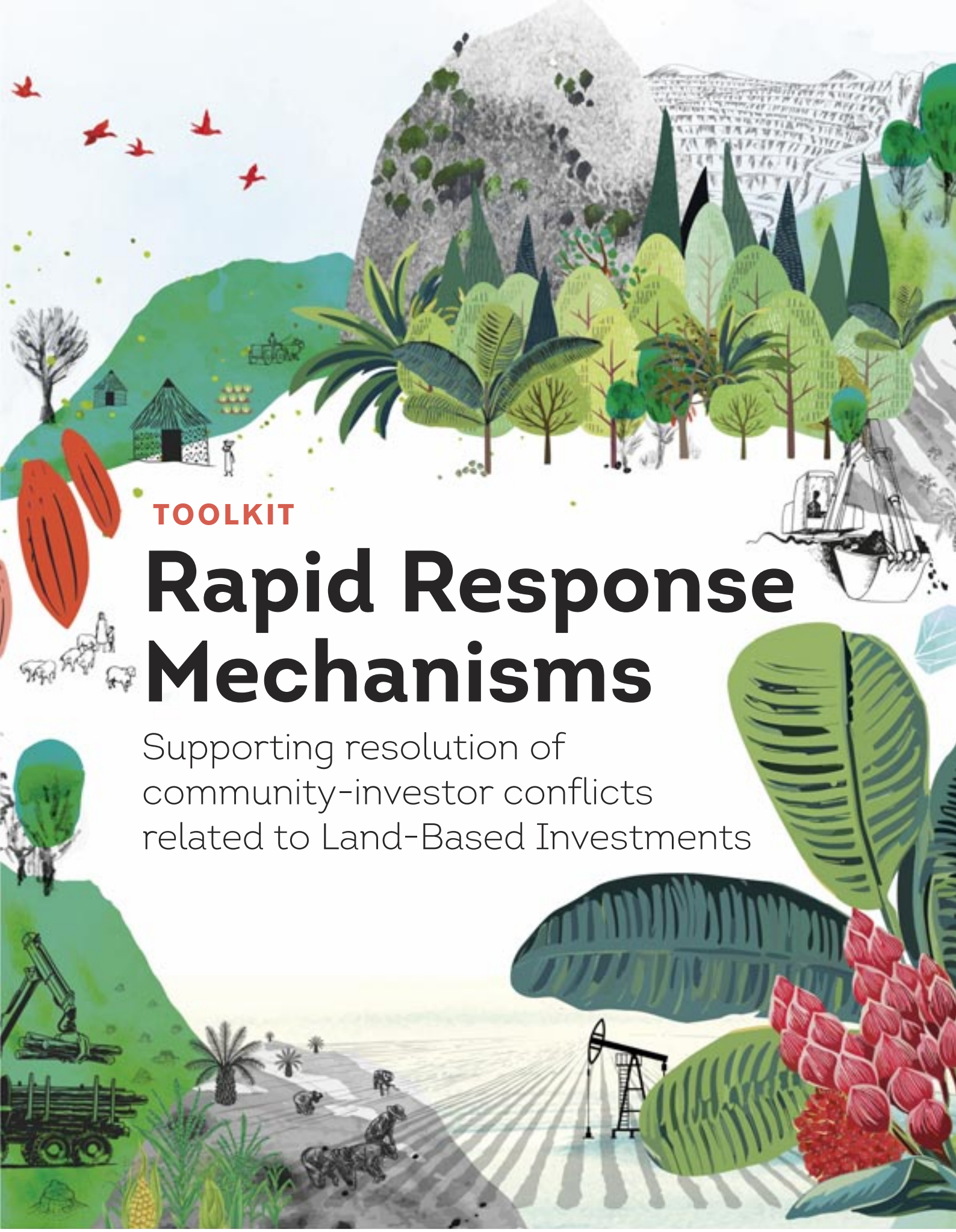

TOOLKIT

Rapid Response Mechanisms

Supporting resolution of community-investor conflicts related to Land-Based Investments

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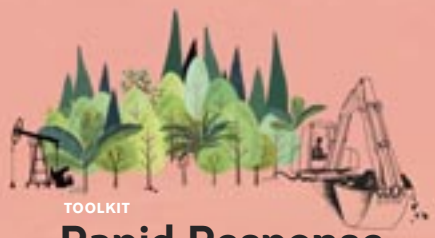
Making Land Work For Us All



