.^{cliv} A GVL senior manager said he was convinced a worker would sooner or later get killed by the dangerous transport.^{clv}

Testimonies provided by GVL workers also suggests that GVL's wage policy and structure is out of compliance with international norms. Workers report receiving a monthly salary of \$100-130 dollars after deductions, assuming they meet daily production quotas. Interviewees reported that if workers fail to meet quotas, they receive a half-day's salary—which is half the legal minimum wage.^{clvi}

GVL contests these findings, claiming that it is "very conscious of its labour practices and integrity and

wants to ensure that all benefits and wages entitled to its employees are paid without issues."^{clvii} The clear divergence between GVL's account and that of workers interviewed makes clear the need for a comprehensive, independent labor audit to assess working conditions, the results of which should be disclosed to GVL and GAR's customers, creditors and investors as a matter of material, reputational and compliance risk.



A truck carries harvested palm oil nuts through rural Sinoe County.



IMPACTS TO LIVELIHOODS AND FOOD AND WATER SECURITY

In 2016, Sync Consultant Limited published the findings of an assessment into the livelihood impact and economic value of GVL's operations. Analyzing GVL's plantation in Sinoe County, the study found "that of the nearly 14,000 people estimated to live in the section of plantation under analysis, the direct benefits will be felt by only a small number of people, the 1,650 people who get jobs with the company. In contrast, the plantation poses economic risks to the wider community, which obtains significant values from its lands, including through farming, hunting, and building supplies. These values are much higher than those gained by the smaller employed group."^{clviii}

Sync Consultant's research also found "an increased risk of food insecurity and of water source pollution as a result of the concession"^{clix} and confirmed testimonies regarding drinking water contamination: "The study found evidence that GVL operations had resulted in pollution of drinking water sources and even though the company had agreed to replace them, the communities had not yet been compensated for this pollution through the building of alternative water sources."^{clx} GVL argues that "there are serious flaws in the assumptions and data" on which this research was based,^{clxi} and provides an in-depth response on its website.^{clxii}

Field research conducted in 2017 echoed the 2015 findings: five out of six communities interviewed indicated that they were significantly more food insecure now than before GVL began operations, and two communities indicated they were more water insecure. Overall, GVL's operations limited communities' access to farmland, hunting grounds and fisheries, and as previously noted, destroyed community water sources. GVL's failure to provide adequate compensation for destroyed crops exacerbates food insecurity.

These realities combined with an increased need to purchase food and increased food prices contribute to greater food insecurity for communities than experienced prior to GVL's operations.

In Tubmanville, one community member said that the community used to be able to get palm nuts from the forest but now must buy them at a substantially higher rate. "People used to benefit from the forest, but all of those benefits are gone," said another.^{clxiii} In Unification Town, community members angrily explained that they can no longer access their traditional lands, resulting in a decline in available farmland. Women in Kpanyan, Unification Town and Beloken reported spending their limited funds on staples such as cassava, rice and palm nuts that were previously cultivated in the community. In Kpanyan and Unification Town, farmers said their farmlands were cleared without compensation. In Kpanyan, a farmer explained, "My cassava farm, they took it and they haven't given me anything yet."^{clxiv}

Residents of Kabada and Unification Town also expressed frustration with the lack of functioning water pumps built by GVL in response to negative impacts on drinking water. GVL has acknowledged the challenges with providing access to drinking water, saying that hand pumps break easily, and it is difficult to repair them.^{clxv}

These findings directly contradict industry claims of economic development benefits for the presumed beneficiaries of GVL's plantation. GVL argues that "a more rigorous and scientific study needs to be carried out to fully understand the impact of palm oil development" in Liberia^{clxvi} —a conclusion with which the authors of this report wholly agree.



NON-COMPLIANCE WITH NATIONAL LAWS

GVL claims that it is in compliance with “all laws regarding its operations and acquisition of land.”^{clxvii} However, analysis of Liberian laws and the 2018 RSPO Complaints Panel Decision indicate that the company is in violation of several national laws and policies, particularly those that pertain to communities’ rights and decision-making authority over their customary lands, forests and natural resources. Furthermore, GVL’s concession agreement may also violate Liberian national law, despite the fact that it passed through the legislature and was approved by the president, as stated by the company.^{clxviii}

Violations of Community Rights Law

Liberia’s Community Rights Law specifies that, “Any decision, agreement, or activity affecting the status or use of community forest resources shall not proceed without the Free, prior, and informed consent of the said community.”^{clxix} As detailed above, GVL’s land acquisition and MoU signing processes have not been FPIC compliant and are therefore in violation of the Community Rights Law. Should the 2014 draft of Liberia’s Land Rights Act go into effect, GVL will need to thoroughly reorient its approach to community engagement, and may be required to revise its concession agreement in order to come into compliance with this law.

