RETAINING COMMUNITY SOVEREIGNTY OVER LAND

A Guide for Communities
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INTRODUCTION

Around the world, community land is being targeted by governments and big business. This ‘land grabbing’ may be to grow cash crops for export, such as palm oil, soy, sugarcane and maize, or for mining projects and oil production, or to build roads and dams, or to set up agrofuel plantations and carbon offset schemes. But when land is taken, local people rarely benefit from the projects. Instead, they lose their rights to land they may have owned or used for generations. It is estimated that between 80 and 260 million hectares of land have been targeted by land grabbers to date, taking away people’s livelihoods, changing their culture and identity, and harming the environment.

Yet there are many places where local people have been able to resist the land grabbers. Several million hectares of land have not been handed over to companies, even when deals have been struck with governments. This is because communities are fighting back. If you are facing a land grab, it may feel like things are out of your control - but you have the power to find out what your rights are, and to start asking questions about the promises being made to you. You can stand with other communities, and stand up for your land.

This guide is intended to support communities in their struggle to retain their rights in the face of land grabbing. Part 1 summarises some common obstacles to community land rights. Part 2 analyses the reality behind the promises made by companies that are trying to access community land.

BOX 1: AN EXAMPLE OF RESISTANCE (FILM OF JOGHBAN CLAN AVAILABLE)

Communities in Liberia, for example, have pushed back successfully against land grabbing. All over the country, communities are facing land grabs by agricultural, mining and logging companies, which use leases known as ‘concession agreements’ to take over people’s land for up to 65 years. For example, the government of Liberia signed away the Joghban Clan’s land to the British palm oil company Equatorial Palm Oil (EPO). They did this without the agreement of the Joghban Clan.

In 2012, EPO expanded its palm tree plantation onto land belonging to the Joghban Clan. All of the clan came together - men, women and young people. They faced threatening behaviour and harassment from EPO security forces and the police, but they refused to give up. After presenting a petition to the government, the clan managed to get a meeting with Liberian President Ellen Johnson Sirleaf, and she agreed to support them and protect their land.

This is a huge victory, and the Joghban Clan are now fighting to make sure the President’s promise actually happens.
In many cases of land grabbing, local people believe they own their land. Or they may have used the land around them for many generations, without anyone questioning their right to do so. Then, suddenly, they are told it belongs to the government, and they are forced to leave or to stop using the land.

WHY DOES THIS HAPPEN?

Your community may be lucky and have documents showing that you own your land. But many people farm their land, and use common land and forests, based on local, unwritten agreements. This is known as ‘customary law’. So, while everyone in a community may understand who owns what, and who has the right to use different pieces of land, they may not have any documents ‘proving’ their land rights.

The land laws set in place by national governments often ignore customary law and other local land-use systems. As a result, governments and companies may try to argue that local people do not own their land, or say they have no right to use it. Even when a community does have documents proving they own their land, the government may still try to take it away. This happens through a legal practice called ‘eminent domain’. Eminent domain allows governments to take over privately-owned land, if it is ‘in the public interest’, and if the landowners are paid compensation. But such payments rarely reflect the true value of the land, and they cannot make up for the livelihoods lost to future generations. Also, it is the government who decides what counts as the ‘public interest’, often choosing roads, dams, plantations and mining operations by foreign corporations over the needs of the people who live in the area.

If you are facing pressure to give up your land, it is vital to find out what land laws apply in your situation. You may find you have more power than you thought to secure your rights.

WHAT ABOUT COMMON LAND?

Common and marginal lands are not privately owned, but they are still used for many purposes, such as grazing land for animals, moving livestock, collection of fire wood and medicinal plants, and as a source of wild food. Common land may allow people to reach water sources. Forests provide many resources, and unused land may be lying fallow as part of a crop rotation.

Common land, forests and marginal lands are often managed according to traditional practice or customary law. They may be vital to people’s livelihoods, but many communities facing land grabbing projects are told that they have no right to use common or marginal lands because they can’t prove they own the land. The value local people get from common land is often ignored; if land is not used for agriculture, companies usually decide that no one uses it.
WHICH LAWS DETERMINE WHO OWNS THE LAND?

In many countries, land is covered by more than one system of law. These may include customary law, national (also called statutory) law, international law, regional law and religious law.