TOOLKIT

Rapid Response Mechanisms

Supporting resolution of community-investor conflicts related to Land-Based Investments

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Introduction

In the context of land-based investments, rapid response mechanisms (RRMs) are legal, social and technical support strategies that enable communities to quickly seek help for land conflicts. RRMs aim to identify potential community–investor conflicts as early as possible and provide affected communities with the legal and technical support necessary to prevent the conflict or its escalation. RRMs can be used in contexts where investment projects overlap with community rights and where there is a high likelihood of: conflict or human rights abuses; water and soil pollution; ecological destruction; illegal exploitation of timber, minerals and wildlife; illegal encroachment into community lands; and other kinds of harms.

There are many ways to structure and run a rapid response mechanism. This document suggests some paths for building and running an RRM, based on fieldwork in Cameroon, Uganda and Liberia. Rapid response mechanisms function best when they are flexible, adaptive and responsive to: the local and national context; the level of freedom or openness in society; communities' preferences or capacities; the sensitivity of the issues addressed and the degree of citizens' fear and intimidation around those issues; the human, material and financial resources available to the operating non-governmental organisations (NGOs); the availability of supporting technology; and various other factors. Indeed, each RRM must be uniquely adapted to and reflective of the specific local circumstances it is operating within.

Above all, the goals of conflict prevention - and of keeping community members safe as they work toward a conflict's resolution - are of ultimate importance and should drive the system's structure and process. For this reason, this toolkit suggests multiple ways of structuring an RRM.

How to use this toolkit

The intended audience for this publication are lawyers, paralegals, advocates, legal empowerment practitioners and NGOs or institutions that support local communities and Indigenous Peoples impacted by large-scale investments.

Part One briefly describes **what Rapid Response Mechanisms are** and how they might be useful.

Part Two then details the **logistics of how your organisation might set up a rapid response mechanism** — both in contexts of relative freedom and low levels of citizen fear of the state, and in contexts where people live within an atmosphere of fear and intimidation, and where taking action may be dangerous to both individuals and organisations. The basic steps of setting up an RRM include: clearly setting criteria for what kinds of cases you will take on, and in what areas; allocating staff time; creating an intake questionnaire; setting up a database to track and log cases that come in; setting up systems to allow affected communities to contact your organisation to report latent, nascent or escalating conflicts; and creating a system to efficiently triage cases to provide the right kind of support — either immediately after receiving the request for help or within a short time period.

Part Three suggests **tactics for researching and understanding each community–investor conflict**, and then describes various strategies that your organisation (together with the affected communities) might choose to pursue to successfully resolve the conflict or seek necessary protections and redress.

Part Four then briefly outlines **how your organisation might use the data collected in your RRM database to advocate for policy changes** that can address the underlying, systemic and root causes of community–investor conflict in your country.

Appendix A sets out **various legal frameworks and policies** that your organisation may want to use or leverage when supporting communities facing conflicts with investors.

Appendix B suggests other resources, including guides and useful publications, global organisations who may be able to provide support, and **links for filing grievances or lodging complaints with global oversight bodies**.

A note on word choice

- In this toolkit, we use the term **'community'** to mean a group of individuals, families, and households who collectively live within or have strong historical ties to a specific territory with definable boundaries and are governed by a shared set of customary, Indigenous or state governance structures.
- In this toolkit, we use the term **'investors'** to mean the full range of local, national or international companies, business decision-makers, and project financers who stand behind any investment, business, initiative or project that has any impact on communities. Governments and government officials also often either facilitate such investments or are themselves direct investors, shareholders or investment proprietors. The term 'investors' also applies to local businessmen who may be operating illegally/without permits and permissions, etc.
- In this toolkit, we use the term **'resources'** to mean the vast array of biodiversity within a community's local ecosystem(s), including the plants, animals, minerals, waters and soils located there—some of which may be considered to be extractable 'resources' by investors and government officials.
- In this toolkit, we use the term **'conflict'** to mean any strong opposition regarding rights, interests, visions and/or perceptions between two or more actors in a given context.

1. What are rapid response mechanisms and why are they needed in the context of land-based investments?

1.1 What are rapid response mechanisms?

Currently, most approaches to investment-related land rights violations are reactive, rather than proactive or preventative: legal support is usually provided *after* communities have been negatively impacted, displaced or evicted — and *after* lives have been lost, property destroyed, local waters and soils polluted, and communities devastated. In such cases, legal support has a limited chance of reversing the damage caused. In contrast, rapid response mechanisms (RRMs) are designed to ensure that community members can reach out for legal and technical help the moment a conflict arises, and/or as soon as their rights are threatened or violated — and for advocates to respond quickly, in order to preventatively resolve a potential conflict *before* major harm has been done and *before* it escalates.

