

*The Senhuile-Senethanol investment in Ndiael, Senegal*

# No land, no future

A community's struggle to reclaim their land

October 2014



## Acknowledgements

This report was researched and written by Maura Benegiamo of the University of Venice, IUAV, and Davide Cirillo of the University of Padova on behalf of ActionAid Senegal and ActionAid International. Editorial support was provided by Zakaria Sambahke and Aïssata Dia of ActionAid Senegal, and Soren Ambrose, Antoine Bouhey, Isabelle Brachet and Kate Carroll of ActionAid International.

## Methodology

The report is based on information gathered through field research in April and May 2014 and through desk research and telephone calls with local communities. A meeting took place in Italy in June 2014 with the Tampieri Financial Group, the majority shareholder in Senhuile, to discuss the support received for an ActionAid multi-country urgent appeal concerning the investment of the company in Ndiael.

Twenty-two interviews were carried out involving members of governmental institutions, members of Ronkh and Ngith Rural Council, company employees and representatives of the collectives of Ronkh, Ngith and Fanaye. In addition, discussions with four groups were conducted – two with older and young men, and two with women. A further two meetings were held with children attending different village schools. GPS data was collected to assess the stage of implementation of the project (cultivated area). Following completion of the draft report, ActionAid Senegal visited communities to verify findings.

## Glossary

**Basin, also called Big Pond:** central zone of the Ndiael reserve, protected under international law (*cuvette or Grande Mare*)

**Buffer zone:** part of the Ndiael reserve protected under international law (*zone tampon*)

**CODEN:** Collective for the protection of Ndiael lands (*Collectif pour la défense des terres du Ndiael*)

**EIES:** Environmental and Social Impact Study (*étude d'impact environnemental et social*)

**FPIC:** Free, Prior and Informed Consent

**MCA:** Millennium Challenge Account

**OECD:** Organisation for Economic Co-operation and Development

**Peripheral zone:** Part of the Ndiael reserve that has been declassified by the Senegalese government in March 2012. That part was previously a protected area under Senegalese law, but was not part of the zone protected under international law.

**Rural community:** the rural communities of Senegal are local administrative subdivisions

**Rural council (RC):** elected local assembly in each rural community, decision-making body

**UN:** United Nations

### Cover photo:

Fatouma Sow, a women farmer from Thiamene Village Rural Community of Ngith.

PHOTO: MAMADOU DIOP/ACTIONAID

### **Box 1. Who are the main actors?**

Senethanol SA is a Dakar-based company set up in 2010 by Senegalese and foreign investors (mostly Italian) to take advantage of the Senegalese government's new policy to support the development of biofuels. Senethanol signed an original lease for 20,000 hectares (ha) with the Rural Council of Fanaye. Since the project has been transferred from Fanaye to Ndiael, the project has been implemented by Senhuile SA, a Dakar-based joint venture between Italy's Tampieri Financial Group and Senethanol SA.<sup>1</sup> Some written sources, including the March 2012 Decree allocating the land to the company, refer to this joint venture as 'Senhuile-Senethanol'.

Senhuile SA was set up in Dakar on 26 July 2011, at the same address as Senethanol, with an initial capital of CFA 10,000,000 (€15,220). According to its majority shareholder, the Tampieri Financial Group, Senhuile's mission is "to obtain concessions for sunflower seed production for export to Italy".<sup>2</sup> Two shareholders directly control Senhuile: Tampieri Financial Group SpA (51%) and Senethanol SA (49%). Tampieri Financial Group is a large, family-owned holding company set up in Italy in 1965.<sup>3</sup>

The Collective for the protection of Ndiael Lands (also called Collective of Ngith) brings together all villages directly and negatively impacted by the project, and represents 37 villages belonging to the Ngith Rural Community. These villages are those most affected by the project.

The Collective of Ronhk brings together a small number of villages that are less affected by the project than the villages of Ngith – though they use the land allocated to the company to graze their animals and access resources they do not live inside the project area.<sup>4</sup>

The government of Senegal: events in Fanaye and Ndiael have involved former President of Senegal Abdoulaye Wade, as well as current President Macky Sall, elected in March 2012 by a large majority. Senegal is a party to major international and regional human rights instruments.

## Executive summary

Over the past four years, Senegalese and Italian investors (first Senethanol and then Senhuile, a joint venture majority owned by the Tampieri Financial Group of Italy)<sup>5</sup> have been seeking to produce sweet potatoes and then sunflowers in the north-western region of Saint-Louis in Senegal. During this period, these investors have enjoyed support from the Senegalese government and from influential local and national elites. But to this day, Senhuile-Senethanol has disregarded the concerns of local communities in relation to the investment. These communities, anticipating disastrous impacts on their livelihoods, have constantly requested the organisation of proper consultations through which they would have access to clear information about the project and the option to refuse the project or to set conditions for its implementation. The disregard of local communities has twice led to clashes between disheartened local communities, supporters of the project and police forces, which caused the deaths of two people in October 2011 in Fanaye, where the investment was initially planned. As a result, the then Senegalese President Abdoulaye Wade relocated the project to Ndiael, about 100 km west of Fanaye. This project was to be implemented by a recently established company called Senhuile, a joint venture between Senethanol and Tampieri.

Far from learning from the tragic events in Fanaye, Senhuile has continued to implement the project, benefiting from the lack of protection of local communities' customary land tenure rights, failing to carry out adequate consultations, ignoring its legal obligation under Senegalese law to conduct an in-depth Environmental and Social Impact Study (EIES) before starting any activity in Ndiael, violating the right to water, food and the environment, and disregarding the requirement for free, prior and informed consent. The investment is therefore a clear case of a land grab. ActionAid, along with a wide range of civil society organisations, has been supporting the claims of local communities in Ndiael throughout this process and is calling on the company to stop the project and conduct a proper consultation with communities.<sup>6</sup> This call was supported by 105,000 citizens worldwide who sent urgent appeals to the Tampieri Financial Group, the majority shareholder in Senhuile. Tampieri met representatives of ActionAid Italy in June 2014 and claimed it would go on with its project and conduct proper consultations with all affected communities. In early September 2014, Senhuile contacted a representative of the Collective for the protection of Ndiael lands to propose a meeting, which is a welcome move, but up to now no such meeting has taken place and nothing has changed for the affected communities.

Senegalese authorities have failed to protect and respect the rights of local communities and – where Senegalese law is weak – Senhuile has failed to go above and beyond and meet its obligations under human rights law, in particular the requirement to avoid the negative human rights impacts of its operations and to ensure proper and transparent consultation with communities. This report provides an analysis of the company's investment in Fanaye and Ndiael over the past four years, stressing serious shortcomings in the consultation process; the persistent lack of transparency about key issues such as the exact areas where land will be cultivated; the threats to the region's fragile environment; the unbalanced impact that land grabs like this have on women; and the adverse impact on the lives and the food security of local people. It ends with recommendations for both the government and the company.

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## 1. Chronology of a dubious investment

The land grab at the heart of this report is the result of a troubling pattern of 'looking the other way' on the part of Senegal's government and Senhuile. Mismanagement and errors of omission have been made that have resulted in people's rights being violated. Senegal's government has failed to protect and respect the rights of local communities while Senhuile has failed to go above and beyond the weaknesses of Senegalese law and meet its obligations under human rights law – including the requirement to avoid negative human rights impacts of its operations and ensure proper and transparent consultation with communities. Senhuile also ignored its legal obligation under Senegalese law to conduct an in-depth Environmental and Social Impact Study (EIES) *before* starting any activity in Ndiael.

In June 2011, the Rural Council of Fanaye in northern Senegal announced to local people that Senethanol, a company mainly owned by Italian investors and some Senegalese investors,<sup>7</sup> would be granted 300 ha – which would progressively extend to 20 000 ha – to establish a biofuels plantation project.<sup>8</sup> The project had been approved by a narrow majority of the Rural Council (23 members in favour and 21 opposed) in negotiations between the company, the rural community and representatives from the national government.<sup>9</sup> Those against the approval stated that in fact they had only been informed of the existence of the project during the meeting which was held to approve it.<sup>10</sup>

The project started operating in July 2011 in the 300 ha originally granted, but opponents organised into a Collective to Defend Fanaye's Land, which rapidly gathered signatures from local heads of villages opposed to the project, asserting that 30 out of the 31 villages in the region were opposed to it.<sup>11</sup> On 26 October 2011, clashes between opponents, supporters of the project and the police ended with several people injured and two people killed.<sup>12</sup> The companies themselves were not involved in these clashes, and ActionAid imputes no responsibility to them for the results. Responding to these tragic events, Senegal's President Abdoulaye Wade met representatives from the Collective to Defend Fanaye's Land on 20 November and announced that the project would not continue in that area.<sup>13</sup>

However, Senethanol was still seeking to invest in the region. At the end of 2011, a recently established company, Senhuile (a joint venture between Senethanol and Tampieri Financial Group), initiated negotiations to lease land in another area, Ndiael, a natural reserve about 100 km west of Fanaye. Informed of the potential arrival of the project in their area, Ndiael communities sent a letter in January 2012 to the Prime Minister and the Minister of the Environment, supported by a declaration by the Réseau Nord Pour la Protection de l'Environnement Mondial (RENPEM), expressing their refusal of the project and drawing attention on the status of Ndiael (Ramsar site and Transfrontier biosphere reserve between Senegal and Mauritania). Ignoring these protestations, President Abdoulaye Wade signed two decrees in March 2012 – between two presidential election rounds – declassifying the peripheral zone of the reserve (26,550 ha<sup>14</sup>), and granting 20,000 ha to Senhuile-Senethanol over 50 years, renewable by tacit consent and keeping 6,550 ha (less than 25%) to be used by the local communities of Ronkh and Ngith.<sup>15</sup> By doing so, the Senegalese president completely ignored the customary land tenure rights of local communities and their preference for the project to stop.