- **Customary land laws** are the customs, traditions and practices observed by local people. Customary law allows local people to access common and marginal land. It also sets out rules for how people use and manage these areas, such as how and when they can use grazing areas, or harvest wild foods, or gather fuel. Although many communities live by these rules and traditions, customary law is not always recognised in national law.

- **National law** is the written law of a country: the constitution; any laws, codes and decrees passed by national, regional and local governments; any decisions made by the courts. Most of the world's national law systems have evolved from European law, often imposed during colonial times.

- **International human rights laws** can help to protect your rights. Most international law is agreed through the United Nations, but regional organisations, such as the African Union, the African Commission on Human and Peoples’ Rights, the Organisation of American States and the Inter-American Commission on Human Rights, also agree upon and interpret international human rights law.

- **Religious law** may also provide rules and guidelines that affect your land rights.
WHAT CAN YOU DO? THE LAW MAY BE ON YOUR SIDE

Find out what the land laws are in your country. Try to understand and get advice about how these laws affect your situation.

Find out if your government has made any commitments on community land rights. These may include:

• To formally or legally recognise customary law on land ownership and management;
• To give land back to communities, for example through land reform;
• To stop all land transfers until land ownership and tenure issues have been decided.

If such commitments have been made, the government may not be correct if it claims it has the right to take your land.

Find out which international human rights treaties your government has signed and ratified. If you live on the African continent, a list is provided in Annex 1.

Some international human rights treaties may apply in your situation, and if your government has signed and ratified them the law is legally binding in your country. Unfortunately, to what extent your government will respect these human rights laws depends on political willingness in your country.

INTERNATIONAL AND HUMAN RIGHTS LAW

International human rights law is a key way to draw attention to your rights. Most national and international law does not specifically include a right to land, but many other human rights are affected if land is taken away. Without land, your community may lose rights to food, water, culture, housing, development, self-determination and non-discrimination. The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also offers extra protection to women. So the right of communities to hold land, and to use land resources, is well established under international and some regional laws.

Other human rights may be affected as well, depending on your circumstances.

Human rights are often included in national constitutions and laws. They are also included in the United Nations’ human rights treaties, and regional human rights treaties.

Unfortunately, even if your government has signed an international treaty on human rights, this does not mean the rights have been included in national laws, or that the rights are enforced. Even so, human rights law gives a strong legal backing to any pressure you put on your government about your case.

The United Nations Committee on World Food Security (CFS) has set out Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (Tenure Guidelines). These guidelines state that secure land rights are required for sustainable development and food security. Although not legally binding, the Tenure Guidelines list several human rights violated by the grabbing of land and natural resources from communities. These guidelines can also be used to help convince your government to protect the rights of local people during large-scale land sales.

INDIGENOUS PEOPLES

The rights of indigenous peoples, including their land rights, are protected by two international laws: Convention 169 of the International Labor Organization (ILO); and the United Nations Declaration on the Rights of Indigenous Peoples. Unfortunately, despite legal protection the human rights of indigenous peoples are often violated.
BOX 2: INTERNATIONAL HUMAN RIGHTS LAWS

International laws that may be relevant to land grabbing:

Universal Declaration of Human Rights – UDHR
International Covenant on Economic, Social & Cultural Rights – CESCR
International Covenant on Civil & Political Rights and Optional Protocol – CCPR
International Convention on the Elimination of All Forms of Racial Discrimination – CERD
United Nations Declaration on the Rights of Indigenous Peoples - UNDRIP
Convention on the Elimination of Discrimination against Women – CEDAW
Convention on the Rights of the Child – CRC
Convention on Biological Diversity – CBD
UN Declaration on the Right to Development, General Assembly Resolution A/RES/41/128, 1986

United Nations Special Rapporteurs

The United Nations appoints officials called Special Rapporteurs as independent experts on specific areas of human rights. They have the power to make visits to countries and investigate human rights abuses. They can provide advice and raise awareness about human rights issues.

A Special Rapporteur can write directly to a government about a case of human rights abuse, either as an urgent appeal or as an allegation letter, depending on how serious and urgent the situation is. Governments may investigate or act upon the letter, but they do not always do so. Even so, a letter from a United Nations Special Rapporteur can provide huge support to a human rights case.

