



Columbia Center  
on Sustainable Investment  
A JOINT CENTER OF COLUMBIA LAW SCHOOL  
AND THE EARTH INSTITUTE, COLUMBIA UNIVERSITY

# TRANSPARENCY FOR WHOM?

**GROUNDING LAND INVESTMENT TRANSPARENCY  
IN THE NEEDS OF LOCAL ACTORS**

**REPORT** MARCH 2021



## TABLE OF CONTENTS

---

<b>ACKNOWLEDGEMENTS</b>	<b>4</b>
<b>EXECUTIVE SUMMARY</b>	<b>5</b>
<b>PART I. FRAMING</b>	<b>8</b>
How can transparency improve the governance and accountability of land investments?	8
The problem	8
The relevance of politics and power	9
Grounding transparency in community perspectives	9
Report overview	10
<b>What is land investment transparency?</b>	<b>10</b>
The definition: disclosure, access, comprehension, use, and open processes	10
Government duties concerning transparency	10
The business case for transparency	11
<b>The actors: communities, allies, and gatekeepers</b>	<b>11</b>
<b>PART II. LAND INVESTMENT TRANSPARENCY FOR COMMUNITIES AND THEIR ALLIES</b>	<b>13</b>
Information disclosure	13
Information access	14
Information comprehension	14
Open processes and information use	15
<b>PART III. GATEKEEPER INCENTIVES REGARDING TRANSPARENCY</b>	<b>16</b>
Host governments	17
Companies	18
Lenders and equity investors	19
<b>PART IV. WHAT RISKS CAN LAND INVESTMENT TRANSPARENCY INTRODUCE?</b>	<b>20</b>
Risks of land loss	20
Risks to community members	20
<b>PART V. CHALLENGES EXPERIENCED BY COMMUNITIES AND THEIR ALLIES</b>	<b>22</b>
<b>Disclosure challenges</b>	<b>22</b>
Information is not disclosed early enough	22
Some information is never disclosed	23
A lack of proactive disclosure puts burdens on communities	23
Disclosed information may be inaccurate, as part of “information wars”	23



## TABLE OF CONTENTS

---

<b>Access challenges</b>	<b>23</b>
Information, when disclosed, often remains inaccessible	23
Decision-makers are inaccessible	23
<b>Comprehension challenges</b>	<b>24</b>
Communities often start with a low understanding of their rights and other legal issues	24
Disclosed information is hard to understand	24
<b>Information use (and broader governance) challenges</b>	<b>24</b>
Governments privilege company information over community information and make poor decisions	24
Regulators often neglect their mandate	24
Good faith regulators are undermined	25
Communities do not control whether or not a project takes place	25
Information and participation can be used by gatekeepers to dampen pressure for systemic change	25
Existing initiatives privilege elite perspectives, rarely meeting community needs	25
<b>PART VI. RESPONDING TO THE CHALLENGES: STRATEGIES TO ADVANCE MORE EFFECTIVE LAND INVESTMENT TRANSPARENCY</b>	<b>28</b>
1. Driving agendas with community-led processes	29
2. Increasing technical support for communities	29
3. Empowering good faith regulators	30
4. Implementing multi-stakeholder and participatory processes	30
5. Factoring community-generated information into investment-related decisions	31
6. Initiating domestic mechanisms to increase public access to information	32
7. Extending community participation beyond projects to the policy level	32
<b>PART VII. CONCLUSION AND RECOMMENDATIONS</b>	<b>34</b>
METHODOLOGY	37
ANNEX: WHAT INFORMATION IS NEEDED?	38
ENDNOTES	40

## LIST OF BOXES & FIGURES

---

<b>BOX 1</b> The elements of land investment transparency explained	<b>10</b>
<b>BOX 2</b> The Extractive Industries Transparency Initiative	<b>26</b>
<b>BOX 3</b> The EU Forest Law Enforcement, Governance and Trade (FLEGT) program	<b>27</b>
<b>FIGURE 1</b> The elements of land investment transparency	<b>11</b>
<b>FIGURE 2</b> How each strategy can help advance land investment transparency	<b>33</b>

## WHO IS THIS REPORT FOR?

This report is for donors, global policy makers, and civil society actors concerned with “land investments,” which are defined as agriculture, forestry, wind and solar energy, and similar projects. In particular, it is for such actors who seek to improve the governance and accountability of land investments, protect and bolster the rights of project-affected communities, and enhance development outcomes linked to land investments. For actors already working on advancing transparency of land investments, this report offers new insights for achieving transformative change.

### Acronym Glossary

CCSI - Columbia Center on Sustainable Investment  
DFI - Development Finance Institution  
EITI - Extractive Industries Transparency Initiative  
FLEGT - Forest Law Enforcement, Governance and Trade program  
FPIC - Free, Prior and Informed Consent

IFC - International Finance Corporation  
LIT - Land Investment Transparency  
OPIC - Overseas Private Investment Corporation  
RSPO - Roundtable on Sustainable Palm Oil  
VPA - Voluntary Partnership Agreement



### Acknowledgments

This report was primarily written by Sam Szoke-Burke, with Box 2 being written by Tehtena Mebratu-Tsegaye and Box 3 by William Sommer and Sam Szoke-Burke.

Kaitlin Y. Cordes provided editorial and project support.

Research was conducted by Sam Szoke-Burke, Tehtena Mebratu-Tsegaye, William Sommer, Julia Chen, David Bassini Ortiz, and Kimberly Mejía-Cuéllar. Additional research support was provided by Alexandra Carruthers, Yardenne Kagan, Shannon Marcoux, Nami Patel, and Nadeeya Salleh.

We extend a deep expression of gratitude to Samuel Nguiffo, Stella Tchoukep, Lydienne Kala Epee, and Armelle Olinga Andela at the Centre pour l'Environnement et le Développement and to Francis Colee, Simpson Snoh, and John Nimly Brownell from Green Advocates International, without whom our country research in Cameroon and Liberia, respectively, and hence many insights contained in this report, would not have been possible. We also sincerely thank all of the individuals who were interviewed for this report.

We also extend a heartfelt thanks to the members of this project's expert advisory group for invaluable advice and support. Thanks also to Solina Kennedy and Asatta Mesa for their assistance with the conduct of advisory group meetings, and to Gabriel McCormick for her assistance with endnote formatting.

We are deeply grateful to Joan Carling, Lorenzo Cotula, Adrian Di Giovanni, Erin Kitchell, Megan MacInnes, and Chris Penrose Buckley for their immensely valuable peer reviews of an earlier version of this report. We also offer our warm thanks to Sophia Carodenuto and Constance McDermott for generously reviewing earlier drafts of Box 3, to Ishita Petkar, who helpfully reviewed the Annex, and to Leila Kazemi and Brendan Schwartz for valuable guidance on aspects of the report.

**Suggested citation:** Szoke-Burke, S., Mebratu-Tsegaye, T., and Sommer, W., *Transparency for whom? Grounding land investment transparency in the needs of local actors*, Columbia Center on Sustainable Investment (March, 2021).



This research was funded with UK aid from the UK government; however, the views expressed do not necessarily reflect the UK government's official policies.

**Cover image** Farming in Morocco. © Shutterstock/Delbo Andrea  
**Design** Onehemisphere AB, Sweden. [contact@onehemisphere.se](mailto:contact@onehemisphere.se)

[ccsi.columbia.edu](https://ccsi.columbia.edu)



Rice threshing, Lampang, Thailand  
© Shutterstock/Chatrawee Wiratgasem.

## EXECUTIVE SUMMARY

---

How can transparency improve the governance and accountability of “land investments,” such as agriculture, forestry, wind and solar energy, and similar projects?

Land investments have long been characterized by poor governance and accountability, which is often exacerbated by inadequate information sharing and the exclusion of communities from decisions that will affect them. The Covid-19 crisis amplified these challenges. Governments fast tracked project approvals to the exclusion of communities and intensified criminalization and persecution of rights defenders. Reductions in government monitoring of investments were accompanied by opportunistic regulatory rollbacks. Opaque actions taken during the fog of the pandemic will have long-term implications, including an increased risk of social conflict, imperiling recovery efforts and even increasing the risk of governmental collapse.

Transparency is often seen as a means of improving governance and accountability. But its transformative potential can be hindered by vagueness concerning how “transparency” is defined and who it is intended to serve. Transparency is too often used interchangeably—and erroneously—with “disclosure,” effectively protecting powerful actors from changes in the status quo. Existing transparency and governance initiatives also fall short on meeting communities’ transparency needs, precisely because such initiatives focus on other beneficiaries, such as commodity buyers or international civil society actors.

This report seeks to re-orient conceptions of transparency in ways that can lead to more transformative impacts—particularly for local rights holders—in the governance of land. Reorienting understandings of what land investment transparency means can also benefit governments, companies, and other actors by enabling them to more effectively manage operational risk linked to social conflict and community opposition.

## THE DEFINITION

“Land investment transparency” (LIT) is public disclosure of relevant land investment-related information, as well as the ability of people to access, understand, and use that information. LIT entails an ecosystem of open systems and processes, in which project-affected community members can participate and influence decisions that will affect them. These elements can support community members in exercising their rights, anticipating and avoiding negative impacts, resolving grievances, seeking redress, and driving their own development.

Governments have a legal duty to ensure land investment transparency, which is based in the binding norms of international human rights law. In addition, companies and investors have responsibilities to respect human rights, which means that they, too, must work proactively to advance the components of LIT within their control.

## RELEVANT ACTORS

This report divides the actors relevant to land investment transparency into two groups:

1. **Project-affected communities and the actors who support them.** This group is often sidelined from investment-related decision-making. It includes all community members, not only leaders, and allies such as Indigenous and peasant organizations, civil society organizations, and paralegals and other experts supporting communities.

2. **“Gatekeepers.”** These actors control access to relevant information and how policy and decision-making processes around land investments function. Gatekeepers include host governments, companies carrying out land investments, as well as lenders, equity investors, and other actors in the investment chain.

## CHALLENGES EXPERIENCED BY COMMUNITIES AND THEIR ALLIES

Communities, their allies, and other actors experience a range of challenges, which diminish land investment transparency.

**Disclosures fall short.** Information is usually not disclosed early enough, and some information and documents are never disclosed. A lack of proactive disclosure puts the burden on communities to track down information, exposing them to additional risks and costs. Disclosed information can also be inaccurate, used by gatekeepers as part of “information wars.”

**Communities struggle to access information.** Information, when disclosed by gatekeepers, often does not reach communities. Instead it can remain inaccessible in faraway government buildings or online. Gatekeepers, too, are often inaccessible for community members, limiting communities’ ability to obtain key information.

**More is needed to enable communities to understand available information.** Communities often start with a low understanding of their rights and other technical issues, which can impair their ability to obtain and understand information about proposed projects. When technical information is disclosed, it can remain incomprehensible unless gatekeepers or others take the time to summarize, translate, and convert it into a form that can be understood by community members.

**Communities face barriers to using information and to participating in open decision-making processes.** One limiting factor to communities’ use of information is that investment-related decisions are often made behind closed doors, without community participation. In addition, the ability of communities to use information to influence decision-making is regularly undermined by their lack of leverage. This is linked to governments’ reluctance to recognize community land rights or their rights to free, prior and informed consent, which would enable communities to influence or control whether or not projects take place and on what terms. Communities are regularly faced with governments that rely on company information to the detriment of community perspectives, and with regulators that often neglect their mandates, thus undermining accountability. Although good faith regulators and other “reformers” within government can help to bolster



community participation in decision-making, those government actors are also frequently undermined by more powerful actors. Less obviously, communities seeking to use information to influence decisions may find that gatekeepers may sometimes cede to community requests for information and participation merely as a strategy to dampen pressure for deeper systemic changes.

## RECOMMENDATIONS

### The big picture

Donors, global policy makers, and civil society organizations should:

- Conceive of transparency as extending beyond disclosure, to include community access, comprehension, and use of information in open decision-making processes and governance systems.
- Ground transparency efforts in the needs of communities and other local actors.
- Support or implement transparency efforts that seek to navigate, change, or circumvent political barriers.
- Strategically support or implement transparency programming when it is needed to complement—or to fill voids created by the blockage of—more transformational frameworks for improving the governance and accountability of land investments, such as human rights, access to justice, and the protection of legitimate tenure rights.

### Concrete strategies

Various strategies can be employed to improve aspects of land investment transparency, provided they are adapted to the local context and do not introduce unacceptable risks for communities.<sup>i</sup> Gatekeepers may resist such strategies. Actors who understand gatekeeper incentives<sup>ii</sup> can more effectively: identify appropriate openings for improvement; change the political context to remove barriers imposed by gatekeepers; or circumvent gatekeepers to achieve desired results through other actors or means.

Donors, global policy makers, and civil society organizations can contribute to the effective use of each strategy. In broad terms:

- **Donors** can support the effective implementation of these strategies.
- **Global policy makers** can underscore when and how international norms support or even require such strategies and can incorporate such strategies in their activities when appropriate.

- **Civil society organizations** can raise awareness about, support communities to use, and advocate for gatekeeper acceptance of, such strategies.

**Strategy 1: Driving agendas with community-led processes,** such as autonomous protocols, bylaws or development plans. By using such processes to articulate how decisions should be made concerning their lands, resources, and development, communities can directly grapple with political barriers to increased transparency.

**Strategy 2: Increasing technical support for communities.** Communities that have access to the support they need can more easily access, understand, and use information to influence decisions and participate in land governance. Strategies to secure private sector funding for independent support can increase the amount of support available to communities.

**Strategy 3: Empowering good faith regulators.** Communities' ability to access and understand information and influence investment-related decisions can be bolstered when regulators are empowered and incentivized to faithfully carry out their mandates.

**Strategy 4: Implementing multi-stakeholder and participatory processes.** When appropriate, multi-stakeholder dialogues or joint monitoring or fact-finding can create new avenues for communities to obtain relevant information, share their perspectives, and seek to understand and influence decision-makers.

**Strategy 5: Factoring community-generated information into investment-related decisions.** By generating their own information, communities can break gatekeepers' control over the information upon which decisions are made.

**Strategy 6: Initiating domestic mechanisms to increase public access to information.** Mechanisms like right-to-information laws and parliamentary-approval processes can help to increase disclosures and make investment-related decision-making more accountable to rights holders and their representatives.

**Strategy 7: Extending community participation beyond individual projects to the policy level.** Communities who can influence laws and policies can help systematically improve legal requirements for more effective disclosure and community access, comprehension, and use of information in open decision-making processes.

## NOTES

<sup>i</sup> Risks of increased transparency are discussed at pages 20–21.

<sup>ii</sup> Gatekeepers incentives are explored at pages 16–19.



Farm worker, Mali.  
© Shutterstock/Riccardo Mayer.

# PART 1

## FRAMING

### HOW CAN TRANSPARENCY IMPROVE THE GOVERNANCE AND ACCOUNTABILITY OF LAND INVESTMENTS?

Transparency is often seen as a means to important ends, such as improving governance and accountability. But its potential to do so can be hindered by vagueness concerning what transparency means and who it is intended to serve. This report therefore seeks to re-orient conceptions of transparency in ways that can lead to more transformative impacts—for local rights holders, and other actors—in the governance of land.

#### The problem

Despite the important efforts behind a raft of court cases, campaigns, and other hard-won commitments for improved land governance, communities continue to be sidelined in the planning and implementation of land investments. Communities also



bear the brunt of poorly designed projects, which can place their human rights, livelihoods, and, in many cases, lives, at risk. Excluding communities from investment-related decision-making processes not only produces devastating outcomes for communities: it can also result in conflict and other challenges that are extremely damaging for companies, debt and equity investors, and host governments, among others.

The Covid-19 crisis amplified existing dynamics around land investments. It provided an excuse for the fast tracking of project approvals to the exclusion of communities<sup>1</sup> and intensified criminalization and persecution of rights defenders.<sup>2</sup> Reductions in government monitoring of investments<sup>3</sup> were followed by opportunistic rollbacks of important legal protections.<sup>4</sup> Untransparent actions taken during the fog of the pandemic will have long-term implications, including an increased risk of social conflict,<sup>5</sup> imperiling recovery efforts and even increasing the risk of governmental collapse.<sup>6</sup>

### The relevance of politics and power

The current state of land investment reveals that powerful actors like host governments and companies are often not sufficiently incentivized to meaningfully include communities in decisions affecting them. The problem is in part political. Few actors are willing to cede power. Any attempts to advance transparency must therefore take power seriously. Political barriers to transparency and power imbalances are also inherently linked to broader structural challenges that shape the governance of land investment, which include conflicting visions of development, overlaps in mandates and agendas, skills and resource shortages, other failures to implement existing laws and policies, and continuing threats to human rights and civic space.

So how can transparency help?

Framing certain interventions through the lens of transparency may help to dismantle the systemic barriers that prevent local communities from knowledgeably participating in the governance of their lands and resources.<sup>7</sup> Transparency is often more accepted by powerful actors than other approaches to improving governance. For instance, calls for governments and companies to respect human rights are often sidelined or ignored. Likewise, calls to recognize and protect communal tenure are regularly subject to intense resistance from elite actors,<sup>8</sup> or to alternative pushes for land privatization.<sup>9</sup> Transparency, on the other hand, is often invoked in processes and interventions when protections for communal land tenure and human rights are notably and regrettably excluded—such as in trade agreements (see Box 3, below), and aid and financing assistance from the Bretton Woods Institutions.<sup>10</sup>

This report does *not* advocate for the abandonment of human rights, accountability, or protections of communal tenure in donor and development programming. Instead, it explores how transparency can complement those programmatic focuses where they are likely to be resisted. Transparency is best viewed as one piece of a suite of measures needed to ensure accountable and responsive governance of land and land investments. Such measures also include efforts to bolster the empowerment and agency of local stakeholders, and to hold misbehaving actors to account.<sup>11</sup> Empowered and informed communities, recognized and respected human rights, and open and accountable decision-making systems can in turn improve governance outcomes for all actors.

Yet transparency is too often used interchangeably—and erroneously—with “disclosure.” This, too, is often due to political factors. Transparency initiatives may settle for advancing disclosure as the “lowest common denominator” issue to which powerful actors will agree (see Box 2, below).<sup>12</sup> Such actors can respond to popular pressure for transparency by disclosing certain information, but without opening up spaces for communities to pursue substantive changes to how decisions are made.<sup>13</sup> A thin version of “transparency” is thus advanced, while the underlying challenges around power imbalances and a lack of accountability remain unaddressed. Deepening understandings of what land investment transparency means can help unlock its potential for transformative change for investment-affected communities. Such change can also benefit governments and companies who can better avoid or mitigate the considerable costs of community grievances and social conflict.

### Grounding transparency in community perspectives

Rather than assuming that transparency in itself will help improve governance or accountability,<sup>14</sup> initiators of transparency interventions need to ask the question, “for whom?”<sup>15</sup> When transparency efforts have commodity buyers (see Box 3, below) or international actors (see Box 2, below) as their intended beneficiaries, their potential for enabling communities to better access, understand, and use information in open decision-making processes is reduced. This can also limit the ability of such efforts to bolster rights protections and facilitate sustainable development. This report therefore builds on existing research on the transparency of land-based investment<sup>16</sup> and emerging rights holder-focused approaches<sup>17</sup> to further ground conceptions of transparency in the perspectives of local actors.

---

Rather than assuming that transparency in itself will help improve governance or accountability, initiators of transparency interventions need to ask the question, “for whom?”

## Report overview

This report draws on desktop research, country research in Cameroon and Liberia, and interviews with communities, civil society, government, the private sector, and development finance institutions (DFIs) from around the world. Insights drawn from interviews are either signposted in the text or referenced with endnotes. More information is included under *Methodology*, page 37, below.