These decrees were abrogated by the new president, Macky Sall, two weeks after he took office.<sup>16</sup> The President launched a national audit on all large land deals undertaken during Wade's presidency. On 6 August 2012, President Macky Sall abrogated his own decree, thus restoring the project.<sup>17</sup> An informal meeting was organised three days later in Dakar with several representatives from Ndiael and a representative from Senhuile. During this informal meeting, representatives of the local communities of Ndiael agreed that the project could take place in over 10,000 ha in a part of the reserve called the 'buffer zone' (see glossary).<sup>18</sup> However, when they informally agreed to these terms, local communities were not yet aware that President Macky Sall had restored President Wade's decrees and project – that the company had thus been granted a wider area of 20,000 ha that was not situated in the buffer zone, thereby allocating land without taking into account the customary land use and rights of local communities nor their preference for the project to stop.

Senhuile-Senethanol started operating in Ndiael in the first weeks of August. On 16 September 2012, representatives from Ndiael civil society adopted a declaration stressing that the company had started clearing a 3km long zone and that the project would have negative impacts on 37 villages, including on livestock farming. The declaration stated their "refusal to grant the 10,000 ha to Senethanol-Senhuile".<sup>19</sup> As had happened in Fanaye a year before, clashes between local communities and the police on 31 October ended with several people injured and others arrested and later released.<sup>20</sup> Again, ActionAid does not attribute responsibility for this event to Senethanol-Senhuile. Since then, no agreement has been reached between the company and the communities opposing the project, organised under the Collective for the protection of Ndiael lands, which brings together all villages opposed to the project in the Rural Community of Ngith.

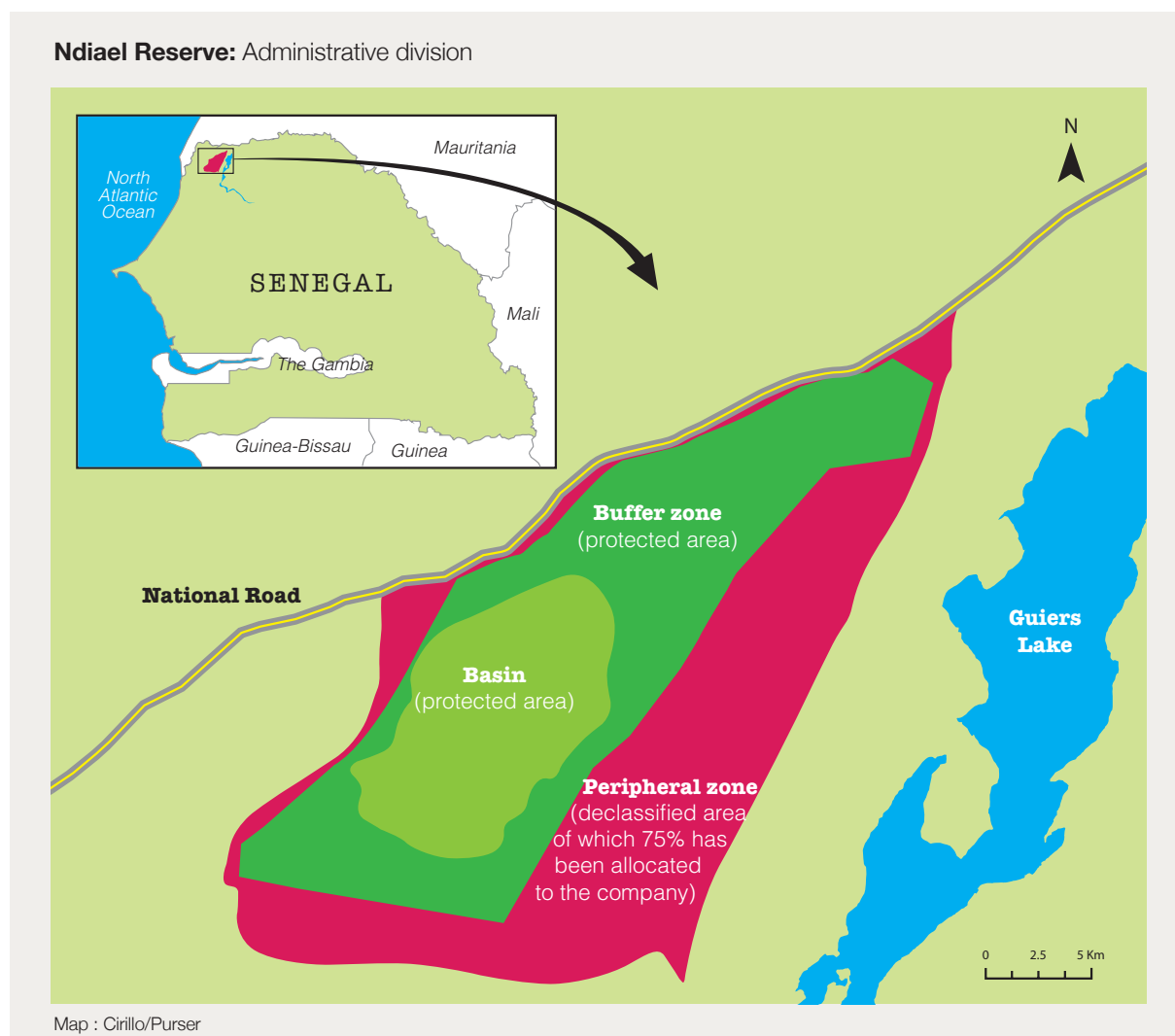
Contrary to requirements under Senegalese law (Code of Environment), Senhuile commissioned a consultancy firm to conduct an Environmental and Social Impact Study (EIES) only after it started its operations. The government failed to act on this. In that framework, hearings took place with some villages in September 2013. The technical committee appointed by the Ministry of the Environment rejected the EIES in October 2013, requiring additional information.<sup>21</sup> An updated although still flawed EIES was provided.<sup>22</sup> The EIES concluded that the project would have positive socio-economic and environmental impacts, but that it could generate conflicts "because of the lack of understanding by certain parts of the population". It therefore recommended that the company develop a communication plan to increase acceptance of the project. In January 2014, two Memorandums of Understanding (MoUs) were signed between Senhuile's CEO and representatives of the communities of Ronkh and Ngith. Those MoUs spelt out the respective obligations of the company and local communities. The Collective for the protection of Ndiael lands later denounced the signature of the MoU with Ngith as a fraud because it hadn't been signed by a legitimate representative (see section 3).

Senhuile appointed a new Director General,<sup>23</sup> Massimo Castellucci, in April 2014 to replace Benjamin Dummai, who was later accused of embezzling almost US\$500,000.<sup>24</sup> Since then, the company has been developing various charity projects in the area and continues to implement the project, in spite of the strong opposition of affected local communities.

## 2. Social and environmental characteristics of the Ndiael area

The Senhuile-Senethanol investment has been made in a fragile environmental, social and economic context. The wildlife reserve of Ndiael is a wetland and migratory bird reserve, part of the Senegalese river delta, in the semi-arid Sahel region. The area is part of the Transfrontier Biosphere Reserve of the Delta of the Senegal River between Senegal and Mauritania. It was declared a protected area in 1965.<sup>25</sup>

The reserve is sub-divided into three zones (a basin, a buffer zone and a peripheral zone) which are highly interdependent, because water channels cross and connect the three zones. The basin and the buffer zone cover an area of 20 000 ha and in 1977 were listed as 'Ramsar site' under the Ramsar International Convention,<sup>26</sup> an international treaty promoting the conservation and sustainable use of wetlands. The peripheral zone covers 26,550 ha and combines forestry and grazing in a mutually beneficial way (a 'sylvo-pastoral' area).





Historically the central basin received water from the Yetti Yone channel, but since the 1970s water resources have been depleted by recurrent droughts, poor rainfall, infrastructure projects such as the Diama dam and National Road 2 and growing human demand. This has resulted in the obstruction of major waterways, progressive soil degradation and salinisation, a loss of biodiversity and a proliferation of aquatic plants, all of which have a negative impact on access to water and the livelihoods of local people. The situation led to the inclusion in 1990 of the basin and buffer zone in the Montreux Record, a register of endangered wetlands.



**Lake Guiers, in the Ndiael reserve, an important water resource for the Peuls.**

PHOTO: GIADA CONNASTARI/ACTIONAID

The population directly affected by the Senhuile-Senethanol project lives around and inside the reserve, in about 40 villages and hamlets situated mainly in the peripheral zone. Over the past 50 years the number of villages and people living there – mainly Peul – has increased, with the current population standing at approximately 9,000.<sup>27</sup>

The 1965 decree that classified the area a protected zone enshrined the right of people already living there to collect resources such as dead wood, wild fruits, edible and/or medicinal plants, straw, honey, rubber and resins. Furthermore, existing rights of local people to graze their animals and prune forage trees were expressly maintained by the decree.



**A young girl carries firewood in the Ndiael reserve.**

PHOTO: MAMADOU DIOP/ACTIONAID

Their main economic activity is livestock breeding in the form of extensive traditional pastoralism, an important sector of activity in Senegal which accounts for 4% of GDP.<sup>28</sup> Traditional pastoralism allows people in arid and semi-arid areas to produce meat and milk while maintaining a low carbon footprint.<sup>29,30</sup>

Peul people use grazing space collectively. Their livestock represents their main economic asset and is also used for transactions and in social relations, such as marriages, baptism, and pilgrimage. Peul women can own cattle and thereby have increased economic autonomy. However, women are often excluded from development activities, which makes outreach to women to ensure free and prior informed consent (FPIC) both challenging and pressing.<sup>31</sup> Care needs to be taken because 68% of Senegalese women are not able to read and thus any written messages may not be understood.<sup>32</sup>



**A Peul shepherd takes his flock to fresh grazing land.**

PHOTO: SYLVAIN CHERKAOUJ/ACTIONAID

As well as grazing, those living in this area also cultivate plots of between one to five hectares near the Senegal River or Lake Guiers to ensure self-sufficiency. As a consequence of the vast agricultural programme begun by the Senegalese government in the Delta region in the 1960s, land available for grazing has gradually diminished. The Ndiel reserve today constitutes around 80% of the land still available for pastoralism in the Delta. Before the Senhuile-Senethanol project, people from the communities of Ngith, Diama, Ronkh and Ross Bethio used the reserve to forage and graze their animals. The reserve also provided grazing land for other herders living in surrounding areas.