If you believe that you – or people in your community - are suffering human rights violations, then you can write to the UN Special Rapporteur covering the rights affected. Anyone and any group can send information to a Special Rapporteur. You do not have to set out a legal case, and you do not have to go through national government processes first.

Annex 3 sets out the guidance on what information to send, along with a list of UN Special Rapporteurs and Independent Experts and their contact details. If you need help, local non-governmental organisations such as Friends of the Earth member groups can help you to set out your case and send your letter.

Shadow reports

Every few years, countries are examined by the United Nations treaty organisations, such as the Convention on the Elimination of Discrimination Against Women (CEDAW), and by regional human rights organisations, such as the African Commission on Human and Peoples’ Rights. Governments must submit reports about how well they are respecting the rights of their people. Groups of citizens can also send in their own reports, showing how the government is not respecting the rights of communities.

Every year, the UN Human Rights Council also reviews the general situation concerning how well human rights are being applied in UN countries. This is called the Universal Periodic Review, and every year 48 different countries belonging to the UN are reviewed. Your country is reviewed every four years. During the review period, any groups affected by human rights abuses can feed into the process. Again, local non-governmental organisations such as Friends of the Earth member groups can help you to participate.
THE COMPANY TELLS US SO MANY THINGS, WHAT CAN WE BELIEVE?

Many companies and investors say that they will bring development that will help you and your community. They may also claim that you will have more money and more food. They may even bring people from other villages or plantations to tell you this is true, or give you gifts to show you what you can expect. In fact, communities often watch their crops, forest products and timber being taken away, while getting very little back in return.

Here are some common promises companies make, and issues for you to consider before accepting them.

**PROMISE 01**

The company may tell you that it will build schools, clinics, roads, bridges or other structures that will help your community. In many cases, these things are never built, or they aren’t what people expected. For example:

- Roads often turn out to be for the company to transport goods and machinery through the plantation, or to and from their own project. You may not find it any easier to get to the places you need to, like local markets or towns.
- Companies may build clinics or schools, but unless they also maintain the buildings, pay staff, buy medicines and pay for school equipment, the facility will probably stay empty.

In the case of oil, gas, mining and other extractive industries, you may find that the cost to your environment from the promised development is high. Many of these industries use very strong chemicals and lethal substances such as lead, cyanide and arsenic. These can poison the environment and seriously damage the health of people living nearby.

It is hard to resist if a company offers to provide free health care or education. But ask questions, because these benefits might not be what they seem.

- Find out who will provide the education and health care. Which organisations will check to make sure it is of good quality, and that it is properly monitored?
- Find out if these benefits will go to everyone in your community, or only to those people working on the project.

It is the responsibility of your government to provide education and health care, and you should not have to give up your land to receive them.
Companies may promise you jobs, but you need to ask what kind of jobs will be provided.

- Will they be permanent, well-paid jobs? Or will they be unskilled, labouring, short-term or even casual day-labour jobs?
- Do the better-paid jobs require minimum qualifications? If so, do people in your community have these qualifications?

In many cases, jobs end up being offered to migrant workers instead of locals.

You also need to ask about workers’ rights, which can be a particular problem on plantations:

- Wages are usually low – they may not even reach the minimum wage required by law – and working conditions are poor.
- Workers – often women – may be employed to apply agricultural chemicals, such as pesticides, without proper protective equipment. Working in such conditions can be very harmful to your health.
- Labourers may not be given health insurance or proper work contracts. Without these, you will not receive any help or money if you get ill or lose your job.

The company might also promise to provide employment benefits, such as maternity leave, food and housing allowances. But these may only go to permanent employees. Such benefits are not usually given to people doing casual, labouring work.

Finally, you need to find out how long the promised jobs will last. There may be work clearing the site at first, and later on there may be some work at harvest time, but in many cases there are very few long-term jobs available to local people.

Some companies want land to grow fuel crops, such as oil palm or jatropha. They may tell you that if you sign contracts to grow fuel crops on your land, you will have more money to buy fuel or energy. But if you give up your land to grow fuel, you may find you have less money, not more.