The report starts by defining land investment transparency (LIT), explaining its links to governments' obligations, and outlining how it benefits a range of actors. The report then examines two groups of relevant actors: (1) communities and their civil society allies, and (2) "gatekeepers" to information and decision-making processes (such as host governments, companies, and lenders). In the following section, the report unpacks each element of transparency, namely disclosure, as well as information access, comprehension, and use in open processes. To enable a politically informed understanding of openings for advancing transparency, the report then describes the potential incentives that motivate gatekeepers. The risks of increased transparency are also investigated. The report then sets out a range of transparency-related challenges that communities and their allies experience. Next, the report proposes various strategies and approaches that hold the prospect of improving or advancing land investment transparency, before concluding with recommendations for donors, global policy-makers, and civil society organizations.

## WHAT IS LAND INVESTMENT TRANSPARENCY?

### The definition: disclosure, access, comprehension, use, and open processes

"Land investment transparency" (LIT) is public disclosure of relevant land investment-related information, as well as the ability of people to access, understand, and use that information.<sup>18</sup> LIT therefore entails an ecosystem of open systems and processes, in which project-affected community members can participate and influence decisions that will affect them. These elements can support community members in exercising their rights, anticipating and avoiding negative impacts, resolving grievances, seeking redress for negative impacts suffered or rights violated, and, ultimately, more effectively pursuing their own vision of sustainable development.<sup>19</sup>

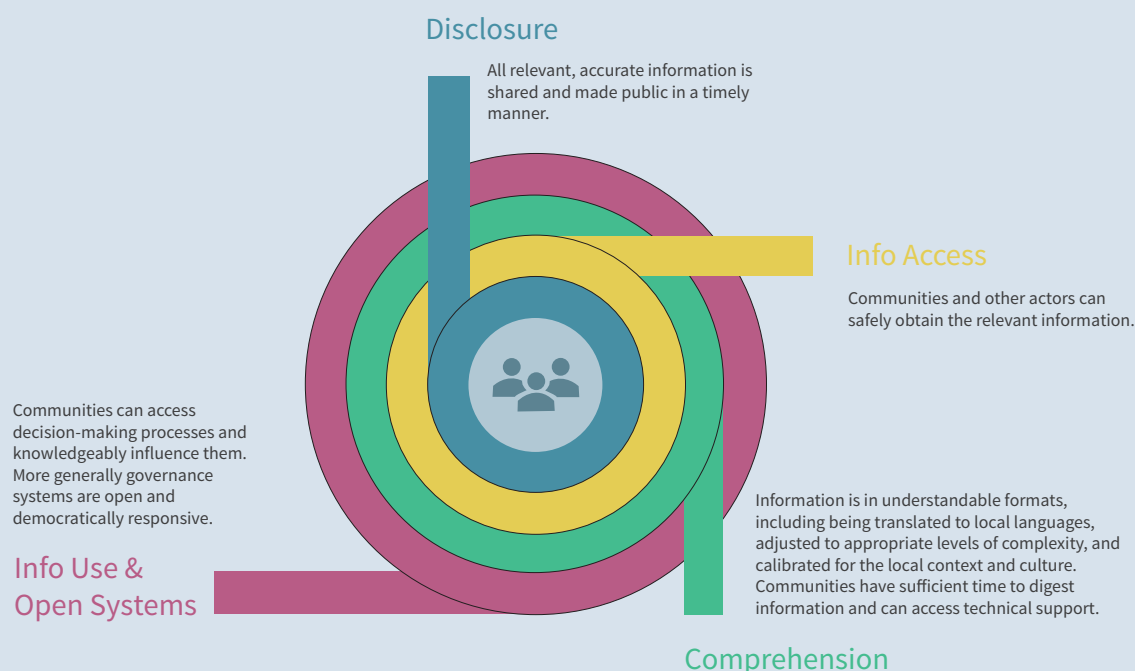
### Government duties concerning transparency

Governments have a legal duty to ensure land investment transparency, which is based in the binding norms of international human rights law.<sup>20</sup> LIT is grounded in various human rights,<sup>21</sup> including the freedom to seek and receive information,<sup>22</sup> the right to take part in public affairs,<sup>23</sup> and the right to an effective remedy.<sup>24</sup> Other human rights that serve as bases for LIT include human rights to property and resources,<sup>25</sup> development,<sup>26</sup> culture,<sup>27</sup> health,<sup>28</sup> a healthy environment,<sup>29</sup> and food,<sup>30</sup> as well as the international rights of Indigenous and tribal peoples.<sup>31</sup>

## BOX 1: THE ELEMENTS OF LAND INVESTMENT TRANSPARENCY EXPLAINED

- **Public disclosure** refers to the sharing of all relevant information with rights holders and the public at large through a variety of media.
- **Access** refers to the ability of communities and other actors to safely obtain the relevant information. It includes measures that bridge the gulf that can exist between remote communities, on the one hand, and information holders and repositories, on the other.
- **Understanding** information entails the information being shared or converted into a comprehensible format for rights holders, including being translated to local languages and appropriate complexity levels, and otherwise adjusted to local contexts and cultures. It also means having sufficient time and technical support to digest both the information and the broader context of rights, processes, and drivers for the investment.
- **Information use** and **open systems and processes** are inherently linked. Communities who are informed and able to access relevant decision-making processes and other governance systems before decisions are made have the best chances of effectively participating in and influencing them. Such processes include investment planning and project authorization processes, government systems for monitoring and enforcement, and the resolution of community grievances. Other relevant systems include those driving the development of public policies and laws, right-to-information processes, and justice systems.

FIGURE 1: THE ELEMENTS OF LAND INVESTMENT TRANSPARENCY



Source: Sam Szoke-Burke and Michael Morgan.

The legal obligations linked to those human rights mean that governments have duties to proactively advance transparency. Advancing transparency should thus be seen as a core component of government agencies’ mandates. Poor government performance on transparency is not, then, simply unfortunate, but rather a dereliction of legal obligations. In addition, company and investor responsibilities to respect human rights mean that they too must work proactively to advance the components of LIT within their control.

### The business case for transparency

While LIT clarifies various obligations and responsibilities for governments, companies, and other actors—for instance, concerning disclosure and participatory decision-making—it can also produce advantageous outcomes for them. When communities are informed and participate in decisions as empowered counter-parties, companies can better understand local perspectives and circumstances and more effectively manage risks of rights violations, costly local conflict, and associated project delays and failure.<sup>32</sup> Lenders and equity investors also benefit from such outcomes, which minimize their financial, legal, and reputational risks.

For governments, these outcomes minimize the risks of adverse legal claims from investors, tarnished national reputations as an investment destination, and the undermining of the government’s political legitimacy among its constituents and institutional partners. LIT can improve operational outcomes for governments, as well: it can strengthen intra-governmental coordination and knowledge sharing, which in turn can enhance decisions, policy making, and performance of public mandates. LIT can also help governments with environmental stewardship: for instance, recent research reveals correlations between prior consultation requirements and reduced rates of deforestation.<sup>33</sup>

### THE ACTORS: COMMUNITIES, ALLIES, AND GATEKEEPERS

This report divides the actors relevant to land investment transparency into two groups. The first group is project-affected communities and the actors who support them. This group is often sidelined from investment-related decision-making, and communities left to suffer the negative impacts afterwards. The second, “gatekeepers,” are the actors that control access to relevant information and how policy and decision-making processes around land investments function.<sup>34</sup> They often



control the degree to which communities can knowledgeably participate in decisions, and may actively or inadvertently restrict opportunities for systemic change.

### Communities and their allies

“**Communities affected by land investments**” include formal community representatives such as chiefs and elders, as well as all other community members, including groups like women, youth, people with disabilities, Indigenous peoples, and minority ethnic groups. This includes communities and community members who have legitimate tenure rights over lands and resources, as well as all community members whose human rights are, or stand to be, affected by land investment projects. The unique transparency needs of community groups such as workers linked to land investment projects<sup>35</sup> and small-scale producers who sell commodities to companies are outside the scope of this report.<sup>36</sup>

**Community allies** are those who support project-affected communities. Allies may accompany or provide technical support to communities from the earliest stages of project proposal right through to pursuing justice or redress for rights violations and negative impacts. Allies can also include those advocating on project-affected communities’ behalf in broader policy contexts. Allies therefore include: Indigenous and peasant organizations; social movements; local, regional, national, and international civil society organizations; as well as paralegals, scientists, and other experts providing technical support to communities. Allies can be distinguished from other data intermediaries whose objectives are not necessarily subservient to those of communities, such as journalists and open data initiatives—although there may often be overlap between these two groups.<sup>37</sup>

### Gatekeepers

The gatekeepers this report focuses on are:

- **Host governments**, including public entities and actors at local, regional or national levels tasked with attracting, screening, monitoring, and regulating land investments.
- **Companies** and individuals who carry out land investments.
- **Investment chain actors**, including lenders to, and equity investors in, land investments. Such actors are diverse, ranging from pension funds, investment funds, and other asset owners, global banks, multilateral and country DFIs, local financial institutions, and impact investors, among many others.

Other gatekeepers who can have influence over the advancement of transparency include **export credit agencies**, which provide insurance against political and other types of non-commercial risk, and **supply chain actors**, including buyers and traders of commodities produced in land investment projects.<sup>38</sup> While not a principal focus of this report, such actors also have the potential to block or advance LIT.

### Overlap

Each of these groups can occupy the other side of the coin in specific cases: gatekeepers need information, while communities and their allies control access to certain information. Certain individuals may also fall into both groups.

For host governments, companies, and other gatekeepers, compliance with their respective human rights duties and responsibilities will also often depend in part on their ability to access, understand, and use relevant information. Government representatives without relevant information are more likely to make poor decisions and are less able to properly regulate investment. Companies that lack important information are more likely to ignore community perspectives and to make under-informed decisions that lead to mutually disadvantageous outcomes. Although not the focus of this report, insights concerning these actors’ information needs—and the importance of their using such information—are also shared.

Communities and their allies can also occupy the space of gatekeepers, especially regarding information generated by the community: see 5. *Factoring community-generated information into investment-related decisions*, below.



Maasai community meeting, Tanzania.  
© Shutterstock/soft\_light

## PART II

### LAND INVESTMENT TRANSPARENCY FOR COMMUNITIES AND THEIR ALLIES

This section unpacks the key elements of land investment transparency: disclosure, access, understanding, and use in open systems and processes.

#### INFORMATION DISCLOSURE

Public disclosure refers to the sharing of information with rights holders and the public at large. Disclosure should usually be public, rather than only to communities and their allies, in order to reinforce broader governance and accountability measures, and also in recognition of the rights of all citizens to information.<sup>39</sup> Governmental duties to disclose come from their international human rights law obligations and often from domestic laws and constitutions. Companies and investment chain actors' responsibilities to respect human rights create responsibilities to disclose; companies may also be required to disclose by host or home government laws and by loan agreement conditions. Investment chain actors may disclose project-related information according to their own right to information or disclosure policies.

For disclosure to have any impact, the information disclosed must be relevant and useful to the intended users of that information.<sup>40</sup> Such information must also be accurate, definitive, and up-to-date, necessitating regular, timely updates. Disclosure should be proactive, to avoid communities and allies investing significant effort and resources into information requests.

Communities and their allies may need a diverse set of documents and types of information in order to protect community rights and knowledgably influence decisions concerning community lands and resources. *A comprehensive list of information and document types is included in the Annex, below.* In summary, communities and allies may need a range of information and documents concerning:

- **Rights and responsibilities** of all relevant actors, relevant decision-making processes, and other elements of legal frameworks.
- **The proposed land investment project**, including its purpose, location and timespan, and projected potential positive and negative impacts (which may be included in impact assessment reports).
- **The company** (or companies) carrying out the project.
- **Investment chain** actors linked to the project.
- **Buyers** of commodities produced by the project and other value chain actors.
- Available avenues for **grievance redress**.
- The terms of **rents and other transfers** to be made to the community.
- Regular, timely, and meaningfully disaggregated disclosure and **reporting** on company performance and impacts, once the project begins.
- What happens **after the project ends**, including who ownership of the land reverts to, how resulting damage to the land is repaired and remediated, and what happens to any community “benefit” sharing arrangements.

Communities will usually be especially interested in information about projects or decisions concerning nearby lands and resources.<sup>41</sup> The specific information needs of each community, and members within it, however, will vary depending on their objectives and the strategies they wish to pursue, as well as other context-specific factors.

## INFORMATION ACCESS

The benefits of information disclosure are dramatically reduced if relevant communities cannot easily access that information. To enable meaningful information access, gatekeepers’ disclosure strategies should plan for how the information will reach communities.<sup>42</sup> This means moving beyond posting documents online or including copies in distant administrative buildings. Effective strategies for information delivery include meetings, consultations, and dialogue processes with communities, who may need technical assistance in order to know what information to ask for. Enabling anonymous means of obtaining information, such as through radio broadcasts, can also increase information access in repressive or polarized settings. Efforts to ensure access also should be iterative for projects spanning long periods of time, as documents can easily be lost, especially if held by a community leader who passes away or whose formal term ends.<sup>43</sup>

## INFORMATION COMPREHENSION

Communities that access disclosed information also need to be able to make sense of it. Enabling community comprehension of information entails converting raw data into information, adjusting it into an understandable form, and facilitating (and funding) access to other institutional supports needed to digest the information, such as technical assistance. In addition, sufficient time should be allowed for the community to digest the information, deliberate internally, and access technical support. A community member’s ability to understand information may depend on translation into local languages, having complex information summarized, and adjusting information to cultural and societal contexts. Challenges such as low literacy levels, a lack of previous experience with large-scale investment, and low legal knowledge must also be navigated (for instance, by using audiovisual media) or addressed (for instance, by facilitating independent legal education and empowerment).

Gatekeepers should often bear the onus for enabling community comprehension. This includes demystifying both data and pathways for participation in decisions and redress. Technical documents also require explanation; for instance, a 200-page management plan would need to be summarized and converted into a comprehensible form for community members (while also being disclosed in full for use by the community and its allies).



Examples of accessible, user-focused ways for gatekeepers to present complex information include:

- Plain language presentations and dialogue.
- Plain-language document summaries and annotations.<sup>44</sup>
- Visits to other projects that are either run by the company or otherwise comparable.
- Facilitating story sharing from other contexts, such as enabling communities to speak with, or receive video postcards from, other project-affected communities.<sup>45</sup>
- 3D models and before-and-after images of the project's likely impacts on the landscape.<sup>46</sup>

### OPEN PROCESSES AND INFORMATION USE

A crucial element of transparency is the ability of communities, with support from their allies, to use information in order to influence decisions, hold actors to account, and pursue their own vision of development. This element has two parts. First, decision-making and governance systems must be open and accessible to communities. Second, communities must be able to effectively participate in and influence those processes and systems, which entails communities having the information, understanding, and, if needed, technical support to do so. Effective community participation in investment-related decision-making and governance should be facilitated throughout the life cycle of an investment, as part of a self-reinforcing loop of communication, participation in decisions, and accountability.

Critical to enabling effective community participation in decision-making is timeliness. Communities too often receive information after important decisions have been made, or are not given enough time to properly digest and respond to information. Key moments for informed community use of information vary depending on factors such as applicable legal frameworks and how the project is financed. Communities need to be able to access information sufficiently in advance of such moments to be able to digest the information and respond accordingly. Some examples of key moments include:

- The adoption of relevant laws and policies concerning land investment.
- The zoning or earmarking of community lands for external investment.
- Initial expressions of interest in that land by potential investors.
- The undertaking of due diligence, impact assessments, and other preparatory studies for a proposed project.

- The negotiation of any agreements (including memoranda of understanding that are then used by companies to obtain finance) and the granting of every relevant authorization or permit.
- The implementation of the project, including any resettlement, compensation, and benefit sharing processes.
- The detection of any negative impacts, rights violations, or community grievances.
- The decision to terminate or wind-down the project.

Yet community action will often not fit neatly into any one moment. Communities will have needs for information and for opportunities to influence decisions throughout the duration of any projects that proceed. Sometimes information use by communities and their allies take place in other, less definable, "moments," such as when communities take steps to understand external demands for their lands and formulate community policies and protocols, or when they collaborate with civil society organizations on alternative, community-driven models of development.<sup>47</sup>

Community members and allies also reported using available information to inform and update government regulators and lenders. For example, communities and allies recounted that a regulatory agency would often welcome their efforts to inform it of company breaches of laws. Another civil society representative recalled discovering that a controversial dam project was financed, through an intermediary, by a DFI. That institution reportedly only found about local anger about the project, which was eventually abandoned, when the community brought a complaint under the lender's accountability mechanism.



Rice farming in central Madagascar.  
© Shutterstock/Pierre Jean Durieu.

## PART III

### GATEKEEPER INCENTIVES REGARDING TRANSPARENCY

Power affects the potential impact of any effort to improve governance and accountability. This is particularly true in the context of land investments, where immense power imbalances exist between communities and their allies, on the one hand, and gatekeepers on the other. Where political barriers exist, interventions can seek to:

- **Navigate** the existing political context and find openings for advancing LIT;
- **Change** the political context to remove barriers to the advancement of LIT; or
- **Circumvent** actors creating political barriers to the advancement of LIT and achieve desired results through other actors or means.<sup>48</sup>

This section sets out gatekeepers' likely incentives and disincentives to understand where such barriers may lie. Where different gatekeepers' incentives vary or conflict, the most powerful actors usually influence, if not control, ultimate outcomes. Of course, contexts vary tremendously and are also subject to change, making it impossible to universally pin down the incentives of different actors.<sup>49</sup> Relatedly, institutions and the individuals within them may have differing incentives, further complicating the calculus. Nonetheless, a general understanding of likely motives can help to anticipate gatekeeper reactions to calls for the advancement of LIT and to identify especially fruitful avenues for improvement.