RRMs are designed to best support communities to:

- **Proactively identify** where investment-related land conflicts may occur, seek advice and take preventative action — so that the conflict is avoided or de-escalated, and significant harm does not occur;
- **Seek support and information** as soon as they feel their rights are at risk, that a conflict is beginning, or that legal, technical and conflict resolution support is needed; and
- **Strengthen community members' capacity** so that they can engage with the conflict or potential conflict from a place of agency and empowerment, choosing conflict resolution strategies that best reflect the community's interests, values, preferences and priorities.

RRMs often consist of some or all of the following components:

- A dedicated free hotline, continually advertised through posters, flyers, billboards, on radio programmes, and at community meetings.
- A network of key informants in the field who provide advocates with reliable information as events occur.
- At least one staff member responsible for managing and responding to calls to the hotline and/or from key informants.
- A simple database system to track and record incoming calls and requests for help, as well as what actions advocates took in response.
- Field visits for direct intervention, either by the implementing organisation's staff member advocates, or by advocates from a network of cooperating civil society organisations (including paralegals, *pro bono* lawyers and other technical experts).

1.2 Why and when are they needed?

Governments across the world are increasingly granting large areas of land to national elites and foreign investors for agro-industrial, logging, mining/extractive industries, alternative energy and tourism ventures. National governments are also increasingly launching large-scale infrastructure projects like roads, dams, transportation corridors, airports and national parks; in addition to the land needed for the projects, speculative land grabbing in the region may also occur. There has also been a steep rise in illegal extractive enterprises within Indigenous Peoples' lands and within rural communities governed by customary law. The negative impacts of these investments and projects can include community displacement and dispossession; pollution of local lakes, rivers, air and soils; land rights and human rights violations; livelihood, water and food insecurity; and an associated increase in community–investor and community–state conflict.

Meanwhile, the combination of climate change and population growth is leading to an increasing prevalence of contexts where there is less and less water and/or arable land available — which then must be shared by more and more people. In combination with the rising number of land-based investments — which are also drawing on the same limited local resource pool — increased land, water and resources scarcity is resulting in a growing number of land conflicts. Moreover, when a land-based investment pushes people off their land or restricts a community's access to critical resources, there is often nowhere for them to go and no alternative resources for them to access that are not already claimed by others.

Other immediate drivers of community–investor or community–state land conflicts include situations where:

- Central government officials issue licences or permits to investors without properly involving the local government and the leaders of affected communities.
- Investors and/or government officials fail to properly seek and receive affected communities' free, prior informed consent (FPIC) to a project (and negotiate an agreement for the use of the land that genuinely benefits affected communities). Tensions run especially high in areas where communities were not properly consulted about the allocation of their land for an investment project and given an authentic opportunity to accept or reject the planned project, or when a community chose to withhold their free, prior, informed consent and the investment project proceeds regardless.
- Investment activities pollute local lands, waters and air; degrade the environment; endanger community members' health and lives; and otherwise negatively impact community members' health and wellness.
- National or local elites claim community land for their personal use in bad faith, using power, wealth, influence, pressure, fear, intimidation and threats to corruptly and illegally claim community land. They may also use security forces, armed guards and local police to take the land by force.
- Investors or government officials corrupt local leaders by adding them to company payrolls, paying/bribing them personally for lands rather than compensating the entire community. This undermines community members' trust in their leaders and destabilises local governance.
- A community has agreed to share its land with an investor and signed a benefit agreement, but the investor then does not properly compensate the community financially—either paying less rent than agreed or failing to make rental payments at all.
- Investors or government officials fail to abide by the terms of stipulated agreements in a way that harms or negatively impacts affected communities. This includes situations in which:
  - > Investors expand the boundaries of their projects beyond the agreed area, negatively impacting community farms, water sources, rights of way, cemeteries and sacred sites, or communal resources critical to livelihoods like forests, shorelines and grazing lands.
  - > Companies fail to respect negotiated benefit agreements or fulfil their terms in good faith, for example by not building promised infrastructure, not providing promised jobs, or failing to pay workers hired from the community; and other negative actions.
- Actions taken by the investments' or infrastructure project's workers or staff (relocated from elsewhere) lead to the violation of community members' rights. These can include workers bringing alcohol, drugs or violence into a previously peaceful community; abuse and defilement of local women and girls; workers driving large, loud trucks through a community at all hours of the day or night; workers claiming land for personal gardens without permission; and other behaviours that are not socially accepted in the community.