Violations of Liberia’s Land Rights Policy

Liberia’s 2013 Land Rights Policy vests management authority over customary lands and natural resources with local communities and empowers communities to self-identify. GVL’s actions contravene the spirit of

the policy by disregarding communities’ legal customary ownership rights to their lands, forests and natural resources and by negating communities’ right to choose their own representatives, as highlighted in the cases of Butaw and Tarjuowon communities noted in the February 2018 RSPO Complaints Panel decision.^{clxx}























Violations of Liberian Public Lands Law

According to the Liberian Extractive Industries Transparency Initiative (LEITI) and auditing firm Moore Stephens, the concession awarded to GVL by the Government of Liberia did not follow correct legal procedures and did not go through a proper competitive bidding process.^{clxxi} In addition, GVL was granted its concession for 65 years, in contravention of section 70 of Liberia’s Public Lands Law, which states that no such lease shall exceed fifty years.^{clxxii}

Violations of Liberia’s tax code

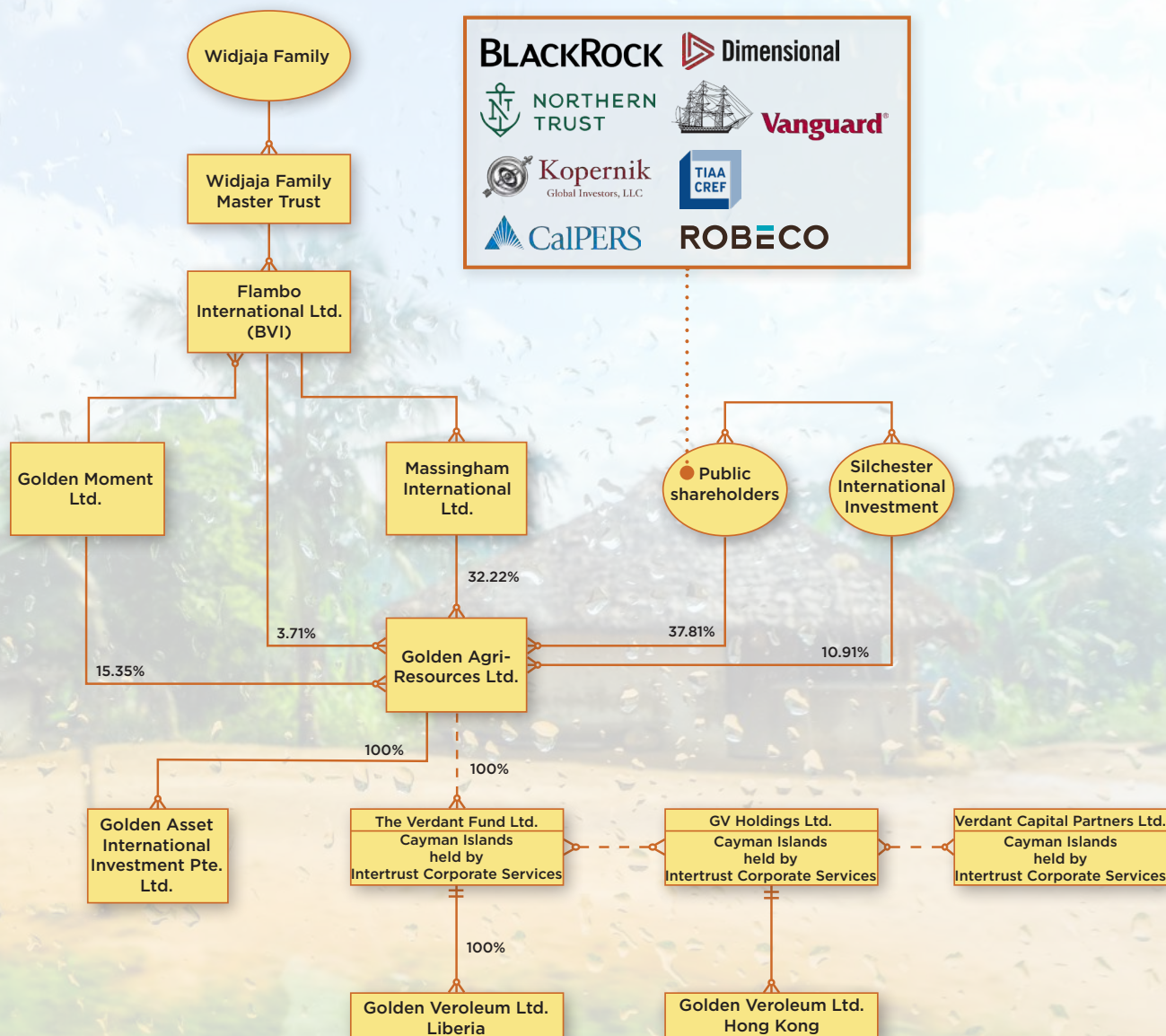
GVL’s tax optimization strategy appears to be in violation of Liberian tax code. Liberia’s tax code authorizes tax stabilization “for a period not to exceed 15 years,” yet the agreement with GVL provides a stability clause of 40 years and allows GVL to withhold tax payments for an incredible 65 years.^{clxxiii} GVL’s ongoing acceptance of this exemption from Liberia’s tax code raises serious concerns for reputational risk when increased public and regulatory scrutiny result in lower brand value, capital risk if tax regulations change and economic development risk as successive governments receive inadequate tax income to fund basic needs such as infrastructure, education, water, sanitation and health services.