## HOST GOVERNMENTS

### Actors within government

Restrictive attitudes to disclosure and to community participation in decision-making processes are more often attributed to entities that promote and facilitate land-based investment, including: investment promotion agencies; ministries of agriculture, forestry, and/or renewable energy; ministries of economy and finance; and special economic zone authorities, among others.<sup>50</sup> Such actors' incentives may align with those of the executive and heads of government, who may wish to use land investments to demonstrate their prowess in catalyzing development,<sup>51</sup> to consolidate political control,<sup>52</sup> or for personal enrichment.<sup>53</sup>

Entities focused on environmental and social issues (such as ministries and agencies focused on environmental protection, justice, and human rights) may view LIT more favorably, as a tool to help them carry out their work.<sup>54</sup> Parliamentarians, when acting in good faith and independently from ruling parties and the executive, may also view LIT as supporting their role as a check on executive power.<sup>55</sup>

Local governments may see increased transparency as desirable if they are excluded from decisions concerning investment. However, local actors with concrete roles concerning investment may instead block the advancement of LIT,<sup>56</sup> in which case national-level officials may be the ones insisting on transparency as a means of asserting some control.<sup>57</sup> Where power is devolved to the chief level, customary leaders may also eschew transparency, negotiating privately with investors, even to the exclusion of government.<sup>58</sup>

### Differing conceptions of development

Despite an international push for sustainability,<sup>59</sup> top-down, macro-economic conceptions of development still seem to drive many government approaches to investment.<sup>60</sup> National-level government actors may view development in terms of

raw numbers, and as being dependent on private-sector investments, potentially obscuring questions about land ownership and food security in the process.<sup>61</sup> Investment may be seen an effective way to drive generation of gross domestic product, which governments may view as the primary measure of poverty eradication.<sup>62</sup> Foreign investment also offers the prospect of increasing a country's current account balance, reducing dependence on foreign credit and increasing access to foreign currency.<sup>63</sup> Such actors may regard disclosure and informed community participation in decision-making processes as causing unnecessary transaction costs and delays;<sup>64</sup> they may also dismiss mass resettlements, the over-exploitation of water and forests, and the human rights violations that investments often cause as mere externalities that do not fundamentally alter the development calculus.<sup>65</sup> Actors following such approaches are eager to protect investors from undue scrutiny and to portray their country as having smooth investment approval processes.<sup>66</sup>

### Competition for power

Interviewees in many countries viewed their heads of state and executive as controlling investment allocations. While contexts vary, this generally resulted in top-down, opaque decisions, from which communities were excluded.<sup>67</sup> In Cameroon, for instance, strict executive control over investment approvals rendered subsequent requirements for consultations and impact assessment mere afterthoughts, stripping them of any real transformational potential.<sup>68</sup> In Liberia, attempts were made to erode environmental regulators' influence by referring decisions under such regulators' purview to an inter-ministerial task force composed of institutions with no environmental mandate.<sup>69</sup>

Struggles for power between government actors more generally can lead to poor transparency outcomes for many actors. Some agencies hoard information, forcing other officials to ask companies for documents such as concession contracts, or to rely on personal connections. Competition between public agencies and actors has also produced poor outcomes for investors,<sup>70</sup> such as overlapping concessions awarded by different agencies.<sup>71</sup>

Government actors' power relationships with external actors can also have transparency impacts. Governments may argue that limiting information disclosure is a means of preserving strategic advantage during negotiations with incoming investors.<sup>72</sup> Governments may also compete with other countries in attracting investment, which can incentivize races to the bottom concerning governance and transparency.<sup>73</sup> More generally, governments will often face geopolitical pressure, which can include pressure from other states interested in seeing certain investments proceed.<sup>74</sup>



### Corruption and patronage

Opaque decision-making processes enable government actors to procure illicit personal benefits in exchange for approvals or favorable treatment.<sup>75</sup> Unscrupulous actors with exclusive access to relevant information or decision-making processes may be incentivized to restrict community access, enabling them to secure illicit personal benefits or establish patron-client arrangements designed to accumulate or preserve control.<sup>76</sup>

## COMPANIES

### Actors within companies

Different actors within companies will have different priorities and agendas, as well as varying abilities to achieve their intentions in practice. For instance, environmental and social specialists will often grasp the need for stable community relations but are often not involved in early processes in which key decisions are made. On the other hand, actors that control budget allocations and are charged with overall financial and operational management of projects may be less sensitized to community issues and more reluctant to change the status quo.<sup>77</sup> A CEO's personal interest in advancing transparency may be crucial to effecting transparency improvements across company operations. In other cases, company approaches to communities may vary, depending on each project's individual manager. Regular staff turnover can also undermine companies' ability to systematically improve how they interact with communities.

### Legal risk

Legal requirements are often a primary driver of company behavior concerning LIT.<sup>78</sup> Legal risk (arising from failures to comply with legal requirements) can arise from the host country's domestic law, from contractual relationships (including with lenders and insurers), and from companies' home states.

Legal risk may fail to motivate company action where there is a lack of meaningful consequences for company breaches of legal requirements. For instance, one civil society representative lamented the lack of "teeth" of the International Finance Corporation (IFC)'s disclosure requirements for its clients.<sup>79</sup> Likewise, transparency requirements may be ignored or poorly implemented by local, politically connected companies, which may instead rely on their connections with powerful government officials to secure authorizations.<sup>80</sup> Their political connections may also render them less concerned about the prospect of prosecution for criminal acts. Perceptions of legal risk may even incentivize unscrupulous

companies to become less transparent. Companies may wish to preserve legal "grey areas" that they do not want resolved.<sup>81</sup> Alternatively, they may seek to avoid scrutiny of the company's beneficial ownership, which can expose techniques such as transfer mispricing or the use of shadow companies to obtain certification where the parent company remains uncertified and unaccountable.<sup>82</sup>

### Operational and financial risk

Land-based investments face significant risks linked to tenure and community relations. The grievances of communities who were excluded or suffered adverse impacts, whose legitimate tenure rights were ignored, or whose expectations were not fulfilled, can transform into conflict, costly interruptions to production, legal challenges, stranded assets, and termination or abandonment.<sup>83</sup> Community grievances have also led to the revocation of host government authorizations.<sup>84</sup> Investing in local engagement processes and two-way communication, obtaining free, prior and informed consent (FPIC), and establishing grievance mechanisms have been revealed as crucial tools to mitigate the risks of costly community conflict.<sup>85</sup> Many industry representatives interviewed concurred, although almost all preferred to speak about information sharing and dialogue rather than FPIC. One former agribusiness representative viewed conflict with a local community as "tak[ing] up a lot of energy and oxygen and tak[ing] away from other aspects of the business," echoing evidence from the mining sector.<sup>86</sup> Meaningful, two-way communication enables companies to adequately respond to community concerns, while robust grievance mechanisms can enable communities to channel their frustration through productive, non-adversarial processes, rather than resorting to litigation.

Interviewees also viewed informed community participation in decision-making processes as helping companies to effectively:

- **Manage legacy issues** around land ownership. This helped avoid perpetuating "confusion and resentment, passed on from generation to generation."<sup>87</sup>
- **Strengthen company access to and control of land.** Companies who disclose information about their right to operate can demonstrate the bounds of their entitlement to lands, reducing the risk of conflicting land claims.<sup>88</sup>
- **Stabilize smallholder supply.** Companies may improve LIT as part of their efforts to encourage collaborative business relationships and partnerships with small-scale producers.<sup>89</sup>

### Reputational risk

Some companies care about how they are perceived, both externally (by investors, buyers, regulators, competitors, and consumers) and internally (by employees).<sup>90</sup> They may therefore be open to improving their transparency practices to avoid having their reputations tarnished by allegations of rights violations or negative impacts. Yet reputation can also motivate companies to act more opaquely. Interviewees from civil society, a DFI, and an agribusiness acknowledged that companies might view additional transparency as increasing their vulnerability to damaging advocacy campaigns. This has the potential to cause a vicious cycle, where practices that exclude communities from decision-making lead to fallout that then discourages company representatives from being more transparent in the future.

### Profit and cost

Companies' pursuit of profit and desire to save costs can be used to argue both for or against enhancing disclosure and community participation in decision-making processes.<sup>91</sup> For instance, a company could refuse to expand its community engagement program in the name of cutting costs, but that could ultimately increase the risk of community conflict that can have significant financial costs.<sup>92</sup> Likewise, companies may access new markets by complying with certification schemes that themselves require various elements of LIT. Nonetheless, various private sector interviewees noted that companies do view LIT as resource intensive without guaranteeing a project's success.

## LENDERS AND EQUITY INVESTORS

### Actors within lenders and equity investors

Like companies, lenders and equity investors comprise actors with varying degrees of sensitization to community issues, and varying abilities to ultimately influence the actions of client companies.

### Legal risk

Conflict and grievances caused or facilitated by failures to ensure informed community participation in decision-making increase the chances of legal claims and formal grievances being brought against both companies<sup>93</sup> and their investors.<sup>94</sup> These have led to investors making financial settlements with communities. Increased LIT can both head off potential claims and also act as early warning signals for lenders and investors, enabling them to take action before grievances escalate to litigation.

### Financial risk

Some lenders and investors perceive informed community participation in decision-making processes as improving operational risk management for the project. This is important, as operational risk for companies translates to financial risk for lenders (who seek to obtain interest on their loans) and for equity investors (who seek to maximize the return on their investment by increasing company value or income). The desire of lenders and investors to avoid project failure and costly delays can motivate them to require improved LIT of their investees.<sup>95</sup> High-profile community conflict has also led to divestment campaigns, causing financial institutions to lose major institutional and individual customers.<sup>96</sup> In addition, fall out linked to community opposition has been linked to reduced stock prices for publicly listed entities.<sup>97</sup> Investor decisions to withdraw from projects create administrative and exit costs, and uncertainty for equity investors wishing to divest if no new buyer can be found.<sup>98</sup> Finally, lenders and investors may find themselves on the hook to remediate rights violations.<sup>99</sup>

### Reputational risk

Related to financial risks, lenders and investors are sensitive to negative publicity, which can affect perceptions from future investees and customers.<sup>100</sup> This can create a general aversion, though not always, to irresponsible projects that can explode into international media stories and complaints. Many investors increasingly wish to bolster their reputations for diligent screening and monitoring.<sup>101</sup>

### Industry trends

Certain lenders and investors may also take cues from leading actors on best practice. Here, the lead of DFIs, whose mandates include advancing development, can help sensitize other investors of the value in requiring informed community participation in decision-making processes. For example, a manager from an emerging market financial institution viewed access to finance from DFIs as a big motivator for their adoption of improved community engagement practices. Likewise, a representative from an asset manager noted that private sector investors were often more "fluent" in issues like deforestation and climate change than in land-related or social measures, indicating the need for DFI leadership on community-facing issues.



Planting cassava, Asia.  
© Shutterstock/PimjanPhoto.

## PART IV

### WHAT RISKS CAN LAND INVESTMENT TRANSPARENCY INTRODUCE?

---

While land investment transparency holds the potential for better governance and accountability, empowered communities, and the mitigation of social conflict, increased transparency may also pose certain risks, which should be factored into interventions and approaches.



## RISKS OF LAND LOSS

In certain cases, increased information about communities and their lands may heighten the risks that communities could lose control of those lands.<sup>102</sup> Actors seeking land may be attracted to areas where information about land holdings and titles is easily accessible.<sup>103</sup> Where formalization of community land rights is done incrementally, gatekeepers may also disingenuously claim that lands not yet titled are impliedly the sole domain of the government—rather than acknowledging that the processes of formally titling community lands are in progress.<sup>104</sup> In addition, increased knowledge of the value and features of lands held by women and marginalized community groups may increase the risk of powerful community elites appropriating such lands—whether for themselves or to allocate to investors.<sup>105</sup>

These risks of land loss reinforce the importance of conceiving of transparency not only as disclosure, but also as including informed and empowered community participation in decision-making. The risks also highlight why transparency is best viewed as a complement to broader reforms and efforts, such as legal empowerment and the recognition and respect of legitimate tenure rights.

## RISKS TO COMMUNITY MEMBERS

Information requests and participation in decision-making processes by communities can also introduce risks to community members, especially in repressive contexts with limited civic space. Community members and allies who seek to access information or advocate for community perspectives to be included in decisions may become targets for retaliation and criminalization. For instance, recent research highlights that more than one third of recorded attacks on human rights defenders in 2020 stemmed from failures to consult, or obtain the FPIC of, communities.<sup>106</sup> This risk illustrates the need to avoid relying on “decontextualized ‘best practices’”<sup>107</sup> and to instead design and adapt transparency interventions to the relevant context.



Harvesting tea, Kenya. © Shutterstock/Jen Watson.



Tea plantation worker.  
© Shutterstock/tonkid.

## PART V

### CHALLENGES EXPERIENCED BY COMMUNITIES AND THEIR ALLIES

This section sets out various common challenges experienced by communities and their allies relating to disclosure and information access, comprehension, and use. Such challenges are often the result of gatekeeper incentives playing out in practice. These challenges can limit communities' ability to knowledgeably influence decisions about investments and the governance of their lands and resources, and, ultimately, to protect their rights and drive their own sustainable development.

#### DISCLOSURE CHALLENGES

##### **Information is not disclosed early enough**

The timing of information sharing remains a significant challenge for enabling informed community participation in decisions. Communities need information to be disclosed sufficiently in advance of key moments when decisions will be made in order to digest that information, convene communally to identify priorities, and prepare to influence

decisions.<sup>108</sup> Information asymmetries will usually exist before disclosure, with gatekeepers controlling to a large degree whether or not communities are even aware that a project has been proposed. This asymmetry demonstrates the need for proactive disclosure, to alert communities of a potential project and enable them to begin preparations. In addition to examples of communities not hearing about a project until bulldozers arrive on their lands,<sup>109</sup> gatekeepers regularly fail to provide communities with all relevant information sufficiently in advance of key decision-making moments. For example, even those governments and companies that eventually publish copies of investor-state contracts tend to engage in minimal, if any, information sharing about the negotiation process before the contract is signed.<sup>110</sup>

### Some information is never disclosed

In some cases, communities never find out the terms governing an investment project. For instance, in Cameroon, communities affected by plantations established in the 1960s and 70s still have not obtained copies of applicable investor-state contracts, despite a national law requiring disclosure of all natural resource investment contracts.<sup>111</sup> Likewise, civil society interviewees recounted examples where they uncovered that impact assessments had not been conducted after spending years requesting such documents.

In addition to breaching community rights to information, gatekeeper refusals to disclose information can introduce new risks for communities. For instance, communities and allies may resort to informal and covert avenues to obtain information,<sup>112</sup> which introduce additional risks of reprisals, concerns about accuracy, and challenges for keeping abreast of new developments.

### A lack of proactive disclosure puts burdens on communities

The above failures by gatekeepers to proactively disclose information put the burden on communities and their allies to obtain relevant information before key decisions are made. This hinders communities' ability to understand what is at stake and to influence key decisions. Putting the onus on communities to seek out information also creates demands in terms of cost, time, and effort. Strategies employed by communities and their allies to obtain information that was not proactively disclosed include:

- Making formal information requests to government under right to information or freedom of information laws,<sup>113</sup> and purchasing documents from public agencies.<sup>114</sup>
- Asking companies and other non-governmental information-holders for information, often with reference to community members' rights to information, principles

of natural justice, or lender access-to-information policies.<sup>115</sup> (Other research has revealed a concerning trend of companies refusing information requests by civil society organizations acting on behalf of communities, which creates additional costs for communities who have to seek out the information themselves.<sup>116</sup>)

- Directly observing activities or impacts.<sup>117</sup>

These measures are not always possible in certain contexts, including where civic space is under attack and where defenders face criminalization and reprisals.

### Disclosed information may be inaccurate, fueling “information wars”

When gatekeepers disclose information, there may be doubts as to its accuracy or completeness.<sup>118</sup> In extreme cases, misleading or false information may be shared as part of what one civil society representative called an “information war.” One community member interviewed reported having to pay a government entity for maps of mining concessions, and receiving maps it believed the entity knew were out of date and inaccurate. These challenges can further increase the amount of time needed for communities to fully understand what is at stake and determine how they can participate in decisions that have not been made.

## ACCESS CHALLENGES

### Information, when disclosed, often remains inaccessible

Where governments or companies do disclose documents and other relevant information, these can remain out of reach for communities. In some countries, for example, forestry conventions are often published in hard copy in government gazettes; these are only accessible in faraway government buildings, unless unearthed by civil society actors who can identify which of hundreds of gazette volumes contains the relevant document. Communities and allies interviewed also relied on media reports,<sup>119</sup> online repositories of documents administered by governments<sup>120</sup> or other actors,<sup>121</sup> and company websites;<sup>122</sup> though communities will often require external support to be able to access such information sources.

### Decision-makers are inaccessible

If communities want to influence relevant decisions, then access to decision-makers within government, companies, and investment chain actors is crucial. But communities often face challenges in locating decision-makers. One community representative, for example, said they could only access a company's local managers, making it harder to develop working relationships with other company representatives who might have the power to improve the company's community



engagement practices. Another community representative said it was so difficult to find government decision-makers who were adequately informed about an infrastructure project that communities could not obtain consistent and reliable information; this led to confusion about how the project would affect them and whether or not they were entitled to participate in decision-making concerning the project.

The way that a project is financed can also introduce barriers to accessing decision-makers in investment chains. For instance, communities can struggle to identify project lenders and inform them about local challenges when finance is opaquely routed through intermediary institutions.

“Poverty cannot be eliminated by people who stay in their offices.”

— Community member

Source: International Accountability Project (IAP), *Back to development: A call for what development could be* (2015), 81.

## COMPREHENSION CHALLENGES

### Communities often start with a low understanding of their rights and other legal issues

Communities often do not start with a detailed understanding of legal issues, which puts them at a disadvantage in claiming their land and human rights, and in knowing what information they are entitled to, how to get it, and how to participate in decision-making. The law is often complex and inaccessible. Different actors’ rights and responsibilities, and investment-related decision-making processes, are derived not only from constitutions and laws, but also from contracts, permits, and other documents. Many of these sources are often not publicly accessible, and communities may struggle to understand how different sources interact. Confusion relating to overlaps in customary and formal laws can also be exploited by gatekeepers to further discourage empowered community action.

“ I can hear a chainsaw but how do I know if it’s legal?”

– Community member

Source: Project Completion Report - Making the Forest Sector Transparent, Global Witness (2013)

“[The land law] gives communities the power but they don’t understand”

– Community member, Kenya<sup>123</sup>

### Disclosed information is hard to understand

Communities will generally struggle to read and digest technical documents spanning hundreds or thousands of pages. More generally, communities without experience of large-scale investment projects may struggle to grasp the implications of a proposed project. Community and civil society representatives reported a strong need for technical information to be summarized and made easier to understand.<sup>124</sup> Incoming investment projects can also increase confusion about community members’ land rights, as governments may change how land is categorized to facilitate investments.<sup>125</sup> Circumstances can also change—such as authorizations either expiring or being renewed—without communities being updated.<sup>126</sup>

## INFORMATION USE (AND BROADER GOVERNANCE) CHALLENGES

### Governments privilege company information over community information and make poor decisions

Governments tend to prioritize information provided by companies to the detriment of information generated by communities.<sup>127</sup> This is problematic, as data is never neutral; control and access to data brings with it “tremendous political and ideological power.”<sup>128</sup> Even map data can be manipulated by the entity doing the mapping.<sup>129</sup> If companies control what will be measured, and how, they can influence how information is portrayed and shape narratives in their favor. Poor decisions are more likely to be made when community information, which can signpost the risk of social conflict,<sup>130</sup> is ignored.

One civil society interviewee lamented that information collected and provided by communities is “discounted” because of assumptions that the community will be self-interested. That same interviewee expressed frustration that company consultants are assumed to act with more objectivity, referring to a case where consultants erroneously concluded that land was “unoccupied and infertile” despite obvious indications of community occupation and use.

### Regulators often neglect their mandate

Many relevant government regulators, such as national level ministries, often do not maintain regular presences at project sites, and therefore rely on information being shared with them by companies, rather than robust monitoring and enforcement.<sup>131</sup> This can result in government agencies acting as “absentee regulators,” ones that are often unaware of how projects are proceeding until local unrest makes headlines. Relying on information produced by the entity that is being regulated indicates a breakdown of transparency and accountability. While the impediments to active regulation may be framed in terms of resource and personnel shortages, in practice these are often the result of political choices.<sup>132</sup>

### Good faith regulators are undermined

Government regulators that seek to enable the sharing of information with communities to enable their participation in investment-related decision-making often face pressure and pushback from more powerful actors. Such actors may be willing to exert influence to advance the investment at any cost. For instance, one Central African government interviewee recounted recommending against approving mining in a particular area and receiving death threats from a mining company, which was connected to the Prime Minister. In another instance, a former head of an environmental agency in West Africa was reportedly sidelined after measuring a mine's environmental impacts; they also described being pressured from a "higher office" to "play ball" after making a finding that a high-profile agribusiness plantation violated environmental regulations. In such circumstances, the ability of good faith regulators to fulfill their mandates, which can include enforcing obligations for information sharing and participatory processes, is often limited.

### Communities do not control whether or not a project takes place

Communities are still usually viewed as being subject to decisions concerning investment, rather than as having rights to decide whether or not a project can take place and, if so, on what terms. The international rights of Indigenous and tribal peoples to free, prior and informed consent (FPIC)<sup>133</sup> are often still elusive in practice. Likewise, international recognition of the need to respect legitimate tenure rights,<sup>134</sup> which include undocumented customary rights to lands and resources, remains, in many cases, an aspiration rather than reality.