**Cattle on the way to the Lake Guiers to drink.**

PHOTO: MAURA BENEGIAMO/ACTIONAID

The Senethanol-Senhuile project puts this fragile environmental, social and economic equilibrium at risk since without enough grazing land, adequate access to water and grazing paths, the survival of livestock is at stake, putting the life of local communities in danger.



### 3. Consultation with local communities: a fool's game

This section looks in more depth at the investment process – outlining where lack of oversight on the part of both the Senegalese authorities and the company has resulted in free, prior and informed consent (FPIC) being ignored. It describes the incoherent series of meetings aimed at convincing local communities of the benefits of the project, and the attempt of the Senegalese authorities and the company to induce them to sign formal contracts with the company, ignoring their customary land rights.

#### a) From early opposition to the “Dakar Compromise” and MCA “consultation-day”

At the end of 2011, the Rural Community of Ngith's president and several of its members were informed by a governmental delegation of the upcoming project to lease land to Senhuile-Senethanol in the Ndiael reserve. This resulted in several formal and informal meetings between villagers and members of the central and regional governments, influential local people and representatives from Senhuile-Senethanol.<sup>33</sup> Formal opposition to the project existed from the very beginning, evidenced by a letter sent to the Ministry of the Environment on 17 January 2012 and signed by representatives of the three communities living in the project area (Ngith, Ronkh and Diama), the Ross Bethio commune and the Association Inter-Villageoise.<sup>34</sup> In this letter, signatories announced that they opposed the project and that any declassified land should be allocated to them rather than used for mono-crop agriculture. The government chose to disregard this letter and Senegal's President Wade soon signed two decrees to declassify the peripheral zone and allocate the land to the company.

On 9 August 2012 a three-day meeting gathered local communities and Senhuile Board Chair Gora Seck in Dakar, under the auspices of influential businessmen and politicians. The mediation resulted in a verbal compromise whereby the company agreed to limit the exploitation to 10,000 ha in the buffer zone<sup>35</sup> even though the decree does not declassify the buffer zone,<sup>36</sup> which is still a protected area of the Ndiael reserve. Exploiting this zone would therefore be illegal. The company's representative and 'facilitators' should have been aware that the decree declassified the peripheral zone and not the buffer zone and that they were not allowed to carry out activities in the buffer zone. Local communities' representatives ended up accepting a compromise by which the company should have known it would not be able to abide. Soon after this meeting, Senhuile-Senethanol started operating in the peripheral zone – not the buffer zone – a broken promise that severely eroded trust in the company on the part of local communities. In addition, the company started operating before completing the EIES and obtaining the required authorisation, in spite of assurances given by the authorities that no activity would start until those two conditions had been met.<sup>37</sup>

In September 2012, authorities asked the management team of Millennium Challenge Account (MCA), a US-funded project with experience in consultations with local communities,<sup>38</sup> to organise a one-day consultation in Ngith. Local communities were given a presentation on the positive effects of the project on their livelihoods. Participants<sup>39</sup> recall that different groups voiced their opposition to the project and process. The minutes of that meeting have not been made public.

## b) The EIES public hearings

Under Senegalese law, projects such as Senhuile-Senethanol require a compulsory and in-depth Environmental Impact Study.<sup>40</sup> Such impact studies must be completed before administrative authorisation is delivered to start the project.<sup>41</sup>

Senegal's Environment Code states that the Environmental Impact Study must include a social impact aspect as well: that is, the impact on people's health and property, any gender specific impacts, potential resettlement risks and the impact on natural resources (article R.39).

Ministerial Order 9468 of 28 November 2001 specifies that 'people concerned' must be duly informed about the planned project and comments can be provided verbally (during a public hearing) or in writing, at different stages of the EIES. The company is responsible for informing the public and ensuring comments received are included in the final EIES. A technical committee appointed by the Ministry of the Environment is in charge of organising the public hearing and supervising the entire impact assessment.<sup>42</sup>

Consultancy firm Synergie<sup>43</sup> carried out the EIES for the Senhuile-Senethanol project – the final version is dated October 2013. Two public hearings were held in the communities of Ngith and Ronkh on 11 and 12 September 2013 as part of the framework of carrying out the EIES. In both meetings, local people raised strong concerns about the process and the failure to respect promises made.<sup>44</sup> This can be seen in the EIES: "People fear they will have no choice but to become farm workers for the project because it will have grabbed all resources (land, grazing and water) and thereby made livestock farming or irrigated agriculture impossible. Ending up with low wages is also mentioned as a concern."<sup>45</sup> ActionAid met several community members who participated in those consultations and who stressed that Synergie's representatives did not duly take into account the views of affected people but rather focused on highlighting the project's advantages in terms of labour opportunities and development.

Moreover, most men and women in the affected communities that disagreed with the project were not consulted in the framework of the EIES. In fact, the majority of villages that were consulted belong to the Ronkh Rural Community, whose population uses the concerned area to graze animals but are not situated in the project area.<sup>46</sup> Only two villages consulted belong to the Rural Community of Ngith and are part of the 37 villages belonging to the collective. When ActionAid asked Synergie for the reason for the lack of comprehensive consultations, Synergie answered that the rest of the 37 villages "refused to participate in the consultation process because they had no confidence in the project".<sup>47</sup>

After the two hearings, a technical evaluation meeting was held in October 2013, gathering representatives from the local administration and public authorities, CSOs, Senhuile-Senethanol and Synergie.<sup>48</sup> The technical evaluation committee rejected the EIES,<sup>49</sup> requiring the inclusion of additional information in a revised EIES.<sup>50</sup> This revised version was available on Senhuile's website until the summer 2014, though several annexes were missing.<sup>51</sup> ActionAid has not been able to find out whether another public hearing to collect comments on the revised EIES has taken place, and whether this revised version has been approved by the technical committee. In addition, the Collective for the protection of Ndiael lands was unable to obtain a copy of the Certificate of Environmental Compliance, which is supposed to be delivered by the administration after the completion of the EIES and is compulsory in order to start operations.

The EIES does not mention the customary land tenure rights of the men and women living in the leased area. It contemplates the opposition of local communities to the project as a risk requiring mitigation measures, not as a conflict between legitimate rights holders and investors.



### c) The signing of Memorandums of Understanding: more trickery

On 29 January 2014, two Memorandums of Understanding (MoUs) were signed between the Senhule Director General and representatives of the communities of Ronkh and Ngith, in the presence of the authorities. They are valid for one year and are renewable – thus giving no long-term guarantees that any commitments made by the company will be sustainable.

Most of the members of the Ronkh community accepted the project because they felt powerless to oppose it. A representative of the Ronkh collective told ActionAid: *“We can’t challenge the will of our government. If they chose to let this project settle here we can only accept it, trying at least to monitor that the project will respect its promises and commitments.”*

On 3 February 2014 the Collective for the protection of Ndiael lands denounced the signature on the Ngith MoU as a fraud during a protest in the village of Ngandjil. The MoU had been signed by a person belonging to a village outside the project’s borders who is no longer a member of the collective. In fact, the collective rejected his legitimacy to represent them several times.<sup>52</sup> Nearly all the villages of the Rural Community of Ngith situated in the project area are opposed to the project.

**Box 2. Defining a land grab**

The Tirana declaration, adopted by a large number of organisations, defines land grabbing as acquisitions or concessions that are one or more of the following:

- (i) in violation of human rights, particularly the equal rights of women;
- (ii) not based on free, prior and informed consent of affected land users;
- (iii) not based on a thorough assessment, or are in disregard of, social, economic and environmental impacts, including the way they are gendered;
- (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits-sharing;
- (v) not based on effective democratic planning, independent oversight and meaningful participation.

Of particular importance is the issue of free, prior and informed consent (FPIC). FPIC is recognised as an international human rights standard in the United Nations Declaration on the Rights of Indigenous peoples (UNDRIP) and ILO Convention 169. Those texts recognise the collective rights of indigenous peoples to self-determination and to their lands, territories and other properties. A recent report by Oxfam America stressed that in Africa, regional institutions such as the Economic Community of West African States (ECOWAS), the African Commission on Human and Peoples' Rights, the Pan-African Parliament and Africa Mining Vision have recently begun to call for FPIC processes for all affected communities regardless of whether they identify themselves as indigenous peoples. ActionAid believes that FPIC should apply to all communities that face potential impact on their natural resources and livelihoods.

**What FPIC entails is defined in recent UN guidelines:<sup>53</sup>**

- 'Free' refers to consent given voluntarily and the absence of coercion, intimidation or manipulation, and is a process that is self-directed by the community from whom consent is being sought.
- 'Prior' means that information must be provided and consent must be sought sufficiently in advance of any authorisation or commencement of activities, and the time requirements of rights-holders consultation and consensus processes are respected.
- 'Informed' refers mainly to the nature of the engagement and type of information that should be provided prior to seeking consent and requires that information should be accessible, transparent, delivered in appropriate languages, objective and complete.
- 'Consent' refers to the collective decision made by rights-holders and reached through the customary decision-making processes of the affected peoples or communities. Consent is a freely given decision that may be a 'yes' or a 'no', including the option to reconsider if the proposed activities change or if new information relevant to the proposed activities emerges. At the core of FPIC is the right of the peoples concerned to choose to engage or negotiate and to decide to grant or withhold consent.



In conclusion, there has been no genuine and inclusive consultation of local communities seeking the views of both men and women concerning the proposed investment. The various meetings did not respect the principle of free, prior and informed consent of affected communities and were rather repeated attempts at convincing them of the benefits of the project. The EIES does not accurately reflect the very strong opposition of most of the affected villages. It does not mention the fact that those most affected by the project – i.e. those living in the project area – did not take part in the public hearings because they felt they were not given the possibility to withhold consent to the project. This is a key marker of a consultation that deviates from respect for the free, prior and informed consent of communities. Last but not least, the implementation of the project began before the EIES was carried out, and before administrative authorisation from the Ministry of the Environment was delivered.<sup>54</sup> The project is dividing people and affecting the cohesion of communities. For all these reasons, the Senhuile-Senethanol investment is a clear case of land grab (see Box 2), involving the responsibility of both the government of Senegal and the company.