Golden Veroleum Liberia's Violations of International Environmental and Human Rights Norms, National Laws, and Company Policies

	FPIC Non-Compliance	Desecration of Sacred Sites	Violence, Intimidation, and Conflicts	Unsafe Working Conditions
UN Guiding Principles on Business and Human Rights		 (12) Responsibility to respect human rights	 (11) Avoid causing or contributing to adverse human rights impacts (18) Identify and assess actual or potential adverse human rights impacts	 (12) Responsibility to respect human rights and international labor rights
RSPO Principles and Criteria	 (1.1) Provide adequate information to stakeholders on environmental, social and legal issues to allow for effective participation in decision making (2.3) Use of the land for oil palm does not diminish legal, customary or user rights without FPIC (6.2) Open and transparent methods for communication and consultation between growers, local communities and other parties (7.5) No new plantings on communities' land without FPIC (7.6) Customary rights holders are compensated for agreed land acquisitions and relinquishment of rights subject to FPIC.	 (6.13) Respect human rights	 (2.2) Land use is not contested by locals who have customary rights (6.13) Respect human rights	 (4.7) Health and safety plan is communicated and implemented (4.8) Appropriate training
Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance	 (2) Prior to establishment of plantation, respect legal and customary land ownership rights of Indigenous Peoples and local communities and respect right to FPIC			 (5) Prioritize worker health and safety
Liberian Community Rights Law	 (2.2.c) Any decision, agreement, or activity affecting community forest resources shall not proceed without FPIC			
Liberian Land Rights Policy	 (6.4.2) Decisions regarding formal transfer of Customary Land to concession must be fully representative and accountable to all community members			
GVL Forest Conservation Policy	 Commitment to FPIC			
GVL Social and Community Engagement Policy	 Obtain FPIC of local communities	 Respect human rights	 Responsibly resolve conflicts	
GVL Human Rights and Sustainability Policy		 Support and respect internationally proclaimed human rights. X Ensure company is not complicit in human rights abuses	 Ensure company is not complicit in human rights abuses	 Occupational health and safety
GAR Social and Environmental Policy	 (2.1) Respecting the right to FPIC for indigenous peoples and local communities	 (2.2.3) Respecting human rights as articulated in UDHR	 (2.1.2) Responsible resolution of conflicts	 (3.1) Recognising, respecting and strengthening workers' rights

Golden Veroleum Liberia's Violations of International Environmental and Human Rights Norms, National Laws, and Company Policies