While courts or ombudsmen have recognized community rights to FPIC in various contexts,<sup>135</sup> many governments continue to use public purpose expropriations to make way for investment, or otherwise award concessions before engaging communities.<sup>136</sup> Companies and lenders have proven similarly resistant to FPIC. Even companies that understand the importance of stable community relations tend to prefer consultations to FPIC.<sup>137</sup> The IFC has also restrictively interpreted application of its FPIC standard, applying it in less than 2% of its entire portfolio.<sup>138</sup>

In rare cases, however, grievance procedures have led to companies deferring to community rejections of projects. For

example, community grievances issued through the Office of Accountability of the former Overseas Private Investment Corporation (OPIC) led to the suspension of construction of Mexico's Cerro de Oro Dam.<sup>139</sup> Likewise, a Roundtable on Sustainable Palm Oil (RSPO) grievance led Olam Gabon to commit to not using land within its formal concession where community landholders refused.<sup>140</sup>

### Information and participation can be used by gatekeepers to dampen pressure for systemic change

While open and participatory processes are needed to enable communities to obtain and use information, experts have warned of the risks of viewing participation, especially at the project level, as a "magic elixir."<sup>141</sup> Gatekeepers may cede to demands for increased community participation as part of a strategy to deflate pressure for deeper institutional changes, such as formal recognition of Indigenous territories or alternative, community-driven development approaches.<sup>142</sup> Participatory processes like consultations may therefore convert communities' political demands (for instance, to control their lands and development) into less transformational procedural ones (for instance, for disclosure and inclusion in decisions). When communities are opposed to a project, such procedures create forums for, at best, contestation and communication: more often, they enable the further domination of communities by powerful companies,<sup>143</sup> and debilitate legitimate community opposition.<sup>144</sup> Having snuffed out pressure for structural change, governments can simply multiply project-level participatory processes while ensuring those processes remain disconnected from national policy debates or formal accountability mechanisms.<sup>145</sup> Exclusion from the policy level in turn limits the boundaries and scope of what communities can secure through project-level participatory channels.<sup>146</sup> These dynamics reveal the limitations, and even risks, of focusing on information and project-level participation.

### Existing initiatives privilege elite perspectives, rarely meeting community needs

The experience of existing initiatives with transparency and governance components show that communities' transparency needs are unlikely to be met unless communities are defined as a primary beneficiary of such initiatives. Initiatives like the Extractive Industries Transparency Initiative (EITI) and the EU Forest Law Enforcement, Governance and Trade (FLEGT) program, both analyzed in detail below, have led to the release of flurries of data, with the intention of animating citizen, civil society, and/or commodity buyer use of such information. The focus on this broad set of beneficiaries means that these initiatives often fail to enable communities to better access, understand, and use information in open decision-making processes and systems.

---

**"[Companies] do not ask for your ideas, they just come and inform you."**

— Community member

Source: IAP, *Back to development: A call for what development could be* (2015), 82

## BOX 2: THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

The Extractive Industries Transparency Initiative (EITI) was launched in 2002 as a narrow set of rules focused on revenue transparency in the extractives sector. Since then, EITI has evolved into a global standard implemented by over 50 countries. It is a multi-stakeholder initiative that now requires the disclosure of contracts, license allocations, beneficial ownership data, and social and economic spending by the private sector, among others, with the aim to “promote open and accountable management of extractive resources.”<sup>147</sup> EITI was created at a time when investigative journalism, campaigning, and academic literature had brought natural resource management issues to the fore. EITI received high-level support from the G8 countries, donors and development banks, although oil companies initially argued against company reporting.<sup>148</sup> EITI responded to company concerns by designing the initiative as a level playing field, where all companies operating in a particular country were required to make the same disclosures.<sup>149</sup> Though challenges remain, EITI has undoubtedly facilitated a “deep normative shift”<sup>150</sup> around extractives sector data disclosure.

The evolution of the EITI standard demonstrates how initiatives can build the normative basis for increased disclosure over time, starting with a narrow set of rules that can generate buy in, which are then progressively developed into a more comprehensive set of requirements. NGOs have been instrumental in the evolution of the standard, and have used EITI to initiate broader discussions on transparency and accountability in the extractives sector in different countries. Scholars have found that successful strategies to broaden the scope of EITI can be attributed to a “layering technique” that takes small but deliberate steps toward expanding reporting requirements.<sup>151</sup>

### Participation and influence: Who has a seat at the table?

The creation of multi-stakeholder groups (MSGs) in each participating country to oversee implementation of the EITI standard has led to increased participation of civil society in extractives-related policy discussions at the national and international level. In some countries, MSGs have facilitated unprecedented access for civil society to engage with government and the private sector.<sup>152</sup> In addition, some NGOs working at the national level have rallied around the EITI standard to build regional and international networks. Certain better-networked local organizations have also been able to use their participation to increase their influence at the domestic level and their access to international funding.<sup>153</sup>

While MSGs have facilitated greater civil society participation in extractives governance, EITI tends to be viewed as an elite platform that only well-resourced and “professionalized” CSOs can engage with.<sup>154</sup> Civil society platforms have been created in some countries to facilitate participation of more diverse groups.<sup>155</sup> But investment-affected communities—including community leaders who, unlike CSOs, have formal mandates to represent and be accountable to their constituents—are still excluded from MSGs.<sup>156</sup> As a result, disclosure or other transparency gains at the EITI may be less informed by, or likely to align with, community needs.

### Impact

EITI has led to more extractives sector data being made publicly available. The effective use of the data by citizens to achieve broader goals remains a challenge, however: there is insufficient evidence, for example, that EITI has led to significant improvements in governance and accountability in countries where it is implemented.<sup>157</sup>

Lessons from the EITI experience suggest that, in order for future land transparency initiatives to contribute to better governance, multiple strands of work should be pursued in parallel, focused on efforts that increase data use, open decision-making processes, and government responsiveness. In order to do this, the politics that underlie the citizen-state relationship must be well understood,<sup>158</sup> and the following questions interrogated: What pathways to accountability exist within a given context? What motivates citizens to organize in a given context? What obstacles do they face? And how do governments respond?

*This textbox was written by Tehtena Mebratu-Tsegaye.*



### BOX 3: THE EU FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT) PROGRAM

The European Union (EU) Forest Law Enforcement, Governance and Trade (FLEGT) program is an international multi-stakeholder effort whose emphasis on governance has been accompanied by a strong emphasis on forestry sector information disclosure.<sup>159</sup>

FLEGT establishes arrangements between the European Union and timber-producing countries that seek to address illegal logging in line with the EU's 2013 Timber Regulation. The key components of FLEGT are Voluntary Partnership Agreements (VPAs) — legally binding bilateral trade agreements between the EU and individual timber-producing host countries. Each VPA establishes standards for the “legality” of timber produced, and accompanying host country mechanisms to enforce those standards. Some also have annexes that set out disclosure requirements. VPAs and “legality” definitions vary by country. Each VPA starts with existing host country law as its foundation. The EU and the host country then agree upon a law reform process, which typically results in reforms that align with EU expectations of “legality.”<sup>160</sup> Once monitoring systems and reforms are implemented and audited, the VPA progresses to a regime where only licensed product, verified as compliant with host country law, can be exported to the EU.<sup>161</sup>

While VPAs focus heavily on legality, compliance is primarily encouraged through financial incentives in the form of access to the EU market.<sup>162</sup> To build pressure for compliance with national law, FLEGT also provides technical and financial resources to support multi-stakeholder processes and improve monitoring by government and, in some countries, CSOs.<sup>163</sup>

FLEGT has achieved some success. Encouragingly, seven countries have signed VPAs with the EU and another nine are currently in negotiations,<sup>164</sup> which reportedly involve diverse coalitions representing both powerful and some disadvantaged parties.<sup>165</sup> In addition, the VPAs create binding obligations on host countries to more effectively regulate timber production.<sup>166</sup> The OpenTimberPortal, established to capitalize on FLEGT-related document disclosure by timber producers, has published substantial amounts of project-related documents and contracts from a range of Central African countries.<sup>167</sup>

FLEGT has also been subject to various evidence-based criticisms. Noted shortcomings include: its onerous compliance mechanisms and barriers to participation by small-scale producers;<sup>168</sup> broad producer noncompliance;<sup>169</sup> host government failures to honor transparency commitments and guarantee improved rights-holder participation in investment-related decision-making;<sup>170</sup> low access to information;<sup>171</sup> corruption-prone verification mechanisms;<sup>172</sup> and a failure to establish lasting licensing regimes to certify compliance.<sup>173</sup>

FLEGT's shortcomings have been attributed to its overreliance on market forces and to pre-existing incentives within EU and host government bureaucracies, which often prioritize quick and demonstrable results over substantive change.<sup>174</sup> FLEGT has even been described as a “fad,” one of many fleeting initiatives that attract significant donor resources and attention but then succumb to bureaucratic ambivalence in the absence of immediate results.<sup>175</sup> One critic has asserted that state consolidation and a myopic reliance upon definitions of legality have not only failed to improve governance, but may in fact be exacerbating inequalities by favoring elite actors.<sup>176</sup>

Of course, attributing these shortcomings to FLEGT alone ignores the broader context in which VPAs are signed. Most host countries face intractable social and economic inequalities and political challenges, which FLEGT is not designed, nor equipped, to resolve. While researchers have identified several strategies for improving the program, such as expanding access to program data,<sup>177</sup> FLEGT's success will likely continue to be limited by structural factors beyond its scope. A continuing failure to ground FLEGT's transparency requirements in the needs of local communities will also likely limit FLEGT's potential to bolster community information access and participation in decision-making and forestry governance.

*This textbox was written by William Sommer and Sam Szoke-Burke.*



Small-scale agriculture, Morocco.  
© Shutterstock/monticello.

## PART VI

### RESPONDING TO THE CHALLENGES: STRATEGIES TO ADVANCE MORE EFFECTIVE LAND INVESTMENT

This section explores ways to improve disclosure and access, comprehension, and/or use of information by community members as empowered participants in open decision-making processes and governance systems.

These strategies and approaches need to be adjusted to—and their appropriateness will depend on—the local context,<sup>178</sup> taking into consideration potential risks to community members and their lands (see *Part IV*, above).

The ideas highlighted will often need to be paired with other important interventions, such as enhancing community legal literacy and improving access to justice, in order to empower communities to claim rights, hold others to account, and effect important changes to relevant governance systems.<sup>179</sup>

Each strategy and approach's potential for impact will be affected by the likelihood of resistance from gatekeepers,<sup>180</sup> or by the potential to decouple relevant gatekeepers' influence or control from such solutions.<sup>181</sup> Most of the suggested strategies and approaches are therefore accompanied with insights into how gatekeepers might respond.

## 1. DRIVING AGENDAS WITH COMMUNITY-LED PROCESSES

Communities can set the agenda for transparency by articulating how decisions should be made concerning their lands, resources, and development.<sup>182</sup> Specific tools for communities to set agendas include autonomous protocols,<sup>183</sup> community bylaws,<sup>184</sup> and community-led development plans.<sup>185</sup> These tools can be used to set clear expectations regarding information sharing, time and support needed, and how communities expect to be involved in decision-making. More broadly, protocols, bylaws and development plans can articulate community priorities concerning self-determination, the management of lands and resources, customary decision-making processes, and visions for development.

**“... the consultation protocol serves as an instrument to give strength... to say we have the right to be consulted in this way, in this timeframe... it is not you who decides who is coming to our villages. We decide.”**

— Indigenous leader from Brazil

Source: Mebratu-Tsegaye, T., and Kazemi, L., Free, prior and informed consent: Addressing political realities to improve impact, CCSI (2020), 24

Community agenda-setting may be needed precisely because communities often are not proactively provided with information and afforded opportunities to participate in decision-making. These transparency shortcomings are often caused by government reluctance to recognize community rights to control their lands and resources, such as FPIC and legitimate tenure rights. Instead, governments restrict information sharing and opportunities for community participation to preserve governmental control over land allocation. For example, governments may focus consultations on the question of compensation, rather than on whether or not the communities consent to the land being taken. The legal status of protocols, bylaws and development plans, and the prospects of gatekeepers respecting them, may vary. Nonetheless, this proactive step can build pressure for community inclusion in investment-related decision-making, and strategically position communities for follow-up responses where their demands are ignored.

## Gatekeeper insights

While governments and companies will usually continue to resist community demands for the right to decide whether or not projects take place, protocols, bylaws, and development plans may be welcomed to the extent that they help gatekeepers navigate the complex social conditions of local communities. Even if gatekeepers resist deferring to community decisions concerning proposed investments, having protocols, bylaws, or development plans may help open up space to discuss how to meaningfully feed community insights into ultimate decisions.

## 2. INCREASING TECHNICAL SUPPORT FOR COMMUNITIES

Technical support—from local allies, civil society, and other experts—is often crucial to enabling communities to access and understand information and to knowledgeably influence decisions relating to land investments. Types of support often needed include legal empowerment, help obtaining early information about projects,<sup>186</sup> and support in identifying lenders, equity investors and insurers linked to projects.<sup>187</sup> Technical support can also help communities: develop protocols, bylaws, and development plans; navigate consultations, negotiations, and other processes; and more effectively pursue grievances or seek redress.<sup>188</sup>

An important part of community support to help access, understand, and use information is the question how such support is funded. Given the vast numbers of project-affected communities around the world and the limited resources of philanthropic and aid donors, new forms of funding are needed to enhance community access to support. The private sector can be a supplementary source of funding. For instance, resource companies have directly paid for lawyers<sup>189</sup> and anthropologists<sup>190</sup> to support communities, and for facilitators and training to help address resolve ongoing conflict.<sup>191</sup> The RSPO's Principles and Criteria also require member companies to ensure that “FPIC is obtained...with option of resourced access to independent advice.”<sup>192</sup> Yet direct company funding introduces the risk of actual or perceived undue influence by the company over the community or its support provider. A “basket fund” approach, where multiple companies and other actors pay into an independently-administered facility that finances community technical assistance, would help to increase community access to support while managing the risk of undue influence.<sup>193</sup> By increasing community access to support, a basket fund could help enhance information access, comprehension, and use in investment-related decision-making.



### Gatekeeper insights

Increasing community access to technical support cuts both ways for companies. While companies are wary of facilitating the entrance of campaigners who bring the prospect of naming and shaming, some companies regard community technical support as crucial to inform interactions, set realistic expectations, and build cooperative relationships between communities and companies.

Several resource company representatives saw a basket fund for community technical assistance as a good idea. But they anticipated challenges in actually securing financial contributions from companies in the absence of binding requirements, such as loan conditions or performance standards. Governments may also resist such an effort if they perceive it as threatening their control over the conduct of investment;<sup>194</sup> involving government—in an appropriate way—in planning for a basket fund may help to mitigate such risks.

### 3. EMPOWERING GOOD FAITH REGULATORS

Communities' ability to access and understand information and influence decisions can be bolstered by empowering good faith regulators and other “reformers” within government. Because such actors often face political barriers to carrying out their mandates, efforts to empower them must be politically attuned, rather than focusing solely on skill development. Lessons from previous attempts at reforming captured sectors reveal that good faith actors' influence can be bolstered by linking them with other credible actors within government and strategic allies beyond government, such as civil society, the private sector, religious groups and academia. Such alliances can boost regulators' legitimacy or increase their collective influence, helping to overcome resistance by reluctant gatekeepers.<sup>195</sup>

### 4. IMPLEMENTING MULTI-STAKEHOLDER AND PARTICIPATORY PROCESSES

Multi-stakeholder processes—which involve a combination of communities, allies, companies, government, and other actors—can create new avenues for communities to obtain relevant information, share their perspectives, and seek to understand and influence decision-makers. While all solutions come with risks for communities, the risks attached to multi-stakeholder processes deserve particularly careful consideration. Such processes can increase the risk of attacks against participating community representatives, who may draw attention to themselves when voicing grievances, making demands, or advocating for potential action.

### Dialogue processes

Dialogues involve having regular meetings among stakeholders, and may be implemented at the project-, landscape-, or national level. Communities can use dialogues to request and obtain information, share their perspectives with gatekeepers, build trust, understand different actors' goals and motivations. Dialogues can also be a vehicle for communities to use information to influence decisions and peacefully resolve grievances.<sup>196</sup>

Multi-stakeholder dialogues can also bring various challenges. Dialogues may introduce new political spaces for community elites to occupy, further marginalizing grassroots perspectives. Elite community members tasked with both representing all community members and faithfully reporting back to them may instead seek to accumulate personal benefits and influence. For this reason, dialogues should act in coordination with community-wide meetings or consultations, rather than replacing them. In addition, dialogues may replicate existing power imbalances and be subject to domination by gatekeepers.<sup>197</sup> Dialogues can also result in frustration if they do not lead to improved outcomes.<sup>198</sup> An emphasis on empowered participation by community representatives, including in deciding on the norms and processes that govern the dialogue, is therefore critical. The presence of impartial actors from civil society and reputable public institutions may also help to engender productive, action-oriented dialogues.<sup>199</sup>

### Gatekeeper insights

While companies are often willing to participate in dialogues, their objectives in doing so can deeply affect outcomes. While “performative” and controlling approaches are unlikely to lead to meaningful dialogue and change,<sup>200</sup> companies participating as part of a commitment to strong community relations may enable more transformative outcomes for participating communities.<sup>201</sup>

### Joint inspections, monitoring, and fact-finding

The co-production of data by communities, allies and gatekeepers—whether through joint inspections, monitoring or fact-finding relating to community grievances—may help increase community access to information and informed community participation in decision-making. Joint processes can correct misleading or inaccurate information, fill evidence gaps, and build trust and shared understandings between actors.<sup>202</sup> Crucial to the co-production of data is what happens to it afterwards: communities must have equal access to the data they help produce, rather than enabling the “extraction” of such data from communities.<sup>203</sup>

### Gatekeeper insights

Joint fact-finding has been financed by individual companies<sup>204</sup> and facilitated by lender-linked grievance mechanisms,<sup>205</sup> indicating some gatekeeper openness. In other instances, however, companies have instead resisted community entry to project areas.<sup>206</sup> One civil society interviewee reported that regulators have agreed to joint inspections, but only for smaller and less politically connected projects.

## 5. FACTORING COMMUNITY-GENERATED INFORMATION INTO INVESTMENT-RELATED DECISIONS

While transparency efforts often focus on information produced by powerful actors, information generation by communities and their allies has transformative potential—for communities and land governance more generally.<sup>207</sup> Communities producing their own information can feed local perspectives into decision-making and governance processes, and highlight deliberately under-examined impacts. This can help communities to break gatekeepers' control over the information upon which decisions are made.<sup>208</sup>

Community information-generation can take different shapes, including:

- Mapping community lands and resources.
- Monitoring—for illegal activities<sup>209</sup> and adverse impacts of investments.<sup>210</sup>
- Community-led human rights impact assessments of investment projects.<sup>211</sup>
- Community-led surveys concerning proposed or current investments.<sup>212</sup>

Community information generation can reinforce community autonomy by increasing gatekeepers' understanding of the significance of Indigenous peoples' and other communities' relationships with lands and ecosystems<sup>213</sup> and their ability to manage and monitor lands.<sup>214</sup> Generating data may also help communities to shape narratives around how ecosystems and resources should be used, and to advance community-centric approaches to land use.

**“ [W]e have decided to watch over our lands and forests, and to get organised to collect and publish information to tell the world what is going on.”**

— Chairperson of the South Rupununi District Council, Guyana, 2017

Source: Wagnon, J, “Closing the Gap: Rights-based solutions for tackling deforestation,” Forest Peoples Programme (FPP), Feb. 15, 2018.

Community information can also produce significant governance outcomes. It can reveal rights violations that are not being addressed by the company or known by the government or the company's investors.<sup>215</sup> Communities have therefore responded to government reliance on company data by calling for processes like environmental and social impact assessments to include consideration of community-generated information.<sup>216</sup> Community information can also help to check inaccurate or misleading information,<sup>217</sup> and resolve factual disputes by filling evidence gaps with crucial local information.<sup>218</sup>

**“ If the company had surveyed even one local person, they would have known about the importance of the spring before they put a waste dump on this spot.”**

— Community member

Source: IAP, Back to development: A call for what development could be (2015), 84.