## 4. Key information still missing

Prior their consent being sought, affected communities should be provided with objective and complete information in a transparent way. In the case of Ndiael, this has not happened. Despite the fact that the project commenced in Ndiael more than two years ago, key information is still lacking, precluding any informed consultation process. Oversight lies with Senegal's government, but under international human rights law the company should also adhere to high standards of transparency.

### a) Size and location of land leased to Senhuile-Senethanol

On 20 March 2012, President Wade signed two decrees concerning the Ndiael reserve. The first decree declassified the 26,550-hectare peripheral zone. The second assigned 20,000 ha to Senhuile-Senethanol and determined that the rest of the peripheral zone (6,550 ha) would be ringfenced for the communities of Ronkh and Ngith for the resettlement of villages that may have to be displaced, and for villagers' economic use.<sup>55</sup> However, it is unclear where these 6,550 ha are actually located, as no land has yet been allocated by the government to local communities.



**An Aerial photograph showing how villages are juxtaposed with cleared land**  
PHOTO: COURTESY OF: GIADA CONNISTARI

The EIES mentions that the company will initially cultivate 10,000 ha<sup>56</sup> – a scenario confirmed in public declarations by the former director of operations of Senhuile-Senethanol.<sup>57</sup> However, in spite of a specific request, Tampieri Financial Group has not shared the project map with ActionAid or local communities yet.

Any serious consultation process should have involved the sharing of transparent and reliable information about the size and location of the cultivated area with all who will be affected by the project.

## b) Uncertainty about crops to be grown

There is confusion around what crops will be grown as part of the project. According to the EIES, the project's objective is to grow sunflowers. The EIES specifies that the seeds will initially be exported to produce biofuels and that rice will be produced in salinated areas in order to desalinate those areas, and grow sunflowers afterwards.<sup>58</sup>

Statements by representatives of the company in the national media are also vague and contradictory about the crops to be grown, their use (for food or biofuels) and their destination market (domestic or export).<sup>59</sup> Senhuile's majority shareholder, Tampieri Financial Group, recently declared to the Italian press that production is, for the moment, exclusively for the domestic market, starting with rice and moving into peanut and maize production for the domestic market in the future.<sup>60</sup>

Visits by ActionAid to the area in April 2014 confirmed that sunflower production had stopped. The company is producing rice and maize on part of the 5,000-7,000 ha of land that seemed to have been prepared for cultivation.<sup>61</sup> Several villagers interviewed confirmed that the maize is expected to be traded with a Senegalese enterprise as animal feed.



**Corn cultivated by the company. This picture shows how the harvest was poor quality.**  
PHOTO: MAURA BENEGIAMO/ACTIONAID

Plans about crops to be grown and where they will be sold have changed over time. Lack of clear information about issues such as these has kept local people in the dark about whether or not they will be able to acquire food or feed for their local use. In addition, before different crops to those initially contemplated could be grown, the EIES should have been updated because the impacts of other crops on the environment, access to water and food security could be different.



## 5. Social and environmental impacts

*“They can build roads and schools, but if we cannot live there any more, what difference does it make?”*

- Villager from the Rural Community of Ngith.

This section outlines the impact of the lack of oversight on the part of Senegal’s government and the failure of the company to prevent violations of the right to water, food, freedom of movement and women’s rights.

### a) Social impact

There is a fundamental difference between the rigid use of land promoted by Senhuile-Senethanol, and the flexible use of land by local people through pastoralism and gathering of firewood and medicines, for example. Both models require extensive areas of land, and the lack of space makes their coexistence impossible.

The development of Senhuile-Senethanol’s large-scale agricultural project implies the conversion of pastoral people into agricultural workers and the settlement of those who are nomadic or semi-nomadic herders.<sup>62</sup> For both the men and women this is a huge transition. According to the EIES, local grazing suffers from the presence of “unprofessional actors which result in this sector being insufficiently open to innovation and modernization”. It also refers to “herders who hold on to their traditional grazing practices and for whom another type of grazing method such as intensive livestock farming would be hard to imagine”.<sup>63</sup> This reflects an ideological prejudice against traditional pastoralism. The project ignores the interaction local people have with the environment, and communities’ traditional methods of farming and land use. Evidence suggests moreover that women are less likely to find meaningful employment in large-scale agricultural projects, and that any work they are able to find will be challenging to fit around existing care activities.<sup>64</sup>



**A woman milks the cows in the village of Djalbajani 2.**

The milk is a rich source of nutrients for the Peuls.

CRÉDIT PHOTO: GIADA CONNESTARI/ACTIONAID

In addition, as evidence below shows, the investment is having a negative impact on rights to food, water and a safe environment. For a pastoralist community in particular, such damage to habitat ecosystems is a serious threat to livelihoods.

Under international law, in particular the Voluntary Guidelines on the Responsible Governance of Tenure (which have been endorsed by both Senegal and Italy), states should ensure that legal and policy frameworks governing land tenure “recognise and respect... legitimate customary tenure rights that are not currently protected by law”.<sup>65</sup> States should recognise the realities of situations where informal tenure exists.<sup>66</sup> In the case of the Senhuile-Senethanol lease, the government has ignored the existing customary tenure rights of the people living and grazing their cattle on the land in question.



**A woman** washing at the nearest fresh water source to her village – a distance of 5km. Women leave early morning and return late afternoon when the sun is at its coolest.

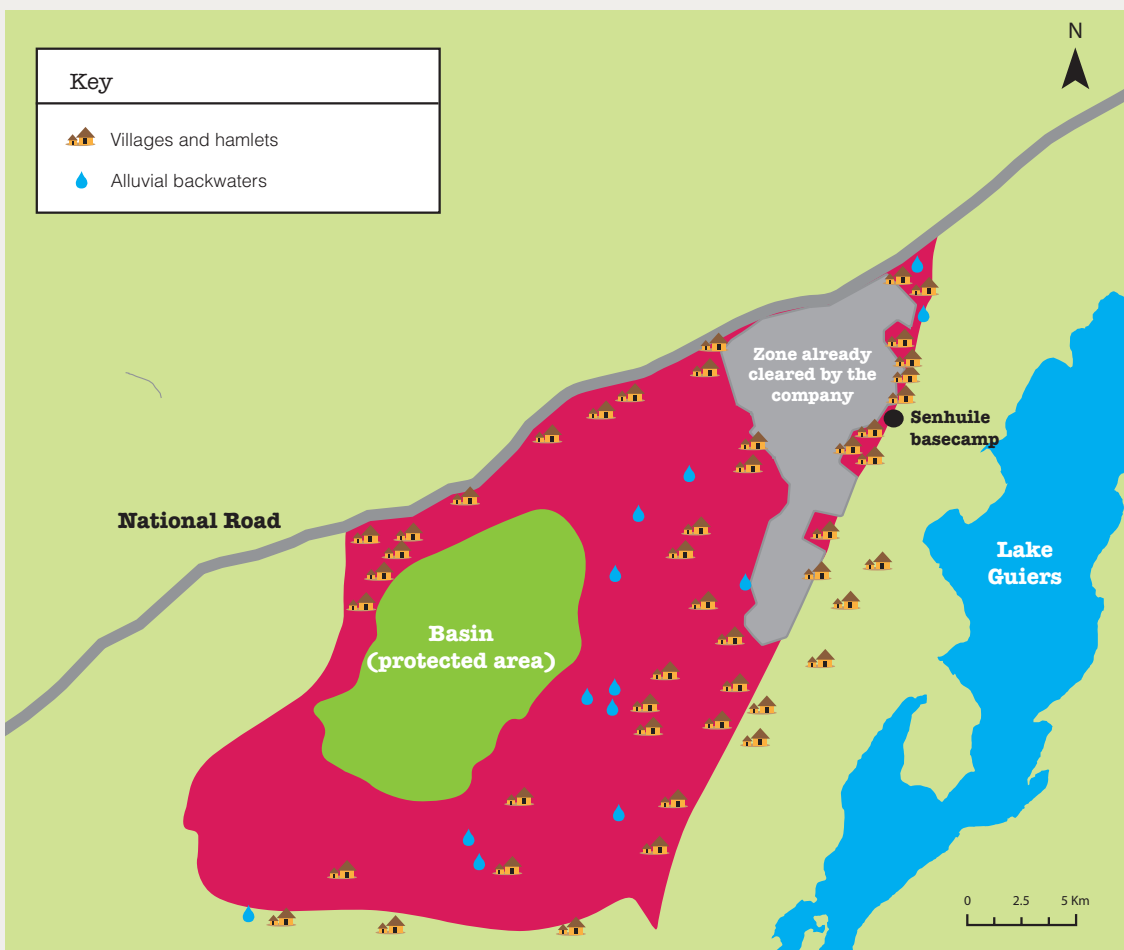
PHOTO: GIADA CONNESTARI/ACTIONAID

## b) Impact on food security<sup>67</sup>

The huge land use change contemplated by the project and already partly implemented is affecting livestock activities because local people can no longer graze their animals on the land. As this is their primary economic activity, the project is in fact threatening their livelihood and violates their right to food. As put by Bayal Sow, Rural Councillor in Ngith: *“We are ready to defend our interests to the end because we have nowhere to go. We are not saying that the state should not allocate land, but it is the way in which [the deal] was made that revolts us. It is like a deal that has mainly benefited a lobby group at the expense of local people. Pastoralism is our main source of income, but today we are experiencing a difficult situation because the food production and grazing areas are blocked by perimeters and channels of water.”*

To date, no displacement has yet happened. The company establishes a distance of 500 metres and 300 metres around the villages and hamlets respectively between the zones where people live and work, and the project borders.<sup>68</sup> In some cases villages will be completely surrounded by a large-scale plantation. This has a major impact on people’s freedom of movement, a key dimension of their traditional pastoralist activities. The space left around villages is not enough to allow people to be self-sufficient. Even if the company sells or gives the residue of the harvest to local herders and allocates some of the land to grow feed crops, it will not be sufficient to feed all the animals in the area.<sup>69</sup>

### The Ndiael area



Map : Cirillo/Purser



**Boundary marker delimiting Senhuile's exploitation area near the village of Bultunjigo.**

PHOTO: MAURA BENEGIAMO/ACTIONAID



The project is complicating access to water because it creates a barrier between the villages, the lake and the wells. The land leased to the company includes all flood plains and seasonal springs. Therefore, a further expansion of the project from the current 5,000-7,000 ha to the fully-fledged 20,000 ha will end up preventing access to the water sources that villages use.