- Rather than making money, you may end up in debt to the company because you will have to buy its seeds and fertilizer – often at high prices – and you won’t receive any money until your crop is harvested.
- Even if the company provides loans to cover planting costs, the price you get at harvest may not be enough to cover your costs and to also pay back the loan.
- If you grow fuel instead of food, you will have to buy more food from the market.
- If many people across your region or country switch to growing fuel crops, food prices may rise as less food is being grown.

Once a company owns the land and forests around you, you may not even be able to gather fuel anymore. Companies usually lease the land for a long time – up to 99 years – so your children and grandchildren may not be able to use the forest during their lifetimes either.
Not true! Many communities who have handed over their land are left without enough space to grow what they need. Most, or even all of the good farmland may be taken. And there are many cases in which communities thought they had agreements with companies about what land they would lose, only to find out that the company took more land than expected, or that it took land outside the agreed area.

- Make sure that you are clear exactly what land the company wants to take, and what will be left. Find out the exact boundaries of the land the company wants to take.
- Find out if the company is planning to take fertile land; or land that is resting; or fallow land used to gather firewood; etc.

The land area left to you may be much smaller than your original farmland. Everyone will have a smaller share. If you are facing this kind of decision, it is vital that you talk together about what it will be like to live on the land the company is promising to leave you with. For example:

- If you give up some of your land, how will your community use and divide the remaining land?
- Is the company leaving you with good, fertile land?
- Will you have enough left to rotate crops and to keep some land fallow?
- Will you have enough for growing crops and for pasture for animals?
- Will you still have enough common land for gathering firewood and other resources?
- Will you still be able to reach water supplies easily?

If there is less farmland, people may start cutting down the forest to farm there instead. Or you might find that you have to start growing food on common land: land that is already used for grazing, firewood collection or foraging. If you walk across common land to reach water, you may find that this is no longer possible once it has been taken over by the project. It will be private land, and your path may be blocked.

With less land, you may find that there are more disagreements between neighbours, especially if the boundaries of the remaining land are not clear. There may be extra problems for women, who may find it harder to negotiate a share of the remaining land.

It will be a time of change and stress for everyone, and could lead to increased crime and conflicts in your community.

**PLANTATIONS AND OTHER LAND GRABBING PROJECTS MEAN LESS LAND FOR GROWING FOOD. THE BEST WAY FOR YOUR GOVERNMENT TO SUPPORT FOOD SECURITY IS TO INVEST IN SMALLHOLDERS AND FAMILY FARMING.**

**BOX 3: FOOD INSECURITY**

“If we lose our land how will we live? We are in Africa, we live by our crops. Palm plantations can’t help us.”

Youth Representative, Jogbahn Clan, Grand Bassa, Liberia.

A report on the spread of palm oil plantations in Liberia found that they caused rising food prices, and that communities were left without enough land to feed themselves. Another study found that some communities affected by the plantations did not have enough food for more than four months of the year, while unaffected communities had a better and more nutritious diet. The study also found that because people didn’t have as much land to grow their own food, they were less able to cope with price rises and food shortages. Older people, women and children were most at risk of chronic poverty, food insecurity and malnutrition.
The company may tell you that it will only take ‘marginal land’ that no one is using, so it won’t affect you. But what is this ‘marginal land’? It is most likely land you already use: for grazing, gathering fuel and medicines, as a sacred site and many other things.

In reality, ‘marginal land’ rarely exists, because all land is useful and serves different purposes. These uses may be just as important as farming, and for some families marginal land may be essential to their survival.

Companies also clear forest for their projects. Oil palm companies often choose to develop plantations on newly-cleared forest land. This can be devastating for the local environment, as well as for the livelihoods and cultures of local people. Deforestation is also a major source of greenhouse gas emissions.

Contract and outgrower farmers must plant what the company wants them to. But there is no guarantee that you will be better off if you choose this type of farming; in fact you may find yourself in debt for the following reasons:

- You may have to buy expensive seeds and fertilisers.
- You may have to borrow money while you wait for your first harvest.
- The company will not always be clear about how much it is charging you for seeds or for a loan.

**Myths and False Promises**

**Promise 05**

_We will only take ‘marginal’ land_

**Promise 06**

_Consortium farming and outgrower schemes will make you better off_

**Box 4: Testimonies**

“In the past we could send our children to school, now it’s difficult, we can’t anymore. Yes we have a smallholding but not much, with only one plot, we barely earn enough to feed ourselves.”