### Gatekeeper insights

Government representatives are sometimes willing to access community-generated information and such information may help justify findings by good faith regulators regarding deficient participatory processes. Nonetheless, gatekeepers within government may resist any proposal to require them to incorporate such information into decisions.

Some companies may already factor in community-generated information. For instance, one mining company—albeit in a jurisdiction with strong protections of Indigenous rights—is contractually bound to take community-generated information “into consideration for all its decisions when considering the accuracy of impact predictions” and when designing mitigation measures.<sup>219</sup> Other companies view community data with more skepticism: one interviewee with experience working with agribusiness and forestry companies noted that companies would want to verify mapping done by farmers.

Given their removal from the local context, lenders and investors may find community data helpful for due diligence and the improvement of risk assessments.<sup>220</sup> This may be especially so given the growing acknowledgement by lenders, noted by a DFI environmental and social specialist, of a duty to know what is happening at project sites.<sup>221</sup>

## 6. INITIATING DOMESTIC MECHANISMS TO INCREASE PUBLIC ACCESS TO INFORMATION

Domestic governance mechanisms, like “freedom of information” or “right to information” laws and parliamentary approval processes for incoming investment, can help increase disclosures and make decision-making more accountable.<sup>222</sup>

Communities have, with and without support from allies, navigated their country’s right to information laws to obtain information. When visible and accessible to community members, such laws can increase community access to information.<sup>223</sup> Certain design elements and approaches can bolster the transformative potential of such laws and minimize risks to community members. For instance, enabling anonymous information requests may help minimize the risk of reprisals.<sup>224</sup> Further, a right to information framing can help emphasize that information access is a human right, and not something that gatekeepers should be able to control and arbitrarily curtail.<sup>225</sup> Vigilance is also needed against overly broad exceptions to disclosure and other attacks on the right to information in contexts of democratic backsliding or shrinking civic space.

Parliamentarians can build pressure for greater public disclosure and more inclusive decision-making about proposed investment projects.<sup>226</sup> For instance, including parliamentarians as part of decision chains in investment approval may give them more leverage to push for increased public disclosures by the executive. They can also use existing parliamentary processes like budget allocation procedures to access information and push for public disclosure. Of course, parliamentarians themselves may not always be a force for increased transparency; a captured parliament may actually increase the risks of poor transparency.<sup>227</sup>

## 7. EXTENDING COMMUNITY PARTICIPATION BEYOND PROJECTS TO THE POLICY LEVEL

The challenges and limitations of project-level participation through processes, such as consultations, indicate a need for communities to also influence the systems and norms that govern investments and accompanying transparency requirements. While the passing of laws can be met by serious deficiencies in implementation, it is still an important step with wide-ranging ramifications. Enabling community participation in the development of laws and policies can strengthen disclosure and community access, comprehension and use of information in three ways.

First, communities and allies can directly push for laws and policies that operationalize information access (such as through right to information laws) and public participation (such as through requirements for participatory processes in the development of impact assessments). Communities and allies participating in policy and law development can also act as counterweights to elite influence over policy. They could therefore help to build and safeguard the norms underpinning an ecosystem of transparency and good governance, rather than simply being subject to laws agreed upon by elite actors.

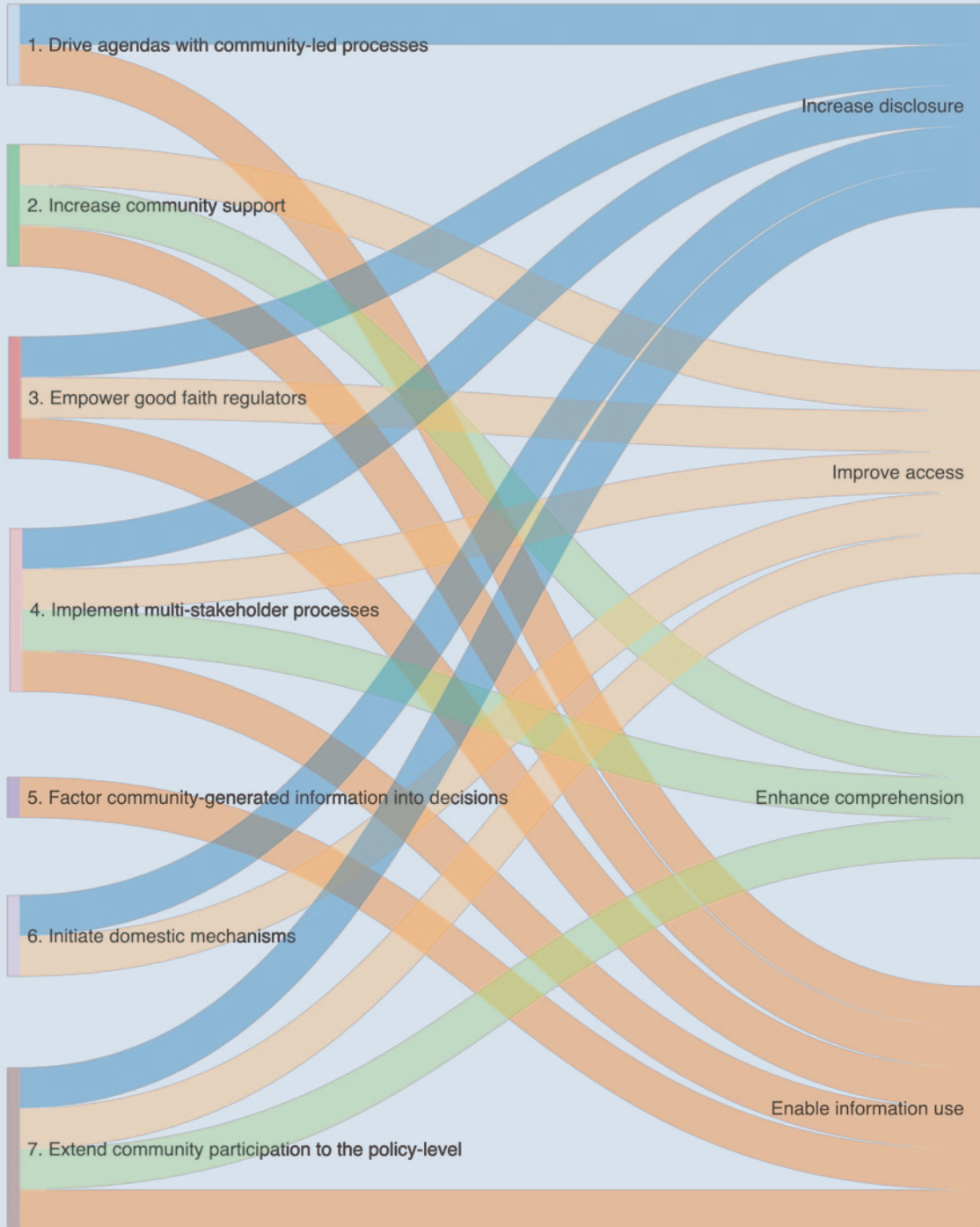
Second, communities can use law and policy processes to strengthen protections of community rights to give or withhold their FPIC and legitimate tenure rights. These rights can bolster community leverage when making demands for information and participation in investment-related decision-making (as discussed in *1. Driving agendas with community-led processes*, above).

Third, transparency entails open governance systems (see *What is land investment transparency?*, above). The development of laws and policies should therefore be open to the participation of communities and other rights holders. Community involvement in law and policy processes can also enhance the responsiveness of governance systems more broadly.

In determining how to create openings for community participation in policy development, communities and their allies can draw inspiration from the experiences of Indigenous representative bodies and peasants’ movements.<sup>228</sup> For example, Bolivia’s experiment with direct parliamentary representation of Indigenous peoples,<sup>229</sup> while made possible by unique political circumstances and subject to challenges in practice,<sup>230</sup> could offer inspiration. Similarly, Cameroon’s LandCam initiative, while still in its early stages, also pursues a model aimed at bridging communities and policy-level conversations. The initiative, which focuses on reforming Cameroonian land governance, encourages the participation of national and grassroots CSOs, along with Indigenous and women’s groups and representatives from project-affected communities, in iterative policy conversations. LandCam also facilitates dialogue with parliamentarians, policy makers, and the private sector. Emerging efforts for an Indigenous Voice in Australia are also grappling with ways to require regular government engagement with Indigenous perspectives on law and policy development.<sup>231</sup> While these examples may not yet have led to systemic change or new laws, they demonstrate potential modalities for how communities can participate in policy development.



FIGURE 2: HOW EACH STRATEGY CAN HELP ADVANCE LAND INVESTMENT TRANSPARENCY



Source: Sam Szoke-Burke.



Community meeting, Guinea Bissau.  
© Shutterstock/TLF Images.

## PART VII

### CONCLUSION AND RECOMMENDATIONS

The enduring governance and accountability challenges of land investments often have important links to the poor state of land investment transparency. While a means to other ends, improved transparency can be as beneficial for communities as for host governments, companies, and investment chain actors. This report calls on donors, global policy makers, and CSOs to conceive of transparency not simply as disclosure of relevant information, but as also including community access, comprehension, and use of that information in open decision-making processes and governance systems. Such actors must also design, and situate, transparency efforts as complements to more transformative governance frameworks, such as human rights, access to justice, and the protection of legitimate tenure rights.

Set out below are recommendations, organized according to each of the seven strategies proposed in this report for advancing more effective land investment transparency. Other more general recommendations follow. In addition to serving as concrete steps for action, these recommendations are intended to contain seeds for the development

of additional insights and approaches to improve disclosure and to enhance communities’ abilities to access, understand, and use information. In doing so, these recommendations can help to

ground land investment transparency efforts in the needs of the communities who so often bear the negative effects of land investments developed without their meaningful involvement.

**TABLE 1: RECOMMENDATIONS**

Strategy	Recommendation for donors	Recommendation for global policy makers	Recommendation for civil society organizations
<p><b>1. Driving agendas with community-led processes that set norms and expectations that advance transparency.</b> (e.g., processes to develop autonomous community protocols, community bylaws, and community-driven development plans)</p> <p><i>See page 29, above.</i></p>	<p>Support communities and their allies to implement community-led processes.</p> <p>Support strategies to bolster gatekeepers’ recognition and respect of the results of community-led processes.</p>	<p>Underscore the legitimacy of community-led processes and the results of such processes.</p> <p>Set norms for when, and how, gatekeepers are required to incorporate the results of community-led processes into decisions.</p>	<p>Continue to raise awareness about, and support the implementation of, community-led processes.</p> <p>Find ways to bolster gatekeepers’ recognition and respect of the results of community-led processes.</p>
<p><b>2. Increasing technical support for communities.</b></p> <p><i>See pages 29–30, above.</i></p>	<p>Continue to support efforts to provide technical assistance to communities to enable them to access, understand, and use information.</p> <p>Support efforts aimed at increasing the availability of technical support, such as a basket fund for community support.</p>	<p>Highlight the importance of community support in fulfilling rights inherent to transparency, such as FPIC and the right to information.</p> <p>In norms and programs, create expectations and requirements for gatekeepers to facilitate and finance independent community support.</p>	<p>Continue to support communities to access and understand information, and to knowledgably participate in investment-related decisions.</p> <p>Amplify calls for gatekeepers to finance community support through mechanisms that guarantee independence of support.</p>
<p><b>3. Empowering good faith regulators.</b></p> <p><i>See page 30, above.</i></p>	<p>Support politically savvy efforts to bolster the influence and performance of good faith regulators.</p>	<p>Continue to underscore the obligations of governments to regulate investment and enable land investment transparency.</p> <p>Develop programs to bolster the legitimacy and influence of good faith regulators.</p>	<p>Find politically savvy ways to support good faith regulators.</p>
<p><b>4. Implementing multi-stakeholder and participatory processes at the project level.</b> (e.g., dialogues, joint inspections, joint monitoring, and joint fact-finding)</p> <p><i>See pages 30–31, above.</i></p>	<p>Critically analyze proposals for multi-stakeholder processes, and support those that address power imbalances and have a real prospect of improving information sharing and informed community participation in investment-related decision-making.</p>	<p>When appropriate, facilitate multi-stakeholder processes that address power imbalances and have a real prospect of improving information sharing and informed community participation in investment-related decision-making.</p>	<p>Support communities to knowledgably participate in multi-stakeholder processes, where appropriate.</p> <p>Continue to explore the potential for multi-stakeholder modalities to improve information sharing and opportunities for communities to influence decisions.</p>
<p><b>5. Factoring community-generated information into investment-related decisions.</b></p> <p><i>See page 31, above.</i></p>	<p>Support community information-generation efforts.</p> <p>Support efforts to ensure decision-makers concretely incorporate such information into investment-related decisions.</p>	<p>Encourage use of community-generated information as a legitimate and useful source of information for investment-related decision-making.</p> <p>Support efforts to ensure that decision-makers concretely incorporate community-generated information into investment-related decisions.</p>	<p>Support communities to generate and use information.</p> <p>Explore and advance ways to ensure that decision-makers concretely incorporate such information into investment-related decisions.</p>

TABLE 1: RECOMMENDATIONS - *continued*

Strategy	Recommendation for donors	Recommendation for global policy makers	Recommendation for civil society organizations
<p><b>6. Initiating domestic mechanisms to increase public access to information.</b> <i>See page 32, above.</i></p>	<p>Continue to support efforts to enshrine and operationalize the right to information and, where appropriate, efforts to bolster parliamentary involvement in investment-related decision-making.</p>	<p>Continue to underscore the importance of the right to information and mechanisms for governments to fulfill it in practice. Continue to articulate the need to protect against the weakening of right-to-information processes and to protect rights holders who seek to invoke such processes. Support, when appropriate, mechanisms for parliamentary involvement in investment-related decision-making.</p>	<p>Continue to advocate for, and support communities to safely use, right-to-information processes. Advocate for such processes to be designed in ways that guard against the risk of retaliation for those who invoke them. Where appropriate, call for parliamentary involvement in investment-related decision-making and support parliamentarians to increase disclosure and community participation in decisions.</p>
<p><b>7. Extending community participation beyond project-level to the policy level.</b> <i>See page 32, above.</i></p>	<p>Support efforts to enable communities to influence the development of laws and policies that affect them, including concerning disclosure, information access, comprehension, and use in open decision-making processes.</p>	<p>Underscore and advance the rights of communities to influence the development of laws and policies that affect them, and the modalities for doing so.</p>	<p>Find effective and context-specific ways to enable communities to influence the development of laws and policies that affect them, including concerning disclosure and information access, comprehension, and use in open decision-making processes.</p>
<p><b>Other transparency interventions, efforts and initiatives. (e.g., development programs and multi-stakeholder initiatives)</b> <i>See pages 8–10, 25–27, above.</i></p>	<p>Support efforts that:</p> <ul style="list-style-type: none"> <li>• conceive of transparency as extending beyond disclosure, to include community access, comprehension, and use of information in open processes;</li> <li>• are grounded in the needs of communities and other local actors; and</li> <li>• seek to navigate, change, or circumvent political barriers.</li> </ul>	<p>Design and implement efforts that:</p> <ul style="list-style-type: none"> <li>• conceive of transparency as extending beyond disclosure, to include community access, comprehension, and use of information in open processes;</li> <li>• are grounded in the needs of communities and other local actors; and</li> <li>• seek to navigate, change, or circumvent political barriers.</li> </ul>	<p>Design and implement efforts that:</p> <ul style="list-style-type: none"> <li>• conceive of transparency as extending beyond disclosure, to include community access, comprehension, and use of information in open processes; and</li> <li>• are grounded in the needs of communities and other local actors; and</li> <li>• seek to navigate, change, or circumvent political barriers.</li> </ul> <p>Build pressure for direct community participation and representation in relevant transparency efforts.</p>
<p><b>On transparency more generally.</b> <i>See pages 8–9, above.</i></p>	<p>Strategically support transparency efforts when they are needed to complement—or fill voids created by the blockage of—more transformational frameworks for improving the governance and accountability of land investments.</p>	<p>Strategically use transparency framings and programming to complement—or fill voids created by the blockage of—more transformational frameworks for improving the governance and accountability of land investments.</p>	<p>Strategically pursue transparency when it can productively complement—or fill voids created by the blockage of—more transformational frameworks for improving the governance and accountability of land investments.</p>



## METHODOLOGY

This report forms part of a portfolio of research conducted by CCSI on a demand-driven approach to the transparency of land investments, focusing on the transparency needs of project-affected communities and host governments. It is based on 36 semi-structured interviews and 12 unstructured interviews and extensive desktop research, including a focus on literature produced by, or heavily focused on the perspectives of, project-affected communities and their local allies. The report also draws from country-specific field and desktop research on land investment transparency in Cameroon and Liberia. In addition to land investments, it draws from experiences in other sectors, such as infrastructure and the extractive industries.

Interviews were conducted with representatives from project-affected communities in Cameroon, Guyana, Kenya, and Liberia, and civil society actors supporting communities in Argentina, Colombia, Cameroon, the Democratic Republic of the Congo, Ghana, India, Liberia, Mexico, Nepal, Haiti, Sierra Leone, and Tanzania. Host government representatives interviewed included officials at ministries of agriculture, environment, and land, as well as investment promotion agencies and a special economic zone, and current and former members of parliament. These government representatives came from Cameroon, one other Central African country, Ethiopia, Indonesia, Liberia, Senegal, and Sierra Leone. Private

sector and DFI interviewees included current and former environmental and social experts, sustainability managers, as well as representatives focusing on external relations, global affairs, loans and finance, and responsible investment stewardship; their interviews drew on experiences with land, resource, or infrastructure projects in Canada, Ghana, Guinea, Laos, Liberia, Malawi, Mali, Mauritania, Mongolia, Nigeria, Sierra Leone, and South Africa.

CCSI's broader research portfolio on land investment transparency benefitted from regular advice and dialogue with an expert advisory group that included:

- **Joan Carling**, Co-Convener of the Indigenous Peoples Major Group for the SDGs and of the Right Energy Partnership
- **Nsama Nsemiwe Chikolwa**, Land Policy Coordinator for the African Union
- **Lorenzo Cotula**, Principal Researcher on Law and Sustainable Development at the International Institute for Environment and Development
- **Erin Kitchell**, Director of Global Programs at Namati
- **Megan MacInnes**, Scottish Land Commissioner and former Land Advisor at Global Witness
- **Win Min**, Senior Programme Associate for Tourism, ICT, and Regulatory at the Myanmar Centre for Responsible Business

# ANNEX: WHAT INFORMATION IS NEEDED?

This annex lists known types of information that communities and their allies may need in the context of land-based investment.<sup>232</sup> It is organized temporally according to the potential life cycle of such investments, though there will be overlap between these stages. All such information should also be made available in language and formats that are comprehensible to communities, including non-technical summaries of documents, as discussed in Information comprehension, above.