In some places, the project means women already have to travel much longer distances to collect water. *“We can no longer move properly since the project came to Ndial. All we want is that the authorities put an end to this agribusiness project, which negatively affected our life. Every day there are over 2,500 head of cattle that come to drink, because of the impossibility to access other water points in the area. There are so many animals rushing to the pond of Tarre, there is now excessive pumping of Yowré Channel, which feeds Tarre water point. Our future is threatened as is that of our herds,”* says Dijby Sow, a herder from Thiamene village, part of the Rural Community of Ngith.<sup>70</sup>

The project is also having a negative impact on women, who tend to play a key role in collecting resources such as wood and medicinal plants. These activities will end up being impossible in the project area as Senhuile-Senethanol cuts down trees and plants and substitutes them with mono-crop plantations.



**Some of the trees felled in order to prepare the area for the installation of mono-crop cultivation.**

In this semi-arid region, trees play a role in preventing desertification.

PHOTO: MAURA BENEGIAMO/ACTIONAID

Negative impacts on access to water and resource collection particularly affect women, since they are the ones who usually carry out these tasks. There is a perception that women may benefit from the increased economic independence promised by involvement in large-scale agriculture. However, women will have to balance this with an increased care burden since fetching water, food and fuel will require longer journeys.

Meat and milk supplies are also at risk because of the shrinking availability of grazing areas as the project area grows. Milk is often sold in the market



**A woman collecting water in the Ndial Reserve Senegal.**

PHOTO: GIADA CONNASTARI/ACTIONAID

by the women. Fatoumata Sow, a woman farmer from Thiamene village in the Rural Community of Ngith told ActionAid Senegal: *“The development of highly irrigated agriculture in the area of Ndiael by the Senhuile-Senethanol project has limited the mobility of both the people and the animals such as cows, goats and sheep. This in turn seriously affects our livelihoods. This situation creates a significant drop in milk collection to sell in the market. Before the project, the situation was better because in one day I could make between 5,000 to 7,000 CFA. But today, it is very difficult to get 2,000 CFAs.”*<sup>71</sup> Food security will also



**Peul people practice extensive traditional pastoralism.** Zebu cattle constitute the majority of the cattle herds that dominate the landscape  
PHOTO: MAURA BENEGIAMO/ACTIONAID

be affected by such reduction in income and consequently the purchasing power of people working in related sectors, such as leatherworkers (less cattle will equal less leather).

The project does not openly involve the displacement of people. However, if people have no option but to leave the area because their land has been grabbed and their livelihood is made impossible, it is a case of forced eviction without compensation, prohibited under international human rights law.<sup>72</sup>

### c) Impact on the environment

The EIES generally seems very optimistic in relation to the benefits of the project for the environment, while minimising some important aspects. This is the case, for example, with EIES conclusions on the environmental impact of fertilisers and deforestation.

The initial version of the EIES had been criticised by the technical evaluation committee, notably for its lack of detail on the fertilisers used. Following this, Senhuile completed the EIES, mentioning notably that Nitro/Max, an organic fertiliser, would be used. In spite of the risks associated with Nitro/Max (nitrogen fertiliser application reportedly feeds algae blooms and contaminates water with nitrates),<sup>73</sup> the EIES does not include any analysis about potential risks for soil and water pollution.



**The project encroaches on community lands.**  
PHOTO: COURTESY OF: GIADA CONNESTARI

Local people interviewed expressed fear that the fields they cultivate in the reserve's locale could be threatened by the proliferation of aquatic plants in the lake and river as a result of the intensive use of fertilisers. They are also worried about the potential impact on human health. Women can be rightly concerned since evidence suggests that in a move to cash crop production, women are most likely to have roles where they are exposed to chemicals.<sup>74</sup>





**A Peul girl from Djalbanabe 2 village in Ndiael reserve.**  
PHOTO: GIADA CONNESTARI/ACTIONAID

Senhuile applies fertiliser by aeroplane but does not provide detailed and clear information to the local communities about the practice, making it impossible for local people to monitor the quantity of product spread and the impact on the environment and on human and animal health. Local people are not informed in advance that fertiliser will be spread, and the process often takes place when workers are in the fields, without adequate protection gear. This situation has triggered discontent among workers.<sup>75</sup> Local communities fear that fertiliser application by air may generate risks for the Lake Guiers, which provides drinking water to Dakar and surrounding areas. They are also worried about the potential impact of the project on biodiversity.<sup>76</sup>

The Chief Executive of Tampieri financial group declared that there has been “no deforestation, since the land leased was in an arid zone”.<sup>77</sup> However, deforestation of thousands of hectares has already taken place.<sup>78</sup> Representatives of several NGOs, including ActionAid Senegal, saw trees that had been cut (and the equipment used) during a field visit on 10 April 2014. Cutting trees such as acacia can only encourage further degradation of the soil and desertification.<sup>79</sup> In spite of this risk, which could itself have a detrimental impact on an adjacent (and internationally protected) part of the reserve, the EIES welcomes the project’s reforestation of five hectares in the Big Pond (which is not part of the land leased). To mitigate the risk of bare land, the EIES includes an obligation for the company to restore the site after the project ends.



**Women gather firewood in the Ndiael reserve, from trees cut by the company.**  
PHOTO: MAMADOU DIOP/ACTIONAID

On 16 July 2014, the company reportedly committed (during a meeting with Wetlands International) to update the impact study in relation to effects on the environment, acknowledging that “mistakes have taken place in the past”.<sup>80</sup> This is a welcome move. ActionAid believes that the government of Senegal should carry out an additional independent analysis of the environmental impact of the project, taking into account in particular the actual impact of the activities already carried out by Senhuile-Senethanol and the potential spillover impact of the project on the adjacent, internationally protected areas of the Ndiael reserve.

## 6. Corporate Social Responsibility projects: whitewashing or buying complacency?

Under the UN Guiding Principles on Business and Human Rights, corporations have a legal obligation to respect human rights throughout their operations. The OECD Guidelines for Multinational Enterprises enshrine similar principles. The OECD Guidelines also stress that enterprises should take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. This notably means that companies should avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur (this is their 'due diligence' obligation).

Business enterprises may undertake other commitments or activities to support and promote human rights (such as charity support), but this does not offset a failure to respect human rights throughout their operations.<sup>81</sup>

On the one hand, the government of Senegal should make sure the company respects the rights of local people and ensure that those whose rights are violated have access to effective remedy. On the other, as part of its due diligence obligation, the company should address the negative impacts of its operations in Ndiael and be ready to withdraw from the area if there can be no agreement with local communities affected by the project.

This section looks in detail at commitments made by the company as reported in the EIES and the MoUs a mix of measures to mitigate the negative impact of Senhuile-Senethanol's operations that can be considered part of the due diligence obligation of the company, and of measures that fall under charity or voluntary initiatives.

### a) The Environmental and Social Impact Study (EIES)

The EIES lists the positive outcomes expected as a result of the project. These include 4,500 newly created jobs, of which 2,500 are directly with the company; the construction of social institutions including schools, churches, hospitals, pilgrimages and sports infrastructure; the improvement of access for local people to land in the peripheral zone;<sup>82</sup> and a desalination programme which will offer new arable land. These expected outcomes mix charity-like measures (school supply, religious buildings, funding of pilgrimages, etc.) and actions that are at the core of the project's operations, and should not be optional (such as soil desalination or job creation).

**Entrance to the Ndiel reserve.** The 'Grande Mare' – or basin - looks like a desert in the dry season, but underneath the crust is mud, and the area becomes like a sea in the rainy season. The salty soil delivers important nutrients for cattle.

PHOTO: GIADA CONNASTARI/ACTIONAID



The EIES also presents a 'plan of environmental and social management' which lists measures that the company must take in order to mitigate the potential negative impacts of the project. These measures include supporting water drainage, prioritising local people for new jobs, building fences around the project area and respecting labour laws concerning recruitment. The company has an obligation to abide by these measures, which contribute to ensuring conformity of its operations with the laws and regulations of Senegal. However, the obligations aimed at mitigating the adverse impact of the project on the human rights of local communities are weak and incapable of reversing the harm caused. For example, the company has an obligation to "help herders to get forage grass" but this cannot be a substitute for the 20,000 ha taken from them. In addition, the EIES refers to herders only as a potential risk, and details how the project might prevent herders from disrupting the project (i.e. by fencing off cultivated land and by awareness raising).

A committee is supposed to ensure that the company respects these obligations but crucially no representative of the local communities has been included (only the local administration has been included).<sup>83</sup> Moreover no sanctions are specified for cases of non-compliance.

## **b) Memorandums of Understanding (MOUs) and other promises**

The wording of commitments to local communities enshrined in the MoUs is weak, and the actions proposed aim mostly at securing the company's operations. For example, Senhuile-Senethanol commits to ensuring the protection of the company's perimeters and to enclosing its fields, which it does by building fences surrounded by barbed wire; it also commits to giving precedence to local people when selling animal feed, which may be a good thing, but is not a long-term solution.

Here we outline some of the promises made and the situation to date.