“I was told my debt to the company amounted to over US$ 5,400 to be returned in instalments over ten years. After one year, the highest monthly income I have managed has been $13 after deducting my debt payments. I have to make payments for fertilisers, maintenance and transportation.”

“Even after paying off our debt we’re still someone else’s labourer. It is just not true that we own it (the cultivated land).”

Testimonies from Indonesian outgrowers.
New farming techniques may be useful, but it is important to ask questions about them too:

- A lot of big land developments – like oil palm plantations - use chemicals that can damage your health. The chemicals can pollute streams, rivers and wells, making the water unsafe to drink and harming fish.
- Sometimes companies spray their crops from aeroplanes, making it much more likely that there will be more pollution outside the plantation.

The company should tell you what chemicals it will use, and how it will stop these chemicals from ending up in water supplies or otherwise affecting your community. The company should also ensure there are ways for you to complain if your water, health or environment is harmed, and that there are systems to sort any problems out quickly.

Genetically modified crops

Sometimes companies bring in genetically modified (GM) seeds, promising that these will result in higher yields and less work. But there are a number of concerns about GM crops:

- After only a few years of being grown, many GM crops start needing more pesticides and chemicals; this pollutes the land and is also extremely expensive.
- GM seeds are not free! Each year, new GM seeds must be bought from the seed company. Farmers have to pay an extra cost, called a ‘royalty’, to use the seeds.
- The cost of a GM seed can be up to 10 times higher than a local variety. Farmers often end up in debt from buying expensive GM seeds, fertilisers and pesticides.

If everyone switches to GM seeds, it will become harder to get hold of traditional seed varieties. GM seeds are often not locally adapted, and they may not grow well in your soil, weather and farming conditions. The better yields promised may only happen when growing conditions are absolutely perfect, and if enough chemicals are used. In very dry or wet conditions, or when there are sudden weather changes, GM crops may have lower yields than local varieties.

YOU MAY FIND THAT YOUR TRADITIONAL SEED VARIETIES ARE ACTUALLY BETTER SUITED TO YOUR SOIL, WEATHER AND TASTES. FURTHERMORE, YOU CAN SAVE SEEDS AND PRACTICE MIXED CROPPING WITH TRADITIONAL VARIETIES.

BOX 5: PROBLEMS WITH GM SEEDS

In India, the vast majority of the cotton grown is GM Bt cotton. The average per-acre cost incurred for GM seeds by Bt cotton farmers is nearly four times higher than for non-Bt cotton.4

GM companies admit that in order to make the most profit they cannot allow farmers to save their traditional seeds. “The practice of some farmers of saving seed from non-hybrid crops (such as soybeans, canola and cotton) containing our biotechnology traits has prevented and may continue to prevent us from realizing the full value of our intellectual property.” 5 (Monsanto)
If you are told that you will be given money for protecting the forest, you need to find out:
1. Exactly what the company means by protecting the forest;
2. Exactly what you will be asked to do; and
3. How this will change your access to the forest and its resources, and for how long.

Conservation projects are often linked to schemes that allow companies to take control of the forest and make profits from the carbon in the trees, or from other forest resources. You may find that you are no longer allowed into the forest, no matter how important it is to your culture and livelihood. There are lots of examples of local people being arrested for entering a forest that has been enclosed as a conservation project.

Communities may be evicted from a conservation project unless they have documents ‘proving’ they own the land. Without official documents it is very hard for people to challenge their eviction.

In some cases, companies that signed an agreement to protect a forest have changed the forest into a plantation. This can happen when the conservation project is linked to a carbon reduction scheme. Carbon reduction schemes try to tackle climate change (the way the weather is changing because of human pollution) by planting trees. But some companies replace natural forest with plantations of fast-growing, non-native trees such as eucalyptus and pine.

**MYTHS AND FALSE PROMISES**

**YOU CAN GET EXTRA MONEY FOR HELPING US TO PROTECT THE FOREST**

- Your idea of what it means to protect the forest may not be the same as a company’s.