	Clearance of HCS Forests and HCV areas	Destruction of Crops and Farmlands	Pollution of Water Sources	Lack of Proper Human Rights Due Diligence	Disregarding Customary Land Rights
UN Guiding Principles on Business and Human Rights		✗ (13) Avoid causing or contributing to adverse human rights impacts	✗ (13) Avoid causing or contributing to adverse human rights impacts	✗ (17) Carry out human rights due diligence	✗ (23) Comply with all applicable laws and respect internationally recognized human rights
RSPO Principles and Criteria	✗ (5.2) Maintain HCV habitats ✗ (7.3) Do not replace primary forests or HCV areas ✗ (5.6) Execute and monitor plan to reduce greenhouse gas emissions ✗ (7.8) new plantation developments avoid high carbon stock areas	✗ (3.1) Achieve long-term economic and financial viability ✗ (7.6) Compensation to local peoples for acquired land after FPIC	✗ (4.4) Maintain quality and availability of surface and ground water.		✗ (2.1) Compliance with local, national and ratified international laws and regulations. X (2.3) Use of the land for oil palm does not diminish legal, customary or user rights without FPIC X (7.5) No new plantings on communities' land without FPIC
Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance		✗ (2) Where plantations have been established without FPIC, provide compensation or return of lands for negative livelihood impacts		✗ (5) Commit to meaningful due diligence, transparency, and disclosure of human rights policies	✗ (2) Prior to establishment of plantation, respect legal and customary land ownership rights of Indigenous Peoples and local communities and respect right to FPIC
Liberian Community Rights Law	✗ (3.1.a) Communities have the right to control the use, protection, management, and development of community forest resources				✗ (2.2.a) All forest resources on community forest lands are owned by local communities (2.2.c) Any decision, agreement, or activity affecting community forest resources shall not proceed without FPIC
Liberian Land Rights Policy					✗ (6.2.2) Communities' customary land ownership rights ✗ (6.4.1) Communities' management authority over customary lands
GVL Forest Conservation Policy	✗ No development of and the conservation of High Carbon Stock forests No development of and the conservation of High Conservation Value areas				
GVL Social and Community Engagement Policy	✗ Compliance with All Relevant National Laws and RSPO Principles and Criteria				✗ Compliance with All Relevant National Laws and RSPO Principles and Criteria
GVL Human Rights and Sustainability Policy	✗ Comply with environmental laws	✗ Minimize adverse effects of operations	✗ Minimize adverse effects of operations		
GAR Social and Environmental Policy	✗ (1.1) No development of and the conservation of High Carbon Stock forests (1.2) No development of and the conservation of High Conservation Value areas			✗ (4.3) Due diligence and grievance procedures	✗ (2.2.4) Respecting land tenure rights



GVL AND GAR'S OWNERSHIP STRUCTURES AND FINANCING

GVL is owned by Cayman Islands-based Verdant Fund, with Golden Agri-Resources (GAR), an agribusiness and food company listed on the Singapore stock exchange, as the sole investor.^{clxxiv} This arrangement appears designed to create a legal and regulatory firewall between GVL and GAR, despite the clear financial and business relationship.

GVL's 2010 concession agreement states that GAR is an investor in the Verdant Fund LP, which owns GVL through holding companies in the Cayman Islands, Hong Kong and Switzerland.^{clxxv} According to the Cayman Islands Business Registry, Verdant Capital Partners Ltd. Cayman and GV Holdings Ltd. are registered at the same address and with the same local management company as the Cayman Islands-based The Verdant Fund LP.^{clxxvi}

Cayman Islands, ranked third on the Tax Justice Network's 2018 Financial Secrecy Index, makes it notoriously difficult to obtain information about companies registered there. The only information obtained from the Cayman Islands for this report include a single cover page for each of the companies, including Verdant Capital Partners Ltd., Verdant Fund and GV Holdings Ltd., outlining the registration date and the local registered office.^{clxxvii}









On its website, GAR states that its ownership is split between the founding Widjaja family's stake at 50.35 percent and public shareholders at 49.64 percent.^{clxxviii} However, as of March 2017 only 38.64 percent of GAR's issued shares were held by the public, while 50.35 percent were held or controlled by the Widjaja Family Master Trust, with the other 10.97 percent held by Silchester International Investors LLP.^{clxxix}