Investor and state security forces illegally evicting a community.

Land-based investments are also fuelling **conflicts between communities** who used to live together peacefully. For example, an investors' land grab may force members of one community to enter into a neighbouring community's territory to gather resources necessary for survival, creating conflict. This is particularly true in regions where pastoralists and farmers have carefully negotiated overlapping use rights to water and wetlands, and in areas where multiple users have overlapping use rights to a large forest, grazing land or water body.

The costs of the resulting conflicts are very high. Community members who protest the investment's violations are often arrested and put in jail by state authorities who fail to undertake a proper analysis of the underlying reasons why the community members have blocked roads, sabotaged company equipment or crops, or otherwise resisted a company's actions. In other instances, community members may be harmed or killed by company agents for protesting against a company's rights violations.[1] Meanwhile, data has shown that conflicts with local communities can cost companies millions of dollars and negatively impact the investors' reputation.[2]

1 Global Witness (2023) Standing Firm: The Land and Environmental Defenders on the Frontlines of the Climate Crisis. https://www.globalwitness.org/en/campaigns/environmental-activists/standing-firm/

2 Locke, A, Munden, L, Feyertag, J and Bowie, B (2019) Assessing the Costs Of Tenure Risks To Agribusinesses. ODI and TMP Systems. https://landportal.org/library/resources/qtr-report-2019/assessing-costs-tenure-risks-agribusinesses

RRMs are a particularly useful strategy in situations where:

- There is sudden land or resource scarcity due to: 1) a drastic reduction of the area of land available to local communities — often because of the intrusion of a new investor with new exclusive rights to all or a portion of what had previously been community land; or 2) a drastic change in the quality of the land and/or resources available — often due to the pollution of land and waters by an investment, deforestation, or a company's claiming of valuable resources that community members previously depended upon for their livelihood or household survival; or 3) when the investors limit or cut community access to water and other resources; AND
- The remaining land and resources are insufficient to meet the needs of the affected communities, either now or in the future, and there is very limited other land or resources available to replace the land and resources a community has lost; AND/OR
- The affected communities understand the land and resource loss to be permanent, and do not envisage regaining control of their land and resources in their lifetime.

STRATEGY TIP: Advocates might review a region, district, province or state for situations like these, then proactively approach possible affected communities to provide support before any conflict occurs, as the likelihood of conflict is very high.

CASE EXAMPLES: When investors break agreements

Case example: A company started mining gold on a small piece of land in a remote rural community. The community had agreed to the company's use of a specific piece of land. Once work began, however, the community reported that the company extended the boundaries of the land it was mining to encompass land that belonged to the community and local artisanal miners. The community also reported that the company also began not only mining gold, but also blasting community rocks that were not part of the investment deal.

Before the company started mining, it had promised to build a school, health facility and road in the community, to drill multiple boreholes/wells, and to provide scholarships to brilliant students. None of these promises have yet been delivered upon.

The community also felt that the investor had treated community members with disrespect—people described his demeanour as "arrogant," and, over time, they lost all trust that the investment would benefit their community. They openly accused their leaders of receiving bribes from the investor and ignoring the community's complaints. These factors eventually led to a community–investor conflict.

Case example: In a small village in the forest, a company requested a two-hectare piece of land for building a field base. After a meeting, the chief and the elders took the decision to grant the two hectares. However, the community reported that: the company instead cleared ten hectares of land and instead started building a tree nursery; claimed the rights to 1,200 hectares; began clearing that land, despite the communities' resistance; proceeded to sell the trees it had illegally logged; and used the saplings it had grown in the nursery to replant the area. Despite this, people felt that the local government administration remained supportive of the company. Community members also reported that the company then launched a process to register the land without informing and involving the community, who under law were customary rights' holders.

Investor illegally fencing off a community's sacred site for construction of a private resort.