1. Job opportunities have been one of the main incentives for gaining local communities' consent. ActionAid was not able to confirm the number of jobs created under the project, but workers interviewed estimate that it is about 200 to 300, most of whom are daily labourers. A promotional video on Senhuile-Senethanol's website mentions 500 to 700 daily workers. Most people from the Collective for the protection of Ndiael lands say they do not want to work on the project. In contrast, there is a lot of discontent among people from the Ronkh community concerning the fact that workers are mainly recruited from the Richard Toll area (a very small town about 50 km from Ndiael). This does not comply with the recommendation included in the EIES to hire local people as a priority. Several workers interviewed said they are not provided with regular written contracts, and there are frequently long delays in the payment of wages.
2. Of the social constructions promised, up to now, Senhuile has built a Koranic school and walls around graveyards.<sup>84</sup> The school and the cemetery belong to the village of Médina Mountaga, in the Rural Community of Ronkh – outside the project's borders. Médina Mountaga is home to the most influential religious leader in the area and to the person who signed the Ronkh agreement protocol.
3. In relation to animal feed donations, Senhuile-Senethanol donated animal feed on two occasions,<sup>85</sup> but as Amadou Ka, a representative of the Collective for the protection of Ndiael lands, puts it: *"The company refuses to recognise the number of animals we have; the 50 tons it has delivered is a mere pittance"*.
4. The company allowed people to let their animals graze on land allotted to the company, as mentioned in a recent statement by Senhuile-Senethanol.<sup>86</sup> Some people from the region used that opportunity, but there are no guarantees as to how long local herders will be able to graze their cattle on this area of land.

Senhuile-Senethanol is grabbing the land of the people who were living there before it became a protected area in 1965. Local communities' customary collective land tenure rights are being ignored and even the most beneficial charity schemes cannot constitute an appropriate response to mitigate the impact of the Senhuile-Senethanol project on the surrounding communities. In fact, the schemes, combined with the land grab that has characterised the overall project, are more likely to generate dependency in people who were self-sufficient before the investment.

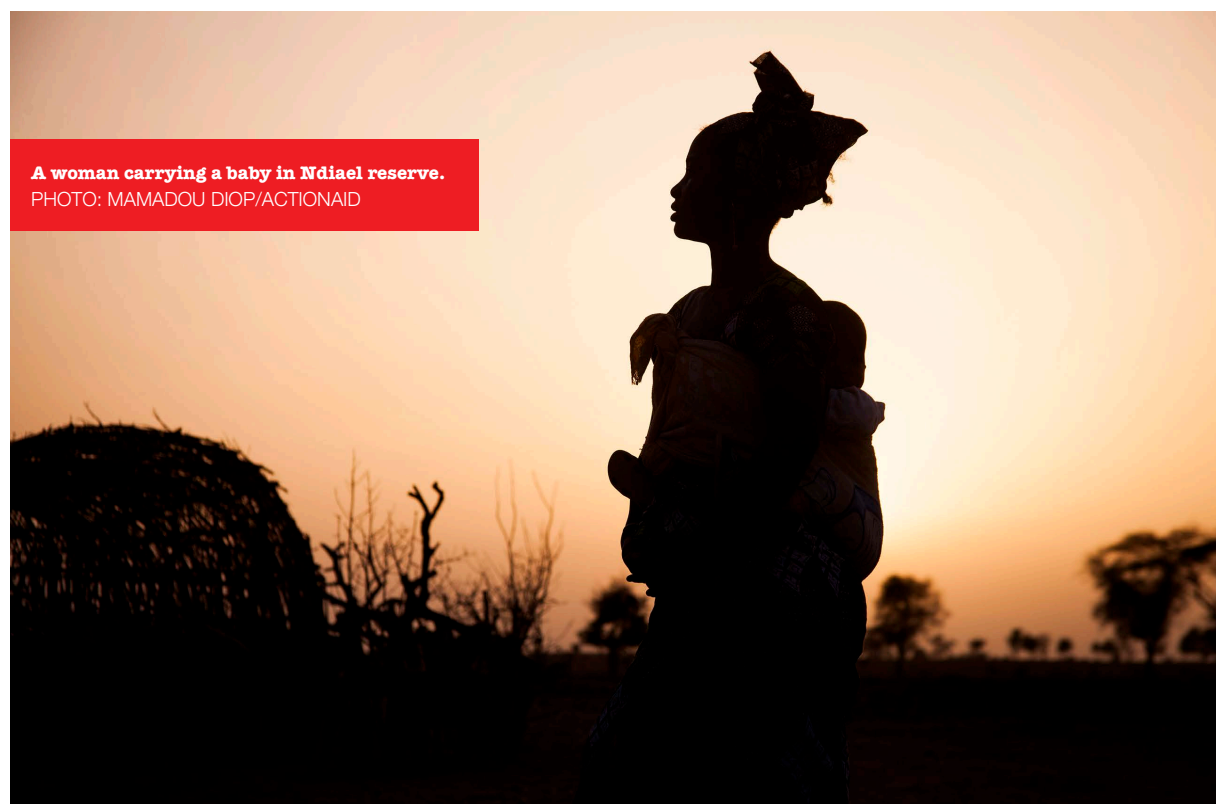


## 7. Conclusion

The Senhuile-Senethanol project embodies all elements of a land grab. The government of Senegal has failed to ensure oversight of the company's activities and is responsible for violating international human rights laws including the Voluntary Guidelines and guidelines about free, prior and informed consent. The company has mismanaged the process; it has taken advantage of the government's position and has similarly failed to uphold international human rights laws. The investment has not been based on a thorough assessment of social, economic and environmental impacts; on transparent contracts that specify clear and binding commitments about activities, employment, and benefit-sharing; or on effective democratic planning, independent oversight and meaningful participation. As a result, rights to food, water, freedom of movement and women's rights have been violated, and customary tenure rights have not been respected.

The project, supported by the government of Senegal, promotes intensive mono-culture and intensive livestock in an area where people have for hundreds of years made a living from traditional livestock techniques, combined with subsistence farming. The benefits for local people in terms of income and quality of life are not clear, whereas the losses are very clear.

This project questions not only this model of development, but also the huge power imbalance between people affected by the project and the company and local elites. It also shows that local communities are determined to resist projects that ignore their rights and threaten their survival.



Neither the government nor Senhuile-Senethanol appears to have taken into account the specificities of the area – a very fragile semi-arid ecosystem where people have developed activities that interact intimately with their environment. As FPIC was not established, local people had no choice but to opt – or not – for a new way of life, namely abandoning extensive pastoralism and becoming (where possible) employees on a large mono-crop plantation.

In Ngith, the initial plan was probably to displace local people, as mentioned in the decree leasing the land to Senhuile-Senethanol, and to grow mono-cultures for export. This generated an outcry in Senegal and in Europe. The company no longer seems to know what it wants to grow, where, or for what purpose. Contradictory statements by the company's representatives<sup>87</sup> and a lack of transparency are keeping people mis- or underinformed and is making their resistance more difficult.

People living inside and near the project area have lost trust in their own government and in the company. In the short term we are asking Senhuile-Senethanol to give the land back to the government of Senegal, and to ensure people living in the area see their rights restored, including their right to choose their own model of development as a foundation of their right to food.

However, this investment raises many lessons for land grab cases in general, and in particular poses questions for governments to ensure similar cases do not reoccur. Therefore in the longer term we have recommendations for Senegal's government.

## 8. Recommendations

### a) To the government of Senegal

- Suspend the project in order to take into account the wishes and customary rights of local communities.
- Ensure that in future, consultations in Ndiael and elsewhere in Senegal follow standards set by international human rights law and the principles of free, prior and informed consent. In particular:
  - women should be equally consulted and involved as men so that the outcome of any project places women in a more empowered position than at the outset;
  - community solidarity groups should be acknowledged and involved;
  - opposition to the project, if any, should be trustfully reflected in the EIES;
  - the right to refuse the project should be respected – there should be room in the consultation process to refuse the project;
  - the EIES should not be confined to mitigation measures, but also be able to recommend abandoning the project if social and environmental impacts are too serious.
  - commitments of the company relating to its due diligence obligation should be treated differently from charity commitments, be binding, and their effective implementation monitored;
  - the EIES should cover the entire project area and time span and be updated when changes are contemplated that may have a different impact on people and the environment;
  - more generally, the UN Basic Principles and Guidelines on development-based evictions and displacement should be fully applied by the Senegalese authorities when regulating the EIES.
- Take measures against Senhuile-Senethanol as required under law for having breached its legal obligation to produce an EIES and obtain an authorisation (environment conformity certificate) before starting operations.
- Ensure access to information and the highest standards of transparency concerning the investment project, in particular the exact proposed delineations of the area leased and the area to be allocated to local communities. It should also make public the leasing contract or any other kind of agreement, if any, concluded with Senhuile-Senethanol to allow public scrutiny.
- Make sure local people who peacefully oppose the project are not prosecuted or jailed.

More generally, and beyond the Senhuile-Senethanol investment:

- Stop supporting any large-scale land deals until there is satisfactory implementation of laws and policies derived from the Tenure Guidelines and the African Union's Land Policy Initiative principles protecting land rights of communities and women. After this, make sure any such deal is submitted for parliamentary approval because democratic oversight is needed on deals that can, by definition, have a critical environmental, social and human rights impacts.
- Respect the commons<sup>88</sup> and the collective and traditional use of land by the Senegalese people before concluding that land is 'idle' and therefore available to be sold or leased.
- Launch a consultation process involving local communities, small farmers' and herders' representatives, women's rights organisations, trade unions and small- and medium- sized enterprises to identify the role of the private sector in supporting Senegal's small farmers.

- Consider mono-crop or biofuels production with caution in view of the food insecurity prevailing in certain regions of the country.
- Seek to integrate the traditional knowledge of local people, combined with sharing modern agro-ecology techniques, into any agriculture investment in Senegal.
- Make sure Senegalese citizens can freely choose their way of life and their model of development. This should not be imposed upon them by force, trickery, lack of transparency or other unfair manoeuvre.

**b) To Senhuile-Senethanol**

- Withdraw from the area and suspend the project, respecting the wishes of local communities.
- Make sure any future agriculture investment conforms to international and national standards on business and human rights<sup>89</sup> and on free, prior and informed consent of local communities.