Several wholly-owned GAR subsidiaries are based in known secrecy jurisdictions including Bermuda, Singapore, Hong Kong, British Virgin Islands, Mauritius, Cayman Islands, Delaware state and the Netherlands. The Verdant Fund, Verdant Capital Partners Ltd., and GV Holdings Ltd. are all managed by Intertrust in the Cayman Islands and are unregulated by the Cayman Islands Monetary Authority. Intertrust NV is a Dutch multinational company, listed on the Amsterdam stock exchange with its headquarters in the Netherlands. Intertrust NV sets up and manages subsidiaries (or letterbox companies) for multinational companies, used to take advantage of regulatory and tax loopholes, exemptions and treaty opportunities. Flambo International Ltd., which is an investment company used by the Widjaja Family beyond the GAR universe, is based in the British Virgin Islands.

The controlling stake by entities under the beneficial ownership of the Widjaja family may make it difficult for prudent investors to manage the material ESG risks to which investment in GAR may expose them. It is well-recognized that minority shareholders must be vigilant in order to keep the board, executives and directors in check in family-controlled, publicly traded companies such as GAR, in order to ensure that the interests of majority shareholders are aligned with those of minority shareholders.^{clxxx}

Further, the financial structure of GAR's subsidiary companies, and of GVL, raises concern for the potential of tax avoidance and/or tax evasion.

Top Shareholders in Golden Agri-Resources ^{clxxxi}

Shareholder	Country	Percent of Shares in GAR	Market Value, 1q 2018 (USD)
Massingham International Ltd.	Singapore	32.22%	\$1.2 billion
Golden Moment Ltd.	Bahamas	15.53%	\$570 million
Silchester International Investors LLP	United Kingdom	10.91%	\$369.8 million
Flambo International Ltd.	British Virgin Islands	3.71%	\$131 million
 Vanguard ^{clxxxii}	U.S.	1.2%	\$42.7 million
 BLACKROCK	U.S.	1%	\$35.4 million
 Kopernik Global Investors, LLC	U.S.	0.87%	\$30.9 million
 Dimensional	U.S.	0.69%	\$24.4 million
Robeco Hong Kong Limited	Hong Kong	0.49%	\$17.10 million
 ROBECO	NL	0.46%	\$6.36 million
 NORTHERN TRUST	U.S.	0.33%	\$11.8 million
 CalPERS	U.S.	0.13%	\$4.2 million
 TIAA CREF	U.S.	0.05%	\$1.6 million ^{clxxxiii}

The following pension funds are invested in GAR:

- Stichting Pensioenfonds Zorg en Welzijn (NL)
- Florida State Board Administration Fund (U.S.)
- California Public Employees Retirement System or CalPERS (U.S.)
- Tredje AP Fonden (Sweden)
- IST2 MIXTA Optima 30 (Switzerland)

Lenders to GAR^{clxxxiv}

GAR received a syndicated loan for \$150 million in July 2015 with a maturity date of July 13, 2018. CIMB Bank Bhd. is the lead arranger; participating banks include First Abu Dhabi Bank, State Bank of India, Citigroup, Maybank Indonesia, PT Bank Mandiri Perseor and Rabobank.

Bondholders in GAR^{clxxxv}

GAR has five outstanding bonds listed on the Reuters' Eikon dataset, collectively valued at \$492.5 million. They mature in 2018 (\$277M), 2019 (\$102.6M) and 2021(\$112.9M). All bond issuers are listed as Golden Agri-Resources; lead managers and underwriters include Credit Suisse (Singapore) Ltd., Overseas Chinese Banking Corporation Ltd., RHB Investment Bank BHD, Bahana Sekuritas PT, Indo Premier Sekuritaas PT, RHB Sekuritas Indonesia PT and Sinarmas Sekuritas PT.



Recommendations

Given GVL's inability to comply with its own sustainability policies as well as international business norms related to preventing deforestation and respecting human rights and land rights, investors have a fiduciary responsibility to take urgent risk mitigation measures.