**BOX 6: CONTRACT SIGNED BY INDIGENOUS PEOPLE OF MUNDURUKU, BRAZIL FOR TAKING PART IN A REDD (REDUCING EMISSIONS FROM DEFORESTATION AND FOREST DEGRADATION) PROJECT**

“Without prior permission of the company, the owner agrees not to make any intervention in the project area, specifically: fixed or temporary structures, cutting and/ or logging of timber, burning, thinning of forests, construction of indigenous dams or retention of watercourses, mining, agriculture, tourism, road construction or any other activity that may have negative effects on the methodology used by the company for project validation.”

In this case, the indigenous people of Munduruku signed away the right to use their forest, including for growing food.
Selling your land can be tempting. But even if the company seems to be offering a lot for it, the money will not last long. Once the money is spent, what then? How will you earn money without your land? What about your children and grandchildren; what will they do to survive?

If you are planning to buy other land, it is vital to get more information:

- Is the money being promised by the company really enough to buy more land?
- What land is available for purchase? Can you use it in the same way as your own land? Is it as fertile, the same size and so on?
- How many other people want to buy land? Will there be enough for everyone?

Many communities that agreed to sell their land have ended up feeling tricked. Some common problems include:

- Not having legal documents to show that they owned their land. In some cases, companies have said that the land is not owned by anyone, or that it belongs to the government, and has refused to pay anything for taking it.
- The company told people that they had to move, and that they would be given land somewhere else by the government. Then the company refused to pay compensation, because the people would be getting new land.
- Companies only paying a small amount of money for people’s land, or paying less than was agreed.

Another problem is that the price of land can suddenly go up when companies arrive in an area. If the company sets a price for your land before this happens, you may find you don’t have enough to buy new land after the prices have increased.

You need to know how the company is calculating what to pay for your land. Companies often have their own idea of the income you get from the crops you grow. How they work this out might not be clear, or you might not agree with their figures.

What about your access to water, firewood, and all the other resources you get from forest and common land: are these included in the payment? Companies will not consider whether land is important to you for social, cultural or religious reasons.

If a company is leasing your land and promises to give it back after a certain number of years, it may pay you less. Here are some considerations for you:

- What will it really mean to hand over your land to a company for a long time?
- How long is the lease? Will it affect your livelihood for the rest of your life?
- How will you pass on your knowledge and skills to your children and grandchildren if you can’t use your land?

The company will not understand the true value of your land to you and your community.
For a project that will change so many lives, the company should talk to your whole community, give you all the information you need, and give you time to think about your decision. The problem is that companies often don’t want to spend the time and money needed to do a proper consultation.

Here is what communities have said about company 'consultations':

- The information provided by the companies was not honest.
- Companies used the consultation to make big promises (money, schools, hospitals, roads and so on). These promises did not happen in reality.
- Company representatives offered luxuries such as expensive cigarettes, cakes, biscuits and drinks during community meetings, trying to persuade people to agree to the project.
- Companies did not respect agreements. Or they took something as agreed, when the community thought it was still being discussed. A common example of this is the boundary of a plantation.
- Companies put on a lot of pressure, or used intimidation, to persuade people to give up their land.
- Companies called meetings without giving enough warning, or at a time that was difficult for people.
- Some companies have tricked people into signing contracts they did not understand. They did this by deliberately misleading people, or by not properly explaining what the contract meant.

Communities often report that they were not told about the procedures they could have used to bring their case to the government or to other decision makers. Because of this, they lost their chance to change the decision.

Companies may also claim that they consulted with the community when they really only talked to a small number of people. There have been cases in which people found out about a project only when the bulldozers arrived. It is also common for companies to use some kind of corruption, such as trying to buy off important people in the local area.

In many cases, it may be very hard for women to take part in consultations because decisions are often made by men. Also, women’s family and work responsibilities can make it harder for them to attend meetings. Violence in the home might also make it difficult for some women to speak openly. Companies need to make special efforts to make sure that women are consulted.
MYTHS AND FALSE PROMISES

BOX 7: ‘FREE, PRIOR AND INFORMED CONSENT’

‘Free, prior and informed consent’ means that communities have the right to decide for themselves if they will agree to a project - or not – before it goes ahead. And they have the right to make this decision only after they have a full and clear understanding of the impacts of the project. This right is established in international law. Although this right was developed for indigenous communities, it is now recognised as applying to all communities with customary land.