Timing	Type of information
Before project approval ↔ Before project proposal	<p><b>Rights and laws, generally</b></p> <ul style="list-style-type: none"> <li>• Individual rights to information, participation, association, and, where relevant, to give or withhold free, prior and informed consent.</li> <li>• Community rights to land and other natural resources.<sup>233</sup></li> <li>• Content of laws, regulations, policies, bylaws, and land use plans governing the management of lands and resources, and investment.</li> <li>• General understanding of legal frameworks and the range of decision-making processes potentially available.</li> <li>• Demonstration of how rights and processes have been effectively used in the country or elsewhere.<sup>234</sup></li> </ul> <p><b>Opportunities for land investment by communities</b></p> <ul style="list-style-type: none"> <li>• Ways for communities to participate in, contribute to, and develop their own, proposals for land investments.</li> </ul> <p><b>Project proposal, implications, and decision-making processes</b></p> <ul style="list-style-type: none"> <li>• The proposed nature, objectives, and size of the project.<sup>235</sup></li> <li>• The location (including boundaries, maps, and geographical coordinates) of the project and any areas that will be affected, and any neighboring or overlapping projects.<sup>236</sup></li> <li>• Preliminary assessments of the project’s likely negative impacts (such as is contained negative environmental, social, and human rights impacts), and preliminary plans for avoidance and mitigation of identified negative impacts.</li> <li>• Preliminary assessments of the project’s likely positive impacts, including information enabling communities to distinguish between promises and reality.<sup>237</sup> Data about benefit spending and employment creation should be granular and disaggregated to avoid raising expectations, and explain how these will meet the community’s conception of benefit, rather than the company’s conception.<sup>238</sup></li> <li>• Likely payments to be made to the host government, and how such payments will reach the community.<sup>239</sup></li> <li>• Information about the project’s aftermath, including what the land will be like afterwards and what generational impacts are likely to occur.<sup>240</sup></li> <li>• Reports commissioned or generated about the project, including impact assessments, baseline studies, scoping reports, feasibility studies, plans, and other external reviews.</li> <li>• Plans for stakeholder engagement and community consultation, including how community feedback will be incorporated into project design.</li> <li>• Alternative formulations of the project that would minimize potential adverse impacts.<sup>241</sup></li> <li>• Alternative development pathways and comparisons between those and the proposed project.<sup>242</sup></li> </ul> <p><b>Applicable rights, laws, and processes</b></p> <ul style="list-style-type: none"> <li>• Evidence of company compliance with applicable laws.<sup>243</sup></li> <li>• The applicable criteria, procedures and timelines for the assessment, approval and establishment of the investment and any land conversion.<sup>244</sup> This includes permitting, bidding, contracting, the calculation of compensation, and community consultations.<sup>245</sup></li> <li>• Community rights relating to public purpose expropriations and forced resettlement.</li> <li>• All authorizations and permits, and contracts, including investor-state contracts, community-investor contracts, and associated subcontracts and documents with intermediary actors or other landholders.<sup>246</sup></li> <li>• All government entities involved in authorizing and regulating the investment project, including contact information for relevant individuals at each entity.<sup>247</sup></li> <li>• Applicable avenues to seek additional access to information established domestically or by the company, investment chain actors, or value chain actors like buyers.</li> </ul>

Timing	Type of information
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Before project approval</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">During the project</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">After the project</p>	<p><b>The company (or companies) carrying out the project</b></p> <ul style="list-style-type: none"> <li>• The company’s directors, shareholders and beneficiaries, parent and associated companies, incorporation details and related documents, company addresses both in the host country and, if the company is foreign-owned, the company’s country of domicile.</li> <li>• The involvement in the company of any “politically exposed persons”—those entrusted with prominent public functions within the host country.<sup>248</sup></li> <li>• The company’s membership in any certification bodies, sustainability initiatives, and industry associations.</li> <li>• Relevant company policies, codes of conduct, and decision-making processes, including community engagement and consultation plans and processes, and grievance mechanisms.<sup>249</sup></li> <li>• The company’s relevant track record and experience. This includes: past involvement in any disputes regarding, or violations of, tenure or human rights; any other negative environmental or social impacts; and any past illegal, corrupt, or unethical conduct; previous experience with similar types of projects; histories of solvency, acquisition and abandonment of projects; and copies of the company’s recent financial statements or, if it is a new company, bank statements showing the capital secured for the investment.</li> <li>• Contact information for the company’s lead on investment.</li> </ul> <p><b>Investment chain actors and financiers</b></p> <ul style="list-style-type: none"> <li>• The project’s lenders, equity investors, and insurers. This should include disclosures of involvement by financial institutions that invest via intermediary institutions.<sup>250</sup></li> <li>• Applicable performance standards and other conditions applying to the company.</li> <li>• Contact information for project leads at relevant lenders, investors and insurers.</li> </ul> <p><b>Buyers and other value chain actors</b></p> <ul style="list-style-type: none"> <li>• Lists of actual and intended purchasers of the commodities produced, and other actors in the supply chain. This includes traders, who buy commodities from companies and sell on to manufacturers and other end users, entities that buy commodities for their own production purposes, and intermediaries who may play a connective role in connecting agricultural producers to end users.<sup>251</sup> It also includes contractors who provide services or carry out jobs on behalf of the project.<sup>252</sup></li> <li>• Information about likely and intended destination countries for the commodities.<sup>253</sup></li> </ul> <p><b>Available avenues for grievance redress</b></p> <ul style="list-style-type: none"> <li>• Domestic legal and administrative avenues for redress.<sup>254</sup></li> <li>• Applicable non-judicial grievance mechanisms established by, or otherwise linked to, the company, its lenders and investors, their customers, and certification and sustainability initiatives.<sup>255</sup></li> </ul> <p><b>Updates on company conduct and project impacts</b></p> <ul style="list-style-type: none"> <li>• Timely and predictable updates on changes and progress made for any of the above.</li> <li>• Regular “refreshes” of explanations to communities regarding the terms of the above, maintenance of ongoing access to documents, and provision of information that is lost or otherwise no longer available.<sup>256</sup></li> <li>• The terms of royalties and other transfers to be made to the community, regardless of whether such terms are included in community-company agreements or other instruments.</li> <li>• Regular, timely and meaningfully disaggregated reporting on: company production and profits;<sup>257</sup> compliance with laws and contracts; benefits shared and transfers made both to community members and government entities;<sup>258</sup> negative impacts caused and measures taken to address those; modalities for ongoing community participation in decision-making, dialogue processes, and grievance mechanisms.</li> </ul> <p><b>What will happen after the project ends</b></p> <ul style="list-style-type: none"> <li>• Who the land will revert to following the company’s exit, and the process for returning control of the land.</li> <li>• Responsibilities, and the process, for rehabilitating any damage to the land caused by the investment.</li> <li>• Remedy pathways for any right violations or losses incurred, and avenues for obtaining those.</li> <li>• How any benefit sharing or community development arrangements linked to the project will be affected by the company’s exit, and arrangements for the continuation or winding down of remaining reserves.</li> </ul>



## ENDNOTES

1. Szoke-Burke, S., "Land and resource investment consultations in the time of COVID-19: The hazards of pressing on," *Thomson Reuters Foundation News* (May 24, 2020); Cotula, L., "Stopping land and policy grabs in the shadow of COVID-19" *Thomson Reuters Foundation News* (May 27, 2020); Farand, C., "India eyes private investment to open 41 new coal mines," *Climate Home News* (June 19, 2020).
2. Indigenous Peoples Rights International, *Criminalization and impunity against indigenous peoples in the of Covid 19: A mid-year special issue of Indigenous Peoples Rights International (IPRI) on the Global Initiative to Address and Prevent Criminalization of and Impunity Against Indigenous Peoples*, (2020) Baguio City, Philippines; Global Witness, *Governments and business must stand up for land and environmental defenders now, so that they can help build a more resilient and fair future for us and our planet* (May 7, 2020).
3. De Freitas Paes, C., "Invasão de madeireiros no "arco do desmatamento" aumenta risco de contágio na Amazônia," *De Olho Nos Ruralistas: Observatório do agronegócio no Brasil* (April 5, 2020).
4. Cotula, L., "Towards a political economy of the COVID-19 crisis: Reflections on an agenda for research and action," *World Development*. Vol. 138, (2021); Jong, H. N., "Indonesian lawmakers push to pass deregulation bills as COVID-19 grips country," *Mongabay* (April 6, 2020); Spring, J., "Brazil minister calls for environmental deregulation while public distracted by COVID," *Reuters* (May 22, 2020); Asia Indigenous Pact, Coalition for Tenure Justice in Indonesia, Rights and Resources Initiative, *Under the cover of COVID: New laws in Asia favor business at the cost of Indigenous peoples' and local communities' land and territorial rights*, Rights and Resources Initiative (Nov, 2020).
5. Salomão, A., *The Impact of Covid-19 on the Land Sector in Mozambique*, LANDac (June 10, 2020).
6. Barrett, P., Chan, S., and Li, N., "COVID's Long Shadow: Social Repercussions of Pandemics," *IMFBlog* (Feb. 3, 2021).
7. This is not limited to lands and resources over which community members have formalized legal ownership. Instead it includes lands and resources: over which community members have legitimate tenure rights; from which they derive livelihoods and sustenance; which are inextricably linked to important social networks; and/or which are culturally or spiritually important.
8. Szoke-Burke, S., *Transparency of land-based investments: Cameroon country snapshot*, Columbia Center on Sustainable Investment (CCSI) (2021).
9. Mousseau, F., *The highest bidder takes it all: The World Bank's new scheme to privatize land in the global south*, The Bretton Woods Project (April, 2019).
10. UN Office of the High Commissioner for Human Rights (OHCHR), *"The World Bank is a Human Rights-Free Zone" – UN expert on extreme poverty expresses deep concern*, (Sep. 29, 2015); International Monetary Fund (IMF), *Updated guidance note on the fund's transparency policy* (Apr. 7, 2014); IMF, *Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles* (Sep. 26, 1999); International Finance Corporation (IFC), *Performance Standard 1, Stakeholder Engagement*, paras. 25-33.
11. Carothers, T. and Brechenmacher, S., *Accountability, transparency, participation, and inclusion: A new development consensus?*, Carnegie Endowment for International Peace (2014); Kazemi, L. and Jarvis, M., *Getting the most out of extractive industries transparency: How a more explicit treatment of political considerations could strengthen the impact of transparency efforts*, CCSI (2020); Mebratu-Tsegaye, T. and Kazemi, L., *Free, prior and informed consent: Addressing political realities to improve impact*, CCSI (2020).
12. Locke, A. and Henley, G., *The possible shape of a land transparency initiative*, ODI (Sep. 30, 2013), vi.
13. Hale, C. R., "Does multiculturalism menace? Governance, cultural rights and the politics of identity in Guatemala," *Journal of Latin American Studies*. Vol. 34, (2002), 509-511; Szoke-Burke, S. and Werker, E., "Benefit sharing, power, and the performance of multi-stakeholder institutions at Ghana's Ahafo mine," *Resources Policy*. Vol. 71, (2021), 4.
14. Kosack, S. and Fung, A., "Does transparency improve governance?" *Annual Review of Political Science*. Vol. 17(65), (2014); Gaventa, J., "Can transparency make extractive industries more accountable?" *Institute for Development Studies* (Feb. 8, 2019).
15. Carothers, T. and Brechenmacher, S., above note 11, 11 (noting that "[s]ome transparency programs are narrowly designed to make government data more easily accessible to private sector and other stakeholders and do not attempt to consciously link these transparency mechanisms to accountability or participatory processes.>").
16. Cotula, L., Vermeulen, S., Leonard, R., and Keeley, J., *Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa*, FAO, IIEED, and IFAD (2009); Global Witness, *International Land Coalition, and the Oakland Institute, Dealing with disclosure: Improving transparency in decision-making over large-scale land acquisitions, allocations and investments* (2012); Centre pour l'Environnement et le Développement, *La transparence dans le secteur foncier au Cameroun: Etude de case préliminaire de la cohabitation entre agro-industries et communautés locales et autochtones* (2013); CCSI and the Open Contracting Partnership, *Transparency in Land-Based Investment: Key Questions and Next Steps* (Mar. 2016); CCSI, *Recommending Transparency in Land-Based Investment: A Summary of Relevant Guidelines and Principles* (Mar. 2016); Webb, J., Petersen, R., Moses, E., Excell, C., Weisse, M., Bourgault, L. and Szoke-Burke, S., *Logging, Mining and Agricultural Concessions Data Transparency: A Survey of 14 Forested Countries*, World Resources Institute (2017).
17. Kazemi, L. and Jarvis, M., above note 11, 12.
18. The elements of access, understanding, and use were previously identified by Global Witness et al., above note 16, 9 ("Transparency [...] includes not only the rights of communities to access this information, but their ability to understand and use it to demand better governance.>").
19. International Accountability Project (IAP), *Back to development: A call for what development could be* (2015).
20. Domestic constitutions and laws also often create legal duties on governments to, for example, ensure access to information, and to include community consultations in impact assessment processes.
21. Many other rights may also inform LIT in specific cases, such as, for Indigenous and tribal peoples, the right to give or withhold their free, prior and informed consent.
22. International Covenant on Civil and Political Rights, Art. 19(2), *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) (ICCPR) (linked to freedom of speech). Many domestic constitutions also include a fundamental right of access to information.
23. ICCPR, Art. 25; *Moiwana Community v. Suriname*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 125, paras. 131–34 (June 15, 2005); *Saramaka People v. Suriname*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 172, paras. 82–86 (Nov. 28, 2007).
24. ICCPR, Art. 2(3).
25. *Endorois/ Center for Minority Rights and Development & Others v Kenya*, 276/03, February 4, 2010, paras. 187, 226, 238, 266-268; *Moiwana Community v. Suriname* (Ser. C) No. 124, Judgment of June 15, 2005, paras. 133 and 199.2(h); UN Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations - India*, CERD/C/IND/CO/19, May 5, 2007, para. 19.

26. African Commission on Human and Peoples' Rights, *Endorois Welfare Council*, Communication No. 276/2003, paras. 281, 282, 290-292, 298; UN Economic Commission for Latin America and the Caribbean, Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters (the Escazu agreement), LC/PUB.2018/8 (2018), preamble; G.A. Res. 41/128 (Dec. 4, 1986), *Declaration on the Right to Development*, Arts 2 and 8(2).
27. Human Rights Committee, Poma Poma, Communication No. 1457/2006, paras. 7.6 and 7.7; *Kichwa People of Sarayaku and its members v. Ecuador* (Ser. C) No. 245, Judgment of June 27, 2012, para. 159; *General comment no. 21, Right of everyone to take part in cultural life (Art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights)*, 21 December 2009, E/C.12/GC/21, para. 55(e).
28. UN Committee on the Elimination of Discrimination against Women, General recommendation No. 34 on the rights of rural women, CEDAW/C/GC/34 (Mar. 4, 2016), para 52(e).
29. UN Economic Commission for Europe, *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* (Aarhus Convention), 2161 UNTS 447, June 25, 1998; Escazu agreement, Arts. 2(a), 4.1, 4.5.
30. UN Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11), E/C.12/1999/5 (May 12, 1999), para. 23.
31. International Labour Organization, Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries, 1650 U.N.T.S. 383 (ILO 169), Arts. 6(1)(b), 16(2); G.A. Res. 61/295, United Nations Declaration on the Rights of Indigenous Peoples, (Oct. 2, 2007) (UNDRIP), Arts. 5, 10, 18, 32(2).
32. Locke, A., Munden, L., Feyertag, J. and Bowie, B., "Assessing the Costs of Tenure Risks to Agribusiness," ODI and TMP Systems (Feb. 2019); Drost, S., Rijk, G., Piotrowski, M., and Wiggs, C., "Oil Palm Growers Exposed to USD 0.4-5.9B in Social Compensation Risk," Chain Reaction Research (Dec. 9, 2019); USAID, *2018 Investor Survey on Land Rights*, USAID (2018).
33. Ray, J.R., Gallagher, K. and Sanborn, C., *Standardizing Sustainable Development: Development Banks in the Andean Amazon*, Boston University Global Development Policy Center (2018), 3 and 15. ("projects that took place within regulatory frameworks that guaranteed access to prior consultation for affected indigenous communities were associated with significantly less deforestation than those projects that did not").
34. The degree to which the government, a company, or another actor may be the ultimate gatekeeper to certain information or specific decision-making processes can vary. Nonetheless, each actor may be able to block rights holder access to information and processes within its ultimate control, and can thus act as a gatekeeper in such situations. While other transparency literature may refer to "data producers" or "information producers," we use the terminology of gatekeeping, given that LIT encompasses more than information disclosure.
35. For example, workers may have additional information needs around labor rights, the longevity and nature of their roles, and avenues for redress or grievance as workers.
36. For example, small-scale producers' information needs may include information about the buyer-seller relationship, the consumer-facing brand that ultimately purchases their goods and that brand's sustainability commitments, broader market conditions and prices (including prices paid in the past or by other companies for goods of similar quality), and their rights and responsibilities as suppliers to companies.
37. Andrason, A. and van Schalkwyk, F., *Opportune niches in data ecosystems: Open data intermediaries in the agriculture sector in Ghana* (March 2017); Van Schalkwyk, F., Cañares, M., Chattapathyay, S. and Andrason, A., "Open Data Intermediaries in Developing Countries," *Journal of Community Informatics*. Vol 12(2), (2016).
38. Johnson, L., Sachs, L., and Lobel, N., *Aligning international investment agreements with the Sustainable Development Goals*, CCSI (2016); Grabs, J. and Carodeno, S. L., "Traders as sustainability governance actors in global food supply chains: A research agenda," *Business Strategy and the Environment*. Vol 30(2), (2021).
39. Instances where information disclosure should be restricted to communities and their allies, as opposed to the public at large, while extremely rare, may include situations where genuinely in the public interest: for instance, where public disclosure could introduce new risks of conflict and violence.
40. Amyx, J., & Toyoda, A. M. (2006). The evolving role of national development banks in East Asia. *The International Centre for the Study of East Asian Development Working Paper Series*, 26.
41. IFC, *Data in Action: Natural Resources Disclosure for People and Progress*, IFC (2020). ("Communities are most interested in specific insights about their municipality, district, or mining project site.")
42. IFC, above note 41, 10 ("Companies and governments should deliberately assess community information needs to inform data collection strategies and disclosure.")
43. Szoke-Burke, S., above note 8.
44. See, e.g., OpenLandContracts.org, which features plain language summaries of environmental, social, fiscal, operational and other clauses of contracts for agricultural, forestry and other land-based investment projects.
45. Center for Human Rights and Global Justice, The Human Rights Defenders Series Presents 'Understanding Haiti today: Human rights, the resource curse, and the plunder of poverty: A talk with Nixon Boumba of the Haiti Mining Justice Collective,' (Feb. 7, 2014) (Describing "screenings of a video 'postcard' made by GJC students that conveyed advice and shared experiences from a mining-impacted community in Papua New Guinea, the site of another GJC project.")
46. Austin, P., "Guinea's Simandou dilemma," *LinkedIn* (Sep. 20, 2020).
47. See, e.g., the community-driven development work of IAP and of Advocates for Community Alternatives, and the work of La Via Campesina on agroecology.
48. Mebratu-Tsegaye, T. and Kazemi, L., above note 11, 6.
49. Cotula, L., and Berger, T., *Legal empowerment in agribusiness investments: Harnessing political economy analysis*, Land: Enhancing Governance for Economic Development (LEGEND) Analytical Paper, Land Portal (2017), 12.
50. Global Witness, et al., above note 16, 31; Szoke-Burke, S. and Cordes, K. Y., *Governing Land Investments: Do Governments Have Legal Support Gaps?*, CCSI (2018), 6, 7, and 24; Mirza, H., Speller, W., Dixie, G., and Goodman, Z., "The Practice of Responsible Investment Principles in Larger-Scale Agricultural Investments," The World Bank (2014), 13; World Bank and UNCTAD, *Responsible Agricultural Investment (RAI): Knowledge into Action Notes series*, (2018), Note 6: Screening Prospective Investors, 3; McEwan, C., "Spatial processes and politics of renewable energy transition: Land, zones and frictions in South Africa," *Political Geography* (2017), 56.
51. Tiwodoj, M., "The Political Economy of Public Expenditures in Agriculture: Applications of Concepts to Mozambique," *South African Journal of Economics*. Vol. 84(1), (Feb. 2015), 1; Cotula, L., *Land deals in Africa: What is in the contracts?*, International Institute for Environment and Development (IIED) (2011), 25.
52. Chome, N., Gonçalves, E., Scoones, I., and Sulle, E., "Demonstration fields, anticipation, and contestation: agrarian change and the political economy of development corridors in Eastern Africa," *Journal of Eastern African Studies* (2020), 292; Cotula, L. and Berger, T., above note 49.
53. De Schutter, O., *Tainted Lands, Corruption in Large Scale Land Deals*, London: ICAR and Global Witness (2016); Cotula, L. and Berger, T., above note 49.
54. Hilton, A. Wehrmann, B., and Beall, E., "Safeguarding land tenure rights in the context of agricultural investment," The Food and Agriculture Organization of the United Nations (2015), 60; Global Witness, et al., above note 16, 27 and 28; Mirza, H., et al., above note 50, 13.
55. Cotula, L., *Foreign Investment, Law and Sustainable Development: A Handbook on Agriculture and Extractive Industries*, IIED (2016), 111 and 114.