## Endnotes

1. See [www.grain.org/article/entries/4815-who-is-behind-senhulle-senethanol](http://www.grain.org/article/entries/4815-who-is-behind-senhulle-senethanol).
2. Tampieri Financial Group 2011 annual financial report, published 11 May 2012, as quoted by GRAIN in footnote reference 10.
3. See [www.grain.org/article/entries/4815-who-is-behind-senhulle-senethanol](http://www.grain.org/article/entries/4815-who-is-behind-senhulle-senethanol).
4. Only a couple of hamlets are in the leased area.
5. See Box 1 for details on names of companies involved.
6. See *Voices of Ndiel*, [www.actionaid.org/eu/videos/voices-ndiael](http://www.actionaid.org/eu/videos/voices-ndiael).
7. ActionAid Italy and IPAR, *Impact des investissements agricoles Italiens dans les biocarburants au Sénégal*, April 2012, [www.ipar.sn/sites/default/files/IPAR\\_Rapport\\_final\\_invest\\_Italiens\\_biocarburants\\_OK\\_1.pdf](http://www.ipar.sn/sites/default/files/IPAR_Rapport_final_invest_Italiens_biocarburants_OK_1.pdf), p.36.
8. Agreement between Fanaye Rural Commuity and Senethanol, 30 March, 2011.
9. The earliest document ActionAid was able to obtain is a letter from the President of Fanaye's local council to the company, signed 20 July 2011. The letter states that he had contacted local communities who were supporting a project "that will come together with better living conditions through infrastructure building (schools, nurseries, mosques...)".
10. On 15 June 2011, see [www.ipar.sn/sites/default/files/IPAR\\_Rapport\\_final\\_invest\\_Italiens\\_biocarburants\\_OK\\_1.pdf](http://www.ipar.sn/sites/default/files/IPAR_Rapport_final_invest_Italiens_biocarburants_OK_1.pdf), p.45.
11. Memorandum from the Collective to Defend Fanaye's Land, September 27, 2013.
12. See [www.ipar.sn/sites/default/files/IPAR\\_Rapport\\_final\\_invest\\_Italiens\\_biocarburants\\_OK\\_1.pdf](http://www.ipar.sn/sites/default/files/IPAR_Rapport_final_invest_Italiens_biocarburants_OK_1.pdf), p.43.
13. *Fanaye: Me Wade suspend le projet et demande l'ouverture d'une enquête pour situer les responsables*, PressAfrik, 25 November 2011, see [www.pressafrik.com/Fanaye-Me-Wade-suspend-le-projet-et-demande-l-ouverture-d-une-enquete-pour-situer-les-responsables\\_a72169.html](http://www.pressafrik.com/Fanaye-Me-Wade-suspend-le-projet-et-demande-l-ouverture-d-une-enquete-pour-situer-les-responsables_a72169.html).
14. Decree 2012-366.
15. Decree 2012-367.
16. Decree 2012-448 of 3 April 2012 abrogating Decrees 2012-366 and 2012-367.
17. Decree 2012-822 abrogating Decree 2012-448.
18. L'observateur n° 2668, *Nous sommes tombés d'accord pour aider à la mise en place du projet*, 10 August 2012.
19. Minutes of the Ndiel communities meeting, signed by 31 village chiefs, 16 September 2012.
20. See [www.sudonline.sn/les-eleveurs-determine-a-s-y-opposer\\_a\\_16940.html](http://www.sudonline.sn/les-eleveurs-determine-a-s-y-opposer_a_16940.html), [www.lequotidien.sn/index.php/reportage/item/27247-agroindustrie-%C3%A0-gninth--sen-ethanol-rase-37-villages-la-soci%C3%A9t%C3%A9-promet-des-structures-de-d%C3%A9veloppement](http://www.lequotidien.sn/index.php/reportage/item/27247-agroindustrie-%C3%A0-gninth--sen-ethanol-rase-37-villages-la-soci%C3%A9t%C3%A9-promet-des-structures-de-d%C3%A9veloppement).
21. Request to include a description of the initial situation (socio-economic context and description of the physical characteristics of the area), details on the products to be used, include statistical data on the number of animals, include the impact in terms of carbon emissions, etc.
22. No adequate consultation of both men and women in local communities, no adequate analysis of the social and human rights impacts of the project, and insufficient analysis of the environmental impacts.
23. Press release by Senhuile, 28 April 2014, available at [http://farmlandgrab.org/uploads/attachment/communiqu%C3%A9\\_de\\_presse\\_de\\_Sen\\_huile.jpeg](http://farmlandgrab.org/uploads/attachment/communiqu%C3%A9_de_presse_de_Sen_huile.jpeg).
24. [http://www.ndarinfo.com/SEN-HUILE-le-DG-Benjamin-Dummai-defere-au-parquet\\_a8766.html](http://www.ndarinfo.com/SEN-HUILE-le-DG-Benjamin-Dummai-defere-au-parquet_a8766.html)
25. Gouvernement of Senegal, (1965), *Decret 65-053 portant declassement des réserves partielles de faune du Boundoum et de Djeuse avec classement compensateur de la réserve spéciale de faune du N'Diél*.
26. [http://www.ramsar.org/cda/en/ramsar-about-sites/main/ramsar/1-36-55\\_4000\\_0\\_\\_](http://www.ramsar.org/cda/en/ramsar-about-sites/main/ramsar/1-36-55_4000_0__).
27. Estimate based on the *Plan d'occupation et d'affectation des sols (POAS)* of Ronkh and Ngith 2009.
28. See [http://siteresources.worldbank.org/INTPRS1/Resources/Senegal\\_PRSP-APR-French\\_Dec2010.pdf](http://siteresources.worldbank.org/INTPRS1/Resources/Senegal_PRSP-APR-French_Dec2010.pdf).

29. Oakland Institute, p.13. See also Nori M, Taylor M, Sensi A. 2008. Browsing on fences. Pastoral land rights, livelihoods and adaptation to climate change. IIED, n°148.
30. A pastoralist is a livestock farmer, extensive production systems depend on a large area of land with a relatively low number of livestock per hectare and depend on mobility. (Adapted from <http://www.fao.org/ag/againfo/programmes/en/lead/toolbox/Refer/StockFar.htm>)
31. See [www.unccd.int/Lists/SiteDocumentLibrary/Publications/Pastoralist%20Women%20eng.pdf](http://www.unccd.int/Lists/SiteDocumentLibrary/Publications/Pastoralist%20Women%20eng.pdf).
32. See [www.wedo.org/wp-content/uploads/hsn-study-final-may-20-2008.pdf](http://www.wedo.org/wp-content/uploads/hsn-study-final-may-20-2008.pdf).
33. For example, two meetings took place in Dakar at the end of 2011 with respectively the Minister of the Environment, Mouma Ba and the Minister of Habitat, Oumar Sarr. A representative of Senhuile was present. No minutes have been produced. Representatives of the local communities reportedly expressed their concerns about the project and the impossibility to coexist with it.
34. The Association Inter-Villageoise (AIV) is bringing together the villages living in the reserve in order to implement a participative approach for the management of the reserve. Because the land in the Rural Community of Diama was reportedly too expensive to irrigate, no plantations were eventually developed there.
35. L'observateur n° 2668, *Nous sommes tombés d'accord pour aider à la mise en place du projet*, 10 August 2012. This has been confirmed by several interviews, with members of the technical services of the state as well as with people who participated in the Dakar meeting.
36. See map on page 8.
37. See [http://www.ndarinfo.com/Leopold-Wade-le-gouverneur-de-Saint-Louis-rassure-sur-le-projet-Senathanol-Senhuite\\_a3751.html](http://www.ndarinfo.com/Leopold-Wade-le-gouverneur-de-Saint-Louis-rassure-sur-le-projet-Senathanol-Senhuite_a3751.html).
38. This cooperation programme, acting under the slogan 'accelerates growth in order to reduce poverty' and accounting for the largest American funding for African aid, has the aim of developing a competitive industrial agro-business in the country.
39. More than 30 persons from different villages from Ngith who participated in this meeting were interviewed by the authors.
40. See Annex 1 of the Environment Code, 2001, specifying that projects that: could generate important changes in renewable resources; involve important changes in agricultural practices; involve displacement and relocation of people or that take place in extremely fragile or protected areas require such an impact study.
41. République du Sénégal, 2001, Code de L'Environnement, art. R.38.
42. See <http://www.jo.gouv.sn/spip.php?article201>.
43. See <http://cabinetsynergie.com/spip.php?rubrique1>.
44. Compte rendu de l'audience publique de l'étude d'impact environnemental et social du projet agro industriel de Senhuile dans la zone périphérique de la Réserve du Ndiel, Région de Saint-Louis.
45. EIES, p 51.
46. Annex 4 of the EIES mentions that meetings were held in the following villages: Guiladou, Guiladou 2, Ouro Mboyo, Yetto Yone, Tordionabé, Hameau Carrière, Nadiel 1 and Nadiel 2.
47. A person working for Synergie interviewed by the authors who did not want to be named.
48. Including the Governor of Saint Louis, members of the Rural Community, representatives from governmental technical services and public institutions such as SAED and the Office of the Lake of Guiers; and NGOS such as Association Sénégalaise des Amis de la Nature (ASAN), the research group Green Sénégal, CONGAD, etc.
49. Compte rendu de la réunion de pré-validation de l'étude d'impact environnemental et social du projet agro industriel Senhuile dans la zone périphérique de la réserve du Ndiel, région de Saint-Louis.
50. Request to include a description of the initial situation (socio-economic context and description of the physical characteristics of the area), details on the products to be used, include statistical data on the number of animals, include the impact in terms of carbon emissions, etc.
51. Annexes 2 (Terms of Reference), 7 (maps of the project area), 10 (Infrastructure planned – *Plan des aménagements*), 11 (Nitro/Max and lime technical aspects), 12 (minutes of the meeting to pre-validate the EIES), 13 (data on safety of gasoil), 14 (minutes of the meeting of the technical committee), and 15 (minutes of public hearings in Ngith and Ronkh).
52. In a formal communication in 2013 – long before he signed the MoU; during the signature ceremony; and on the occasion of a recent meeting with the Saint Louis Governor on 21 March 2014.
53. FAO, UNDP and UNEP, Guidelines on Free, Prior and Informed Consent, January 2013, [www.unredd.net](http://www.unredd.net); FAO, Respecting free, prior and informed consent: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition, March 2014, [www.fao.org/docrep/019/i3496e/i3496e.pdf](http://www.fao.org/docrep/019/i3496e/i3496e.pdf).
54. This is punishable by a fine under Article 86 of the Environment Code.
55. Art. 3: *Les 6,550 ha restants sont affectés aux populations des collectivités locales de Ronkh et Ngith pour la réinstallation des hameaux qui seraient éventuellement déplacés et pour exploitation économique.*