Many companies claim they seek free, prior and informed consent from the communities affected by their projects. It is now seen as a principle of good practice in negotiations, and helps to reduce conflict and increase the legitimacy of the project in the eyes of stakeholders. In practice however, companies often confuse 'consent' with 'consultation'. Holding a meeting with a community does not mean that people have been properly consulted, nor that they have agreed to a project.

Free, prior and informed consent includes the right to say no, at any stage of the negotiations. If people are pressured or forced into agreeing, this is not free consent.

Negotiations should:

- Recognise that communities will need to retain much, if not all, of their land (to ensure that their livelihoods are protected);
- Include participatory land tenure surveys, mapping of customary lands, land use mapping, Environmental and Social Impact Assessments (ESIAs) and High Conservation Value (HCV) assessments;
- Undertake assessments with the full participation of the community before negotiations start, so that people have all of the information needed to make their decision;
- Involve the whole community, not just selected individuals;
- Allow communities to decide how they will participate and make decisions;
- Give communities enough time to reach decisions;
- Supply information in an appropriate and accessible form, before negotiations take place; and
- Involve marginalised groups such as women, youth and the disabled.

All options for financial and non-financial terms and conditions, such as short-term leases and rent, should be discussed. Grievance and complaint mechanisms must be developed in a participatory way before negotiations begin. All agreements should also be recorded in writing.
You may be told that, as a woman, you will be better off with this project. But you may actually find it harder to make sure your rights are protected for these reasons:

- Women are often the main farmers in a community, and are more likely to be responsible for making sure that everyone has enough to eat. Despite this, women are much less likely to have control of land. Women may not be the main decision makers in their families, or they may not control household money. Women may feel that they have less say in community discussions, but feel more vulnerable with respect to the outcome.

It is not true that women’s lives are always made better by land grabbing projects. Some companies prefer to use women workers to apply pesticides and fertilisers on their plantations. This can expose you to the dangers of harmful chemicals, especially if the company does not provide protective clothing and safety training. Pregnant women may be exposed to chemicals which could harm their unborn children.

Women are often paid less than men for working on plantations. Some women may end up working without pay to help their husbands reach targets. Women can be at risk of sexual harassment on plantations, especially if they are worried about job security or debt. Companies may try to employ women on casual contracts, so that they do not have to pay costs such as maternity leave.

A PLANTATION MAY AFFECT YOUR LIFE, EVEN IF YOU AREN’T WORKING ON IT. YOU MAY HAVE TO GO FURTHER TO FIND FIREWOOD AND TO FETCH CLEAN DRINKING WATER. THESE TASKS WILL TAKE MORE TIME AND BE MORE TIRING. WHEN LESS LAND IS AVAILABLE TO GROW FOOD IT IS OFTEN THE WOMEN WHO ENDING UP EATING LESS, AS THEY MAKE SURE THAT THE FOOD THEY HAVE GOES TO THEIR HUSBAND AND CHILDREN.

**BOX 8: TESTIMONY**

“It’s good for women to be at meetings, especially about land. Land business is important. Women need to know their rights, their land rights and what is happening with the land.”

Chairlady, Rivercess County, Liberia.
### ANNEX 1 INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAWS

- **RATIFICATION**
- **SIGNATURE NOT YET FOLLOWED BY RATIFICATION**

It should be noted that although signature is an important indication of a State’s support for the rights set out in the instrument, it is not a legally binding commitment of the State until ratification. **Source:** FERN, Forest People’s Programme, ClientEarth and CED/foe Cameroon, *Securing Community Land and Resource Rights in Africa: A Guide to Legal Reform and Best Practices*, 2013.

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ANNEX 2: UN SPECIAL RAPPORTEURS, AS OF DECEMBER 2014

Ms. Hilal Elver (Turkey)
Special Rapporteur on the Right to Food
e-mail: srfood@ohchr.org.

Ms. Leilani Farha
Special Rapporteur on adequate housing
http://www.ohchr.org/EN/Issues/Housing/Pages/LeilaniFarha.aspx (Canada)
e-mail: srhousing@ohchr.org.

Ms. Rita Izsák (Hungary)
Special Rapporteur on minority issues
e-mail: minorityissues@ohchr.org.

Ms. Victoria Tauli-Corpuz
Special Rapporteur on the Rights of Indigenous Peoples
e-mail: indigenous@ohchr.org.