56. McDaid, L., “Renewable energy independent power producer procurement programme review,” Electricity Governance Initiative South Africa and World Resources Institute (2014), 33; Global Witness, “Making the forest sector transparent: annual transparency report 2010,” (2011), 36; Global Witness, “Making the forest sector transparent: annual transparency report 2009,” (2010), 18; Bartley, T., “Rules without Rights: Land, Labor, and Private Authority in the Global Economy,” *Oxford Scholar Press* (2018), Ch. 3.
57. Interview with civil society representative (describing a Central African country’s Minister of Forests’ decision to publish forestry data as being based on a desire to stop lower level officials controlling access to such data, from which they were allegedly obtaining illicit benefits).
58. Gerber, N. and Danyi Kuusaana, E., “Institutional Synergies in Customary Land Markets—Selected Case Studies of Large-Scale Land Acquisitions (LSLAs) in Ghana,” *Land*. Vol. 4(3), (2015), 842-868 and 857; Lavers, T. and Boamah, F., “The impact of agricultural investments on state capacity: a comparative analysis of Ethiopia and Ghana” *Geoforum*. Vol. 72, (Jun. 2016), 101-102.
59. See, e.g., UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development (Oct 21, 2015), UN Doc A/Res/70/1; Raworth, K., “Doughnut economics: Seven ways to think like a 21st-century economist,” Random House (2017).
60. Gachanja, J., Osiolo, H. H., and Pueyo, P., “The Political Economy of Investment in Renewable Electricity in Kenya,” Institute of Development Studies, *Green Power for Africa: Overcoming the Main Constraints*. Vol. 48(5-6), 136.
61. Gachanja, J., et al., above note 60, 137; McEwan, C., above note 50, 5.
62. Chinsinga, B., Chasukwa, M., and Zuka, S. P., “The Political Economy of Land Grabs in Malawi: Investigating the Contribution of Limphasa Sugar Corporation to Rural Development,” *J Agric Environ Ethics*. Vol. 26, (2013), 1065–1084; Gachanja, J., et al., above note 60.
63. Chinsinga, B., above note 62, 1075; Persson, A.G., “Foreign Direct Investment in Large-Scale Agriculture in Africa,” London: Routledge (2019), 74 and 87.
64. Gachanja, J., et al., above note 60, 127.
65. Vermeulen, S. and Cotula, L., “Over the heads of local people: consultation, consent, and recompense in large-scale land deals for biofuels projects in Africa,” *The Journal of Peasant Studies*. Vol. 37(4), (2010), 899-916 and 899.
66. Global Witness, et al., above note 16, 31; CCSI, above note 50, 6, 7 and 24.
67. Interview with former host government representative.
68. Szoke-Burke, S., above note 8.
69. Interview with former host government environmental regulator.
70. Gachanja, J., et al., above note 60, 133.
71. Bartley, T., above note 56, 100-101.
72. Interview with former minister of agriculture.
73. Szoke-Burke, S. and Cordes, K. Y., above note 50.
74. Cotula, L. and Berger, T., above note 49; Gaworecki, M., “Cables reveal US gov’t role in Herakles Farms land grab in Cameroon,” *Mongabay* (Aug. 30, 2016).
75. Global Witness, above note 56, 15; Cotula, L., above note 51, 18; Smalley, R. and Corbera, E., “Large-scale land deals from the inside out: findings from Kenya’s Tana Delta,” *The Journal of Peasant Studies*. Vol. 39(3-4), (2012), 1039-1075 and 1042.
76. Cotula, L., *The Great African Land Grab?: Agricultural Investments and the Global Food System*, London: Zed Books (2013), 54.
77. Interview with private sector consultant with experience in agribusiness and forestry.
78. See also Beddewela, E., and Fairbrass, J., “Seeking Legitimacy Through CSR: Institutional Pressures and Corporate Responses of Multinationals in Sri Lanka,” *Journal of Business Ethics* (2016), 136.
79. This is exacerbated by the IFC’s contract disclosure requirement only applying to extractive industry, and not land investment, projects: Extractive Industries Transparency Initiative (EITI), *Guidance note 7: Contract transparency* (Sep. 2017), EITI, 7.
80. Interview with private sector consultant with experience in agribusiness and forestry.
81. Interview with civil society representative.
82. Interview with mining company sustainability manager; MacInnes, A., *First Resources: Hiding in the shadows?*, Forest Peoples Programme (FPP) (Feb. 2021).
83. Locke, A., et al., above note 32; Davis, R. and Franks, D., *Costs of company-community conflict in the extractives sector*, Corporate Social Responsibility Initiative Report No. 66. Cambridge, MA: Harvard Kennedy School (2014); Drost, S., et al., above note 32; USAID, above note 32; Fredericks, C., et al., *Social Cost and Material Loss: The Dakota Access Pipeline*, First Peoples Worldwide and University of Colorado Boulder (November 2018), 10.
84. See, e.g., ABC News, *Wagima Island residents win bid to stop bauxite mining plan in Solomon Islands* (Nov. 6, 2020).
85. Locke, A., et al., above note 32; Gardner, T. A., et al., “Transparency and sustainability in global commodity supply chains,” *World Development* (2019).
86. Davis, R. and Franks, D., above note 83, 8-9.
87. Interview with agribusiness representative.
88. White, B., Borrás Jr., S. M., Hall, R., Scoones, I., and Wolford, W., “The new enclosures: critical perspectives on corporate land deals,” *The Journal of Peasant Studies*. Vol. 39(3-4), (2012), 621; Webb, J., et al., above note 16, 4.
89. Interview with private sector consultant with experience in agribusiness and forestry and with former agribusiness sustainability and external relations manager; Centre for Indian Knowledge Systems, Chennai, *Good Practices for Producer Companies*, 12.
90. Frynas, J. G. and Yamahaki, C., “Corporate social responsibility: review and roadmap of theoretical perspectives,” *Business Ethics*. Vol. 25(3), (Jul. 2016); Rademaekers, K., Williams, R., Ellis, R., Smith, M., Svatikova, K., and Valentijn, B., *Study on Incentives Driving Improvement of Environmental Performance of Companies*, ECORYS (2012); Gardner, T. A., et al., above note 85; Interview with agribusiness sustainability manager.
91. Tannis, T., “A move beyond sustainability certification: The evolution of the chocolate industry’s sustainable sourcing practices” *Business Strategy and the Environment* (Jul. 30, 2018), 2.
92. Welker, M., *Enacting the Corporation: An American Mining Firm in Post-Authoritarian Indonesia*, Berkeley, US: University of California Press, 2014, 27 (noting that “[s]pending less on community development obviously reduces expenditures but can also generate community opposition, costing the company more in the long term.”).
93. See, eg, Leigh Day, *Legal claim by more than 2,500 Zambian villagers in a case against Vedanta Resources Limited* (Jan. 19, 2021).
94. See, e.g., Complaint to the Australian National Contact Point for the OECD Guidelines for Multinational Enterprises, submitted by Equitable Cambodia and Inclusive Development International on behalf of Cambodian families.
95. See, e.g., IFC Performance Standard 1 (information disclosure) and 7 (Indigenous peoples); Equator Principles (July 2020) (which apply the IFC PS to EP financial institution-issued project finance (\$10 million or more) and corporate loans (\$50 million or more)).
96. Fredericks, C., et al., above note 83, 38-39 (noting that personal bank account closures alone resulted in a loss of \$86.2 million and losses associated with lost city accounts totalled more than \$4.3 billion).
97. Fredericks, C., et al., above note 83, 28-29, and 52 (describing a stock price decline from USD \$30.15 to USD \$19 in the course of one year).

98. Lakhani, N., “Backers of Honduran dam opposed by murdered activist withdraw funding,” *The Guardian* (Jun. 4, 2017). (stating that “FMO and FinnFund told the Guardian they ‘intend to exit as soon as possible. However, project financing being a complicated field, many aspects and issues have to be cleared from contractual and responsibility perspectives.’”); Fredericks, C., et al., above note 83, 40; Francis, D., “Kinder Morgan’s divestment from Trans Mountain a huge black eye for Canada,” *Financial Post* (Jun. 2018).
99. “ANZ Agrees to Landmark Settlement with Cambodian Farmers Displaced by Sugar Company It Financed,” *BankTrack* (Feb. 2020).
100. Dirty Bankers: How HSBC is Financing Forest Destruction for Palm Oil,” *Greenpeace* (Oct. 2008); Fredericks, C., et al., above note 83, 9-10.
101. Herbohn, G. and Clarkson, “Evidence on Whether Banks Consider Carbon Risk in Their Lending Decisions,” *Journal of Business Ethics* (Aug. 2019), 161.
102. Cordes, K. Y., “Opening Up Land Contracts and Land Data ... With Caution,” *State of the Planet* (Sep. 21, 2016).
103. Benjamin, S., Bhuvanewari, R., Rajan, P., and Manjunatha, *Bhoomi: ‘E-Governance’, Or, An Anti-Politics Machine Necessary to Globalize Bangalore?*, A CASUM-m Working Paper (2007).
104. Interview with community member.
105. Interview with consultant to an international organization.
106. Pelliconi, A., Zbona, A., and Dobson, C., *In the line of fire: Increased legal protection needed as attacks against business & human rights defenders mount in 2020*, Business & Human Rights Resource Centre (Mar 2021).
107. Brinkerhoff, D.W. and Wetterberg, A., “Policy brief: Governance and Sector Outcomes: Making the Connections,” RTI Press (Sep. 2018), 9.
108. Szoke-Burke, S. and Cordes, K. Y., “Mechanisms for Consultation and Free, Prior and Informed Consent in the Negotiation of Investment Contracts,” *Northwestern Journal of International Law and Business*. Vol. 41, (2020).
109. Global Witness, et al., above note 16, 9.
110. Cotula, L., above note 51, 3; Szoke-Burke, S. and Cordes, K. Y., above note 50, 24.
111. Szoke-Burke, S., above note 8.
112. Interviews with civil society representatives (“the information was smuggled to us somehow”); Centre pour l’Environnement et le Développement, above note 1616, 11.
113. Interview with former host government representative, with donor, and with civil society representatives.
114. Interview with community representative and with civil society representative.
115. Interview with civil society representative; Limbu, S. and Akali, S., “Gaps in World Bank’s Access to Information approach are failing Nepali communities and perpetuating violence,” *Accountability Counsel* (Sep. 28, 2018)
116. Perram, A., *Behind the Veil: Transparency, Access to Information and Community Rights in Cameroon’s Forestry Sector*, FPP (2015), 13.
117. Interview with community representative.
118. Centre pour l’Environnement et le Développement, above note 1616, 11.
119. Interview with donor.
120. See, e.g. Liberia’s LEITI web portal [<http://www.leiti.org.lr/contracts-and-concessions.html>]; the Cameroon Forest Atlas [<https://cmr.forest-atlas.org/map/>]; and the Central African Republic’s Voluntary Partnership Agreement site [<https://www.apvrca.org/index.php/liste-documents>].
121. See, e.g., FarmLandGrabs.org’s contract collection [[https://www.farmlandgrab.org/home/post\\_special?filter=contracts](https://www.farmlandgrab.org/home/post_special?filter=contracts)]; OpenLandContracts.org; OpenTimberPortal.org; L’Observatoire des forêts d’Afrique Central [[https://www.observatoire-comifac.net/monitoring\\_system/concessions\\_indicators](https://www.observatoire-comifac.net/monitoring_system/concessions_indicators)]; OpenDevelopmentCambodia.net; Early Warning System [<https://ews.rightsindevelopment.org/>]; and the IFC Project Information & Data Portal [<https://disclosures.ifc.org/>].
122. Interview with community representative.
123. Interview with community representative.
124. This need persists despite longstanding guidance in leading finance norms like the IFC’s performance standards, which require disclosure of relevant information “in a culturally appropriate local language(s) and format that is understandable to Affected Communities.” IFC, *Performance Standard 1*, above note 10, para. 30.
125. IAP, above note 19, 33.
126. For instance, in Cameroon, provisional conventions for timber harvesting expire after three years after which uncertainty can arise as to whether an operator has obtained a permanent convention, another provisional convention, or whether they have lost their right to harvest.
127. IAP, above note 19, 84 (finding that “85% of those consulted [by researchers] don’t think their ideas or opinions were incorporated into [investment] project plans”).
128. Kidd, D., “Extra-activism: counter-mapping and data justice,” *Information, Communication & Society*. Vol. 22(7), 954-970, citing Renzi, R. and Langlois, G., “Data activism,” in G. Elmer, G. Langlois, & J. Redden (Eds.), *Compromised data: New paradigms in social media theory and methods* (2015), 202.
129. Robbins, P., “Beyond Ground Truth: GIS and the Environmental Knowledge of Herders, Professional Foresters, and Other Traditional Communities,” *Human Ecology*. Vol. 31(2), (Jun. 2003), 246. (Noting that foresters and pastoralists had different definitions of forest cover in their respective maps, and that such divergences “suggest fundamental resource priorities and issues of control, such that both reflect the culture and politics of their respective communities.”).
130. Griffiths, T., Levy, A., Madan, G., Versteegen, A., and Whitehead, J., *Ground-truthing to improve due diligence on human rights in deforestation-risk supply chains: Discussion paper*, FPP (Feb 2020), 5.
131. Szoke-Burke, S. and Cordes, K. Y., above note 50, 32.
132. Interview with former host government environmental regulator (explaining that the government would allow company non-compliance with environmental laws because of a desire not to be “harsh” to companies that provide the government with fiscal revenue).
133. ILO 169, Art. 16; UNDRIP, Arts. 10, 19 and 32. For an example of inclusion in domestic law, see *An Act Instituting a New System of Mineral Resources Exploration, Development, Utilization, and Conservation* (Mar. 3, 1995) (The Philippines), Art. 16. FPIC rights have been accorded to all communities in certain context. See, e.g., Liberia’s Land Rights Act 2018, Art. 33(3); Forest Stewardship Council, *Principles and Criteria for Forest Stewardship* (2015), para. 4.8 2015; Roundtable on Sustainable Palm Oil (RSPO), *Principles and Criteria for Sustainable Palm Oil Production 2018* (revised Feb. 1, 2020), criteria 4.4-4.7. Non-Indigenous communities can also draw on their human rights to information and public participation: Szoke-Burke, S. and Cordes, K. Y., above note 50.
134. Food and Agriculture Organization of the United Nations (FAO), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), Report of the 38th (Special) Session of the Committee on World Food Security (May 11, 2012), Art. 3.1(1); Committee on World Food Security, *Principles for responsible investment in agriculture and food systems*, FAO, IFAD and WFP (2014), Principle 5, Art. 25.
135. *Baleni and Others v Minister of Mineral Resources and Others* (73768/2016) [2018] ZAGPPHC 829; [2019] 1 All SA 358 (GP); 2019 (2) SA 453 (GP) (22 November 2018), paras. 79 and 84.2; Marchegiani, P., *Argentinian National Ombudsman Issues Resolution Recognizing Kachi Yupi Community Protocol*, Natural Justice (May 26, 2016).
136. Interviews with former host government environmental regulator and with community representative; Szoke-Burke, S., above note 8.
137. Mebratu-Tsegaye, T. and Kazemi, L., above note 11, 5.
138. Salcito, K., *FPIC at the IFC How Performance Standard 7 Could Better Protect Indigenous Peoples and Uphold Human Rights, Nomogaia* (Oct 2020).