56. EIES, p 49.
57. NDIONGUE, C. (n.d.). Souleymane Dème Directeur d'Exploitation de Sen Ethanol: *Les gens s'opposent à ce projet car ils sont contre le développement du Sénégal*. Le Soleil ; see also <http://fr.allafrica.com/stories/201303151312.html>.
58. SENHUILE SA, *Etude d'impact environnemental et social, Projet Agro-industriel de production de graines de tournesol, Dans la zone périphérique de la réserve spéciale d'avifaune du Ndiael*, October 2013, p.13, available at [www.senhuiile.com/doc/doc1.pdf](http://www.senhuiile.com/doc/doc1.pdf).
59. See [www.youtube.com/watch?v=c\\_QbgG4PzHs#t=20](http://www.youtube.com/watch?v=c_QbgG4PzHs#t=20); [http://www.lesoleil.sn/index.php?option=com\\_content&view=article&id=29761%3Aviv-res-de-soudure-sen-ethanol-offre-65-tonnes-daliments-de-betail-aux-eleveurs-de-Ngith-et-de-ronkh&catid=59%3Ahouse-design&Itemid=108](http://www.lesoleil.sn/index.php?option=com_content&view=article&id=29761%3Aviv-res-de-soudure-sen-ethanol-offre-65-tonnes-daliments-de-betail-aux-eleveurs-de-Ngith-et-de-ronkh&catid=59%3Ahouse-design&Itemid=108); [www.lesoleil.sn/index.php?option=com\\_content&view=article&id=32997:reconstitution-du-capital-semencier-lisra-et-senhuiile-signent-une-convention&catid=51:economy&Itemid=63](http://www.lesoleil.sn/index.php?option=com_content&view=article&id=32997:reconstitution-du-capital-semencier-lisra-et-senhuiile-signent-une-convention&catid=51:economy&Itemid=63).
60. La Repubblica, March 7, 2014, [www.repubblica.it/solidarieta/cooperazione/2014/03/07/news/terre\\_senegal-80405841/](http://www.repubblica.it/solidarieta/cooperazione/2014/03/07/news/terre_senegal-80405841/).
61. This estimate has been elaborated with the GPS based on the perimeter of the project area, but lack of access within the cultivated area makes it impossible to determine whether crops are indeed grown on the whole area at the moment.
62. The EIES refers to the objective of the project to transform extensive pastoralism to intensive pastoralism, EIES, p.33-34. The objective of settlement of the herders has been explicitly set out by the Coordinator of the project, Ibrahima Sow, in a local media, available at [www.lesoleil.sn/index.php?option=com\\_content&view=article&id=29761:vivres-de-soudure--sen-ethanol-offre-65-tonnes-daliments-de-betail-aux-eleveurs-de-gnith-et-de-ronkh&catid=59:house-design&Itemid=108](http://www.lesoleil.sn/index.php?option=com_content&view=article&id=29761:vivres-de-soudure--sen-ethanol-offre-65-tonnes-daliments-de-betail-aux-eleveurs-de-gnith-et-de-ronkh&catid=59:house-design&Itemid=108).
63. EIES, p.33-34.
64. See [www.wedo.org/wp-content/uploads/hsn-study-final-may-20-2008.pdf](http://www.wedo.org/wp-content/uploads/hsn-study-final-may-20-2008.pdf).
65. Art. 5.3 of the Voluntary Guidelines on the Responsible Governance of Tenure of land, fisheries and forests in the context of national food security, 2012.
66. Ibid, art. 10.1.
67. This section is based on information collected on the ground by the researchers who contributed to the present report, as well as by ActionAid Senegal's regular visits to the area. At this stage, however, ActionAid did not carry out a fully-fledged food security impact study.
68. Rules that the Société Nationale d'Aménagement et d'Exploitation des Terres du Delta (SAED) implements in its development programs.
69. The EIES includes official data on the cattle in the project area in 2012: 129 000 (bovine), 145 000 (sheeps), 146 000 (goats), etc., EIES, p.34
70. Testimony collected by ActionAid Senegal in May 2014.
71. Testimony collected by ActionAid Senegal in May 2014.
72. [http://www.ohchr.org/Documents/Issues/Housing/Guidelines\\_en.pdf](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf)
73. Nitro/Max is a nitrogen fertiliser. The use of fertiliser, especially synthetic ones, entails risk for humans and the environment. The nitric form of the nitrogen assures a high agricultural yield but it is characterised by a high solubility in water and a low soil detainment capacity. Consequently nitrogen not used by plants is washed out of soils by irrigation and rain water, causing accumulation of nitrates in water. This can cause risks for human health. Source: [www.arpa.veneto.it/glossario\\_amb/html/fertilizzanti.asp](http://www.arpa.veneto.it/glossario_amb/html/fertilizzanti.asp)). Links between increased fertiliser run-off due to corn ethanol production in the Mississippi River Basin to the swelling Dead Zone in the Gulf of Mexico have been detailed by a front page story in the San Francisco Chronicle on the 5 July 2010 (see [www.ewg.org/agmag/2010/07/nitrogen-fertilizers-toll-not-just-dead-zones](http://www.ewg.org/agmag/2010/07/nitrogen-fertilizers-toll-not-just-dead-zones)).
74. Paul and Steinbrecher, (June 2013) *African agricultural growth corridors and the New Alliance for Food Security and Nutrition: who benefits, who loses?* Econexus Report.
75. See [www.leral.net/Projet-Sen-Huile-Sen-Ethanol-dans-la-Communaute-rurale-de-NGITH-un-deuxieme-Fanaye-en-gestation\\_a85066.html](http://www.leral.net/Projet-Sen-Huile-Sen-Ethanol-dans-la-Communaute-rurale-de-NGITH-un-deuxieme-Fanaye-en-gestation_a85066.html).
76. On 22 May 2014, on the international day on biodiversity, RENPEM organised with a conference in Ngith with the Collective for the protection of Ndiael Lands entitled: Landgrabbing destroys biodiversity and generates conflict – Ndiael, a case study.
77. See [www.repubblica.it/solidarieta/cooperazione/2014/03/07/news/terre\\_senegal-80405841/](http://www.repubblica.it/solidarieta/cooperazione/2014/03/07/news/terre_senegal-80405841/).
78. See [www.youtube.com/watch?v=j39zRrhnpQ](http://www.youtube.com/watch?v=j39zRrhnpQ), from 00:47 to 00:52.
79. Overexploitation of woody resources and cultivation of soils that are fragile are among the main causes of desertification, see [www.fao.org/docrep/V0265E/V0265E01.htm#What are the main causes of desertification?](http://www.fao.org/docrep/V0265E/V0265E01.htm#What%20are%20the%20main%20causes%20of%20desertification?)
80. See [www.senhuiile.com/press/communique\\_wetland.pdf](http://www.senhuiile.com/press/communique_wetland.pdf) (consulted on 12 September 2014).
81. See [www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).
82. This is paradoxical: the project is depriving people of 20,000 ha, but is nevertheless presented as an opportunity for them because they may be allowed to use the remaining 6,550 ha that the government committed to allocate to local people.
83. EIES, p.92-93.

84. See <http://farmlandgrab.org/post/view/21884-comment-macky-et-abdoul-mbaye-nous-ont-permis-de-relancer-le-projet;https://enqueteplus.com/content/affectation-de-terres-senhuile-les-eleveurs-de-nNgith-et-de-ronkh-font-reculer-l%E2%80%99etat>.
85. See [http://business-humanrights.org/sites/default/files/media/documents/company\\_responses/senhuile-reponse-inquietudes-projet-agricole-13-ma-2014i.pdf](http://business-humanrights.org/sites/default/files/media/documents/company_responses/senhuile-reponse-inquietudes-projet-agricole-13-ma-2014i.pdf); see also [http://farmlandgrab.org/post/view/21884-comment-macky-et-abdoul-mbaye-nous-ont-permis-de-relancer-le-projet;www.lesoleil.sn/index.php?option=com\\_content&view=article&id=38341:aliment-de-betail-5000-sacs-de-paille-darachide-offerts-aux-populations-de-Ngith-et-de-ronkh&catid=241:regions](http://farmlandgrab.org/post/view/21884-comment-macky-et-abdoul-mbaye-nous-ont-permis-de-relancer-le-projet;www.lesoleil.sn/index.php?option=com_content&view=article&id=38341:aliment-de-betail-5000-sacs-de-paille-darachide-offerts-aux-populations-de-Ngith-et-de-ronkh&catid=241:regions).
86. See [http://business-humanrights.org/sites/default/files/media/documents/company\\_responses/senhuile-reponse-inquietudes-projet-agricole-13-ma-2014i.pdf](http://business-humanrights.org/sites/default/files/media/documents/company_responses/senhuile-reponse-inquietudes-projet-agricole-13-ma-2014i.pdf).
87. See section 4 (Key information still missing).
88. Land and related resources that are held in common/collectively.
89. See in particular the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.



**ActionAid** is a global movement of people working together to achieve greater human rights for all and defeat poverty. We believe people in poverty have the power within them to create change for themselves, their families and communities. ActionAid is a catalyst for that change.

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The Senhuile-Senethanol investment in Ndiael, Senegal

***No land, no future. A community's struggle to reclaim their land***

ActionAid, October 2014