Mr. Philip Alston (Australia)
Special Rapporteur on extreme poverty and human rights
e-mail: srextremePoverty@ohchr.org.

Mr. John Knox (USA)
Independent Expert on human rights and the environment
e-mail: ieeenvironment@ohchr.org.

Ms Farida Shaheed
Special Rapporteur in the field of cultural rights
culturalRights@ohchr.org

Michel Forst
Special Rapporteur on the situation of human rights defenders
defenders@ohchr.org

urgent-action@ohchr.org (to submit allegation of HRV against a human rights defender (environmental rights defender)

Ms Victoria Tauli Corpuz
Special Rapporteur on the Rights of Indigenous People
indigenous@ohchr.org

Léo Heller
Special Rapporteur on the Human Right to safe drinking water and sanitation
srwatsan@ohchr.org

Ms Rashida Majoo
Special Rapporteur on Violence against women, its causes and consequences
vaw@ohchr.org

You can fax Special Rapporteurs on:
(0041) 22 917 90 06.

You can write to any of the Special Rapporteurs at:
Office of the High Commissioner for Human Rights

United Nations at Geneva
8-14 avenue de la Paix
CH-1211 Geneva 10
Switzerland

Instructions for sending information to a UN Special Rapporteur if you believe a human rights violation is occurring, or has taken place:

Who can write?

“No formal requirements exist for submitting information to the Special Rapporteur on alleged violations. ... The exhaustion of domestic remedies is not required, nor is a legal argument about the case. Any person, group or organization can send information to the Special Rapporteur irrespective of the relationship with the victim(s) of the alleged violation.”

What information should be included in communications to the Special Rapporteur?

“Information submitted to the Special Rapporteur on alleged violations should include a detailed description of the circumstances of the case. It should be as precise and as succinct as possible while providing a complete statement of the situation, and may be accompanied by annexes providing written or photographic evidence of the facts. The information in the letter should include:

Victim(s): Name, number and full details on the location of the affected people, community or individual(s) whose rights allegedly have been violated or are under threat.

What happened: Detailed circumstances of the alleged violation(s). If an initial event leads to others, please describe them chronologically. In cases of general measures such as national legislation or policies, indicate their stage of development and how people/communities have or will be affected by them.

Perpetrator(s): Detailed information on the person(s) or institution(s) responsible for the alleged violation and their relation, if any, to the Government concerned. If circumstances require, provide an explanation of the reasons for suspecting responsibility of the person(s) or institution(s) identified.

Action taken by State authorities: Has the matter been reported to the administrative or judicial authorities of the State concerned? If applicable, what actions have been taken by the relevant authorities to remedy the situation?

Action taken before international bodies: Has any action been initiated before other international or regional human rights mechanisms? If so, at what stage are these other international actions?

Source: Name and full address of the organization or individual(s) submitting the information. These contact details are essential in the event the Special Rapporteur needs clarification or further information on the case. This information is kept confidential.”
SELECTIVE LIST
OF MAIN BACKGROUND SOURCES

www.actionaid.org/2014/01/action-land-grabs-supporting-women

Action Aid, Facing the Facts: Experiences of the Biofuels Boom.

www.actionaid.org.uk/sites/default/files/doc_lib/fertile_ground.pdf


Action Aid, The Truth about Biofuels.

Carlos Zorrilla, Protecting Your Community against Mining Companies and other Extractive Industries: Guide for Community Organizers, 2009.


The Sustainable Development Institute (SDI) and Namati, Community Guide: Getting a Fair Deal from Companies and Investors, 2013.

The Sustainable Development Institute (SDI) and Namati, Community Guide: Protecting Community Lands and Resources, 2013.

World Rainforest Movement, 12 Replies to 12 Lies about Oil Palm Monoculture Plantations, 2013.

Endnotes

1 Silas Kpanan’Ayoung Siakor, Uncertain Futures: The Impacts of Sime Darby on Communities in Liberia, Monrovia. Sustainable Development Institute, 2012.


3 R. Evans and G.R. Griffith, Palm Oil, Land Rights and Ecosystems Services in Gbarpolu County, Liberia. Research Note 2, Walker Institute for Climate System Research, University of Reading, 2013.