139. Accountability Counsel, *Oaxaca, Mexico: Communities who challenge human rights abuse and win*, Accountability Counsel (Sep. 30, 2016).
140. Feintrenie, L., “Agro-industrial plantations in Central Africa, risks and opportunities,” *Biodiversity and Conservation*. Vol. 23(6), (2014), 1577-1589.
141. UN General Assembly, Report of the special rapporteur on extreme poverty and human rights, UN Doc A/73/396 (Sep. 26, 2018), paras. 62-64.
142. Merino, R., “Re-politicizing participation or reframing environmental governance? Beyond indigenous’ prior consultation and citizen participation,” *World Development*. Vol. 111, (2018), 81; Hale, C. R., above note 13, 509-511; Szoke-Burke, S. and Werker, E., above note 13, 4; Petkar, I., and Schweisfurth, L., *Can communities lead their own development in places where civil society is severely restricted? Development banks think so*, IAP (Apr. 15, 2020).
143. Rodríguez-Garavito, C., “Ethnicity.gov: Global Governance, Indigenous Peoples, and the Right to Prior Consultation in Social Minefields,” *Indiana Journal of Global Legal Studies*. Vol. 18(1), (2011), 304-305.
144. Pellegrini, L., and Ribera Arismendi, M. O., “Consultation, Compensation and Extraction in Bolivia after the ‘Left Turn’: The Case of Oil Exploration in the North of La Paz Department,” *Journal of Latin American Geography*. Vol. 11(2), (2012).
145. Merino, R., above note 142, 82; Carothers, T. and Brechenmacher, S., above note 11, 11-12; Pellegrini, L., and Ribera Arismendi, M. O., above note 144.
146. Merino, R., above note 142, 82.
147. EITI, “Who we are,” EITI, <https://eiti.org/who-we-are>.
148. EITI, “History of the EITI,” EITI, <https://eiti.org/history#early-beginnings>.
149. EITI, above note 148.
150. Klein, A., “Pioneering extractive sector transparency. A PWYP perspective on 15 Years of EITI,” *The Extractive Industries and Society*. Vol. 4(4), (2017), 771-774.
151. Arond, E., Bebbington, A., and Dammert, J. L., “NGOs as innovators in extractive industry governance. Insights from the EITI process in Colombia and Peru,” *The Extractive Industries and Society*. Vol. 6(3), (2019), 665-674; Bebbington, A., Arond, E., and Dammert, J. L., “Explaining diverse national responses to the Extractive Industries Transparency Initiative in the Andes: what sort of politics matters?” *The Extractive Industries and Society*. Vol. 4(4), (2017), 833-841.
152. Vijge, M. J., “The (Dis)empowering Effects of Transparency Beyond Information Disclosure: The Extractive Industries Transparency Initiative in Myanmar,” *Global Environmental Politics*. Vol. 18(1), (2018), 13-32.
153. Arond, E. et al., above note 151.
154. Osuoka, I., “Cooptation and contention: Public participation in the Nigeria Extractive Industries Transparency Initiative and the demand for accountable government,” *The Extractive Industries and Society* (2019).
155. Arond, E. et al., above note 151.
156. Murombo, T., “The Effectiveness of Initiatives to Promote Good Governance, Accountability and Transparency in the Extractives Sector in Zimbabwe,” *SSRN Electronic Journal* (2014).
157. Grudz, S. et al., “Multi-Stakeholder Initiatives: Lessons Learned,” United States Agency for International Development (2018), 2.
158. Kazemi, L. and Jarvis, M., above note 11.
159. See, e.g., Voluntary Partnership Agreement between the European Union and the Republic of Cameroon on forest law enforcement, governance and trade in timber and derived products to the European Union, Oct. 6, 2010, EU Doc. I. 92/4, 99-102, Annex VII: Published Information, <https://bit.ly/2CykRHw>.
160. EU, “EU Timber Regulation,” EU. EU. “FLEGT Briefing Notes - 2007 Series,” EU.
161. EU, “EU FLEGT Action Plan,” EU; EU “VPA Unpacked,” EU.
162. Astana, S., Hardiyanto, G., Komarudin, H., Riva, W.F., and Sukanda, A., *Towards Improved Forestry Performance: Evaluating the Added Value of the Timber Legality Assurance System in Indonesia* (2020), 26; Carodenuto, S., *Access to Information and Local Democracies: A Case Study of REDD+ and FLEGT/VPA in Cameroon* (2019), 269; Carodenuto, S. and Cashore, B., *Can non-state regulatory authority improve domestic forest sustainability? Assessing interactive pathways of influence in Cameroon* (2019), 208 and 211; McDermott, C., Myers, R., Ramcilovic-Suominen, S., and Rutt, R., *FLEGT: Another ‘forestry fad’?* (2018), 267.
163. Mbatu, R., *Discourses of FLEGT and REDD + Regimes in Cameroon: A Nongovernmental Organization and International Development Agency Perspectives* (2020), 6; Fobissie, K., Kanninen, M., Lindner, M., Ramcilovic-Suominen, S., Tegegnea, Y. T., and Visseren-Hamakers, I. J., *Synergies among social safeguards in FLEGT and REDD + in Cameroon* (2017), 8.
164. EU, “EU FLEGT Action Plan,” above note 161; EU, “VPA Unpacked,” above note 161.
165. Angi, E. M., Butarbutar, T., Gauli, A., Kogl, M., Neupane, P. R., Reonaldus, and Wiati, C. B., *How REDD+ and FLEGT-VPA processes are contributing towards SFM in Indonesia – the specialists’ viewpoint* (2019), 264; Carodenuto, above note 162, 274; “EU-Vietnam VPA timber trade deal,” FERN (2018), 3; Cerutti, P., Nathan, I., and Wodschow, A., “Participation, public policy-making, and legitimacy in the EU Voluntary Partnership Agreement process: The Cameroon case,” *Forest Policy and Economics* (2016), 1-10; Mbatu, R. above note 163, 8, 11; McDermott, C., et al., above note 162, 268.
166. Angi, E. M., et al., above note 165, 464; McDermott, C., et al., above note 162, 270.
167. Open Timber Portal, *Transparency Ranking*, <https://www.opentimberportal.org/operators>.
168. Acheampong, E. and Maryudi, A., *Avoiding legality: Timber producers’ strategies and motivations under FLEGT in Ghana and Indonesia*, (2020), 4-6; Astana, S., et al., above note 162, 28; Carodenuto, S.L. and Ramcilovic-Suominen, S., *Barriers to VPA Implementation: A Case Study of Cameroon’s Private Forestry Sector* (2014), 281, 283; McDermott, C., et al., above note 162, 269.
169. Acheampong, E. and Maryudi, A., above note 168, 279; Angi, E. M., et al., above note 165, 469.
170. Angi, E. M., et al., above note 165, 468; Carodenuto, above note 162, 273-275; Fobissie, K., et al., above note 163, 6; Lovric, M., Mustalahti, I., and Ramcilovic-Suominen, S., *Mapping policy actor networks and their interests in the FLEGT Voluntary Partnership Agreement in Lao PDR* (2019), 129-130, and 136.
171. Adams, M. A., Gruber, J. S., Kayira, J., Tekle Tegegnea, Y., *A comparative analysis of the institutional capacity of FLEGT VPA in Cameroon, the Central African Republic, Ghana, Liberia, and the Republic of the Congo* (2020), 6, 8; Carodenuto, above note 162; Food And Agriculture Organization (FAO) of the United Nations, *Mid-term evaluation of the FAO-EU FLEGT Programme, phase III*, (2019), 12.
172. Acheampong, E. and Maryudi, A., above note 168, 4, 6; Astana, S., et al., above note 162, 11; Carodenuto, S.L. and Ramcilovic-Suominen, S., above note 168, 281 and 273; McDermott, C., et al., above note 162, 269.
173. Brusselaers, J. and Buysse, J., *Implementation of the EU-Cameroon Voluntary Partnership Agreement policy: Trade distortion, rent-seeking and anticipative behavior* (May 2018), 173; McDermott, C., et al., above note 162, 271.
174. McDermott, C., et al., above note 162, 269.
175. McDermott, C., et al., above note 162, 266-270.
176. McDermott, C., et al., above note 162, 268, 270.
177. Adams, M. A., et al., above note 171, 9; Carodenuto, above note 162, 274-275; FAO, above note 171, 13-14.
178. Brinkerhoff, D.W. and Wetterberg, A., above note 107, 9.

179. See, e.g., Accountability Counsel and African Coalition For Corporate Accountability, *Accountability in Africa: Harm from international financial flows and strategies for supporting community-led access to remedy* (2020); Task Force on Justice, “Justice for All – Final Report,” *Center on International Cooperation* (2019); Lomax, T., “Asserting Community Land Rights Using RSPO Complaint Procedures in Indonesia and Liberia,” IIED and FPP (2015); Daniel, C., Genovese, K., van Huijstee, and Singh, S., “Glass half full? The state of accountability in development finance,” SOMO (2016); SOMO, *Briefing note: The patchwork of non-judicial grievance mechanisms: Addressing the limitations of the current landscape* (2015).
180. Nadgrodkiewicz, A., Nakagaki, M., and Tomicic, M., *Improving Public Governance: Closing the Implementation Gap Between Law and Practice*, Center for International Private Enterprise & Global Integrity (2012), 19.
181. Kazemi, L. and Jarvis, M., above note 11, 9.
182. Mebratu-Tsegaye, T., and Kazemi, L., above note 11, 5 and 35.
183. Doyle, C., Garzon, B. R., Weitzner, V., and Okamoto, T., *Free Prior Informed Consent Protocols as Instruments of Autonomy Laying Foundations for Rights Based Engagement*, European Network for Indigenous Peoples (2019).
184. Knight, R., Brinkhurst, M., and Vogelsang, J., *Community Land Protection: Facilitators Guide*, Namati (2017), 87-96.
185. IAP, *Join us to strengthen community-led development planning around the world*, IAP (Dec 15, 2020).
186. See, e.g., IAP’s Early Warning System (EWS), which accesses information about projects, often before DFIs formally agree to provide finance.
187. See, for instance, Inclusive Development International’s “Following the money to justice” initiative.
188. Research has revealed that communities using non-judicial grievance mechanisms were more likely to reach a successful outcome when working with external advocates: Daniel, C., et al., above note 179, 41. (“Complaints filed by individuals or community organizations without CSO support generally did not progress as far in the [international accountability mechanism] process or achieve results as often as those whose cases were filed by ... CSOs.”).
189. Boakye, B., Cascadden, M., Kuscminder, J., Szoke-Burke, S. and Werker, E., *Implementing the Ahafo Benefit Agreements: Seeking Meaningful Community Participation at Newmont’s Ahafo Gold Mine in Ghana*, Canadian International Resources and Development Institute (CIRDI) (2018).
190. Anaya, J. S., Evans, J. and Kemp, D., *Free, prior and informed consent (FPIC) within a human rights framework: Lessons from a Suriname case study*, RESOLVE FPIC Solutions Dialogue (2017).
191. Hoben, M., Kovick, D., Plumb, D. and Wright, J., *Corporate and community engagement in the Niger Delta: Lessons learned from Chevron Nigeria Limited’s GMOU Process*, Consensus Building Institute (2012), 9 and 15.
192. RSPO, above note 133, Criteria 4.5.2.
193. Szoke-Burke, S. and Cordes, K. Y., *Innovative financing solutions for community support in the context of land-based investments*, CCSI (2019).
194. Dermawan, A. and Hospes, O., “When the State Brings Itself Back into GVC: The Case of the Indonesian Palm Oil Pledge,” *Global Policy*. Vol. 9 (Oct. 2018).
195. Toledano, P., and Kazemi, L., *Empowering reformers*, CCSI (forthcoming, 2021), citing Andrews, M. (2013): “The Limits of Institutional Reform in Development: Changing Rules for Realistic Solutions,” New York: Cambridge University Press and The Asia Foundation (2010); “Roll-on Roll-off Transport: Connecting Maritime Southeast Asia,” Manila: The Asia Foundation.
196. Field Dialogue on Tree Plantations in the Landscape (TPL) in New Zealand,” *The Forests Dialogue* (Oct. 29-Nov. 2, 2018), 19; Szoke-Burke, S., above note 8.
197. Szoke-Burke, S. and Werker, E., above note 13.
198. See also Betsema, G., *Learning platforms: On inclusive business, land governance and food security*, LANDac and Shared Value Foundation (July 2018).
199. See also Ratner, B. et al., “Facilitating multi-stakeholder dialogue to manage natural resource competition: A synthesis of lessons from Uganda, Zambia, and Cambodia,” *International Journal of the Commons* (Oct. 2017), 742.
200. Szoke-Burke, S. and Werker, E., above note 13.
201. Interviews with mining company sustainability manager, agribusiness sustainability manager, former agribusiness sustainability and external relations manager, and private sector consultant with experience in agribusiness and forestry.
202. IFC, above note 41, 10 and 11.
203. Damastuti, E. and de Groot, R., “Participatory ecosystem service mapping to enhance community-based mangrove rehabilitation and management in Demak, Indonesia,” *Regional Environmental Change*. Vol. 19(65–78), (2019), 75.
204. Hoben, M., et al., above note 191, 14.
205. Compliance Advisor/Ombudsman, Reflections from practice No. 3: Dispute resolution: Joint fact-finding (2018).
206. Centre for Policy Research (CPR)-Namati Environmental Justice Program, *How effective are environmental regulations to address impacts of industrial and infrastructure projects in India*, (2016), 50 (noting that “[s]ince the industry premises are usually areas of restricted entry, entering them ... would be considered trespassing ... In one case [the villagers] have written to the authorities to enable a joint inspection to ascertain the numbers but are still awaiting a response.”).
207. Community collection, ownership and management of its own data, especially in Indigenous contexts, is referred to as “data sovereignty.” See, e.g. Rainie, S. C. et al., “Data as a Strategic Resource: Self-determination, Governance, and the Data Challenge for Indigenous Nations in the United States.” *The International Indigenous Policy Journal*. Vol. 8(2), (2017), 5-6.
208. Weir, D., et al., “Civilian science: the potential of participatory environmental monitoring in areas affected by armed conflicts,” *Environmental Monitoring and Assessment*. Vol. 191(10), (Sep. 6, 2019), 618.
209. Interview with community representative.
210. Interview with community representative (First, recounting a community-led monitoring mission, also attended by government, where a mining company admitted to licensing small-scale miners to exploit minerals from the concession, despite no exploitation permit having been granted. Second, explaining that because public authorities sometimes do not enforce laws and regulations, the community learned about mining laws, identified breaches of those laws, and then notified regulators and the media of these breaches.)
211. Brodeur, C., Tamir, I., and Zoen, S., “Community-based HRIA: Presenting an alternative view to the company narrative,” in Götzmann, N (ed), *Handbook on Human Rights Impact Assessment* (2019), 53-57.
212. For instance, one project-affected community in Nepal reportedly gathered quantitative data on the attitudes of women and Dalit concerning information sharing and adverse impacts around a particular project: Interview with civil society representative.
213. “Field Dialogue on Tree Plantations in the Landscape (TPL) in New Zealand,” above note 196, 10.
214. Interview with community representative.
215. Brodeur, C., et al., above note 211, 59.
216. South Rupununi District Council, Region 9, Guyana, Press release: Wapichan people expose rights violations and growing threats to their forest and communities from mining and illegal resource use, FPP (Sep. 19, 2017).
217. Interview with civil society representative; Rainie, S. C., above note 207, 2.
218. Damastuti, E., and de Groot, R., above note 203; Weiss, E. B., “On Being Accountable in a Kaleidoscopic World,” 104 ASIL Proceedings 477-90 (2010), 487.
219. Qikiqtani Inuit Association and Baffinland Iron Mines Corporation, Inuit Impact and Benefit Agreement, The Mary River Project, 2013, Art. 16.2.2.

220. Griffiths, T., et al., above note 130, 2; Weiss, E. B., above note 218, 487.
221. Interview with DFI environmental and social specialist.
222. Cotula, L., *Land tenure issues in agricultural investment: SOAW Background thematic report*, TRO5B, FAO, IIED, 29..
223. Interviews with civil society representatives and with a donor.
224. Földes, A., *Right to Information in Asia Pacific*, *Transparency International* (2018), 10.
225. Global Transparency Initiative, *Transparency Charter for International Financial Institutions: Claiming our Right to Know* (2003); Article 19, *The Public's Right to Know: Principles on Right to Information Legislation* (2016); Medallo, J. S., and Petkar, I., *Not a Checkbox: The right to information as the foundation for development*, IAP (Jul. 15, 2020).
226. Interview with former parliamentarian.
227. Interview with civil society representative.
228. See, e.g., Edelman, M., "Transnational peasant politics in Central America," *Latin American Research Review*. Vol 33(3), (1998).
229. See, e.g., Barié, C. G., "Representation of indigenous peoples in times of progressive governments: lessons learned from Bolivia, Latin American and Caribbean Ethnic Studies," *Latin American and Caribbean Ethnic Studies* (2020).
230. Pellegrini, L., and Ribera Arismendi, M. O., above note 144.
231. Commonwealth of Australia, *Indigenous Voice Co-design Process Interim Report to the Australian Government* (2020); Hobbs, H., "Consultation and a First Nations Voice: Building on the Aboriginal and Torres Strait Islander Commission," *Indigenous Constitutional Law* (March 5, 2021).
232. This annex draws from the following documents, which provide helpful lists or otherwise include multiple relevant information types. Other sources are noted for individual items. Colchester, M., *Making FPIC work: Challenges and prospects for indigenous peoples*, *FPP* (2007), 20-21; Hilton, A., above note 54; Report of the special rapporteur on the situation of human rights in Cambodia, Surya P. Subedi: A human rights analysis of economic and other land concessions in Cambodia. UN Doc A/HRC/21/63/Add.1 (2012), 35, 48, 67-68; Perram, A., above note 116116; Knight, R., Cordes, K. Y., Szoke-Burke, S. and Mebratu-Tsegaye, T., with Brinkhurst, M., *Community-investor negotiation guide 1: Preparing in advance for potential investors*, CCSI and Namati (2018), 38-40; Randriamaro, Z., *Women stand their ground against big coal: The AfDB Sendou Plant impacts on women in a time of climate crisis*, *Lumière et Synergie pour le Développement* and *WoMin African Gender and Extractives Alliance* (Oct. 2019); Medallo, J. S., and Petkar, I., above note 225.
233. Interview with community representative.
234. Interview with civil society representative; "Field Dialogue on Tree Plantations in the Landscape (TPL) in New Zealand," above note 196, 10.
235. Interview with civil society representative.
236. Interview with community representative; Nguiffo, S. and Sonkoue Watio, M., *Agro-Industrial Investments in Cameroon: Large-Scale Land Acquisitions Since 2005*, IIED (2015), 55; *Economic land concessions in Cambodia: A human rights perspective*, Cambodia Office of the High Commissioner for Human Rights (June 2007), 10.
237. Interview with civil society representative.
238. Cordes, K. Y. and Toledano, P., *Employment from Mining and Agricultural Investments: How Much Myth, How Much Reality?*, CCSI (2016); Boakye, B., et al., above note 189.
239. Interview with mining company sustainability manager.
240. Lomax, T., above note 179, 8.
241. Complaint before the Independent Consultation and Investigation Mechanism of the Inter-American Development Bank (IDB) - Ituango Hydropower Plant, Antioquia, Colombia (June 2018) (noting that if alternatives had been properly considered, "the area's conditions, including its geological characteristics, would have been assessed to determine whether the dam and its chosen location were the best option."); UN Committee on the Elimination of Racial Discrimination, *Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations - Lao People's Democratic Republic*, CERD/LAO/CO/16-18, Mar. 9, 2012; para. 18.
242. FAO VGGT, above note 134, Art. 12.6 ("States should consider promoting a range of production and investment models that do not result in the large-scale transfer of tenure rights to investors, and should encourage partnerships with local tenure right holders."); Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum: Mission to Cameroon. (Dec. 18, 2012), UN Doc. A/HRC/22/50/Add.2, paras. 48, 73(i) (calling for "a transparent and participatory debate on the opportunity costs of granting land to investors that plan to develop agro-industrial plantations, when strengthening small local farmers' access to land, [which] could do more to improve local food security and reduce rural poverty"); Randriamaro, Z., above note 232, 37 (stating that "[a] n analysis cannot be defined as one measuring true cost and benefit if it does not assess and compare a number of project / development options which claim to satisfy the same or similar objectives").
243. Global Witness, *Project Completion Report - Making the Forest Sector Transparent*, Global Witness (2013), 1.
244. Interview with community representative and with civil society representative.
245. Lomax, T., above note 179, 4.
246. Interviews with civil society representatives; Szoke-Burke, S. and Cordes, K. Y., above note 50.
247. Interview with civil society representative.
248. Westenberg, E. and Sayne, A., *Beneficial Ownership Screening: Practical Measures to Reduce Corruption Risks in Extractives Licensing*, Natural Resource Governance Institute (2018).
249. Interview with civil society representative.
250. Interviews with civil society representatives; Blackmore E., Bugalski N., and Pred D., *Following the money: An advocate's guide to securing accountability in agricultural investments*, IIED and Inclusive Development International (2015).
251. Grabs, J. and Carodenuto, S. L., "Traders as sustainability governance actors in global food supply chains: A research agenda," *Business Strategy and the Environment* (2021), 4-5.
252. Blackmore E., et al., above note 250250, 8.
253. Commodity destination can help identify applicable recipient country laws, such as 19 U.S.C. 1307, which prohibits the importation of merchandise produced wholly or in part by forced labor.
254. Interview with civil society representative (noting very low community awareness of various environmental monitoring institutions in India that can receive complaints).
255. Interviews with civil society representatives; Lomax, T., above note 179, 8.
256. Szoke-Burke, S., above note 8.
257. *Land Conflicts and Shady Finances Plague DR Congo Palm Oil Company Backed by Development Funds*, joint report by RIAO-RDC, Africa Europe Faith & Justice Network, Entraide et Fraternité, GRAIN, SOS Faim, UMOYA, Urgewald, War on Want and World Rainforest Movement (Nov. 2016), 17-18; Boakye, B., et al., above note 189, 33.
258. Interview with mining company sustainability manager; Boakye, B., et al., above note 189, 33.





## Columbia Center on Sustainable Investment

A JOINT CENTER OF COLUMBIA LAW SCHOOL  
AND THE EARTH INSTITUTE, COLUMBIA UNIVERSITY

*“Rather than assuming that transparency in itself will help improve governance or accountability, we must ask the question, “for whom?” Drawing on research in Cameroon, Liberia, and from around the globe, this report calls on donors, global policy makers, and civil society organizations to ground transparency efforts in the perspectives of local actors. This means conceiving of transparency not simply as disclosure of relevant information, but as also including community access, comprehension, and use of that information in open decision-making processes and governance systems.”*

[ccsi.columbia.edu](http://ccsi.columbia.edu)

**Columbia Center on  
Sustainable Investment**

Jerome Greene Hall  
435 West 116th Street  
New York, NY 10027  
Phone: +1(212) 854-1830  
Fax: +1(212) 854-7946

The Columbia Center on Sustainable Investment is a leading applied research center and forum dedicated to the study, discussion and practice of sustainable international investment.