International banks and investors

Banks and investors should consider the palm oil industry to be a high-risk sector^{clxxxvi clxxxvii} and should put in place appropriate due diligence and risk management procedures. This should include proactive engagement with all palm oil suppliers to ensure compliance with international norms and exclusion of companies from investment portfolios when engagement fails to resolve ongoing structural issues. In the case of GAR, international banks and investors should take the following steps:

- Lenders should halt existing financial ties with GAR and provide no new financing to GAR, GVL or any of their business partners found to be connected to land grabs, deforestation and related human rights violations.
- Investors should undertake proactive, time-bound and transparent engagement with GAR as a matter of risk management. If engagement fails to resolve issues to the full satisfaction of affected stakeholders, or if shareholders choose not to engage, GAR should be excluded from their portfolios. This applies to passive index holdings and externally-managed funds as well as active funds.
- Both lenders and investors should take public action to support the integration of ESG criteria in investment decisions and support improved regulation of financial services in line with the Paris Agreement and the Sustainable Development Goals.
- Financiers should support efforts to halt the expansion of industrial-scale palm oil plantations and support sector transformation through responsible financing for smallholders to promote agro-ecology, community-based forest management and other sustainable livelihoods.

Golden Agri-Resources

As GVL's primary investor, GAR must take full responsibility for GVL's operations and operational failures. In order to take responsibility, GAR should:

- Provide GVL a strict deadline to resolve all issues raised by the RSPO Complaints Panel. If the company fails to comply with the RSPO Complaints Panel decision, GAR should halt GVL's operations in Liberia.
- Disclose material risks from GVL's operations to its customers, creditors and investors. These include risks related to past or ongoing destruction of HCS forests and HCV areas and water sources, RSPO-issued stop-work orders, ongoing land conflicts and tax liabilities and irregularities in GVL's concession agreement.
- Ensure that GVL provides redress of grievances in accordance with the U.N. Guiding Principles for Business and Human Rights.

Golden Veroleum Liberia

GVL has a responsibility to provide ongoing redress of grievances, and should:

- Halt operations on disputed land and in all instances where communities have not provided their consent for operations.
- Renegotiate and finalize all provisional Memoranda of Understanding (MoUs).
- Ensure that all land acquisition includes proper FPIC procedures and redo participatory mapping where the RSPO or communities require this.
- Return land to communities if requested during renegotiations of MoUs.
- Compensate communities and individuals whose land has been acquired without their consent and whose crops have been destroyed.
- Compensate and reinstate residents from Butaw who were jailed for extended periods of time due to ongoing company-community conflicts.
- Ensure that all benefits guaranteed in MoUs with plantation-affected communities are adequately delivered, including establishing palm oil outgrower schemes, providing training and skilled employment and creating Community Development Fund(s).

- Improve information sharing and transparency with communities and civil society, including information and maps on the extent of developed land, integrated land use and future palm oil estate expansion.
- Work with HCSA experts to improve HCS assessments and ensure independent review.
- Ensure that all operations are consistent with GVL and GAR's own policies for forest conservation and human rights as well as with international standards, including the U.N. Guiding Principles on Business and Human Rights and Liberian national laws.

The Government of Liberia

The Government of Liberia should fully integrate the rights of its citizens and the full value of its richly forested lands into its economic development priorities. In order to do so, the Government of Liberia should:

- Champion the rights of the Liberian people and foster peace and security by passing the 2014 draft of the Land Rights Act.^{clxxxviii}
- Work toward the development and enactment of a national agriculture law that supports national growth and ensures food security for local farmers.
- Ensure that there is accurate and effective monitoring of palm oil companies by strengthening the capacity within the National Bureau of Concessions.
- Review GVL's concession contract and ensure the company pays all taxes due.
- Take a proactive role in ensuring that GVL and its primary investor GAR respect and protect human rights by imposing sanctions, assuring compensation and initiating investigations when violations occur.
- Take a proactive role in ensuring that GVL and its primary investor GAR respect and protect human rights by imposing sanctions, assuring compensation and initiating investigations when violations occur.
- Ensure that palm oil outgrower schemes are oriented around rights-based approaches and not limited to a conservation approach in which the only communities involved are those with direct interests in forest preservation.
- Provide ample space for farmers to engage in their livelihoods independent of GVL and other industrial agribusiness interests.



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GVL

**GOLDEN VEROLEUM LIBERIA
TARJUOWON NORTH
ESTATE & MILL SITE**

"Jacksonville/Kulu Junction."

Tarjuowon Statutory District. Sinoe County Liberia.