CASE EXAMPLE: When government officials claim land in bad faith for their personal businesses

Community members reported that a former government official used force to build a tourist resort around a community's sacred site. For generations, the community had used the sacred site to perform cultural rituals. But then the former official claimed the site as his personal property, built a fence around it and refused to allow community members to access it. In response, the community destroyed part of the construction at the tourist resort. The community reported that the former official/investor then had the regional police arrest 87 members of the community. The sacred site is now a site of conflict, as the community, the former official/investor, and the local council (alerted to the value of the site) are all claiming rights over it.

1.3 How do rapid response mechanisms address justice challenges?

Communities who have been negatively impacted by a public or private investment often have limited choices about how to respond. Given the significant power imbalances between communities and investors, communities need to be very careful about how they choose to communicate their dissatisfaction with the situation. Actions like lodging a complaint, filing a grievance or bringing a lawsuit usually require the support of lawyers — who are often expensive, unknown or untrusted, and/or unwilling to travel to remote rural areas to work for communities without certainty of payment. RRMs are designed to address these challenges and others.

Specifically, rapid response mechanisms can:

- **Ensure that communities have a trustworthy source of information and advice to call upon for immediate help when a conflict is imminent or just beginning.** Communities confronted by a conflict with investors, national elites or government officials often don't know where to turn for help. They may not know their rights under national and international laws, or how to use the national legal system to protect their rights. Having a well-publicised hotline to call or a locally known key informant to quietly reach out to can help people more easily get information and support.
- **Make legal services accessible to local people living in even the most remote areas.** In areas where there is no local NGO, legal service providers and advocates can give legal support over the phone. To help with this, they can identify motivated, eager community leaders or members, provide training, then start working with them as 'local key informants' who can both communicate urgent information to legal services providers as it happens, as well as relay information and advice back to their communities.
  - > Such individuals need not be formally certified paralegals; the most important elements in their selection are: 1) a position in the community allowing them to have access to important information; 2) a reputable, honest character; 3) the ability to quickly communicate news from the field; and 4) the ability to accurately predict future/evolving conflicts.
  - > If the individual(s) selected are not community leaders, it may be useful to also train key leaders who can provide support to these key informants.
  - > Your organisation will need to somehow compensate these individuals for their time and cover their transport fees and other costs.
- **Provide support that helps affected communities exercise agency and protect their rights during community–investor conflicts.** By helping research the company the community is in conflict with, supplying community members with necessary legal and technical information, connecting them with journalists to help publicise the matter, and providing alternative conflict resolution support — among other supports — RRMs can help ensure community members and their leaders have more agency and decision-making authority in the pursuit of a resolution, and that the conflict is resolved as quickly as possible, on terms that reflect the community's interests and priorities.
- **Be a cost-effective and efficient way to serve communities.** For advocates, providing preventative support can reduce the amount of time and resources spent on resolving land conflicts or litigating injustices. Preventative support can also serve government and investor interests by preserving peace and increasing the overall stability of the region. It is also a way to promote a fair share of wealth creation and redistribution, and to improve communities' livelihoods.
- **Bring about policy reforms**, as the data gathered in the questionnaires can be aggregated and then analysed to identify patterns and practices that can be remedied through policy (see Part IV).

2. How to set up a rapid response mechanism

When designing a rapid response mechanism, your organisation may want to carefully consider the local context, the communities served, the kinds of land conflicts that will likely arise, the resources available (financial and otherwise), and all relevant logistical implications and requirements — and create something that is both effective and manageable.

It is also important to build a system that:

- **Allows community members to contact you easily.** Be open to receiving calls, texts and informal visits from community members, as well as meeting informants wherever they can meet you, rather than requiring them to physically come to your offices.
- **Allows you to respond fast**. The turnaround time between when someone reaches out to report a potential conflict and when you provide information and/or support should be quick (ideally, within one to three days). If you react too slowly, a potential conflict might flare up into violence or the affected community may lose trust in the system.
- **Keeps everyone safe, including the affected communities, your own staff and your organisation as a whole.** Advocates *must* take into consideration the overall degree of fear of powerful state and non-state actors in the region, and the probability of violence and retaliation by those actors (or others working on their behalf), then thoughtfully craft a system that fully protects both the communities seeking support, any local key informants liaising with the organisation, and your own staff.

Because community–investor conflicts are characterized by such extreme power imbalances, to ensure the safety of everyone involved, this section is divided into three parts. First, it details the basic elements of a rapid response mechanism. Second, it outlines how to set up an RRM in *contexts where there is a relatively low level of fear and intimidation* among the population served, or where the main actors violating community rights are not closely affiliated with powerful government officials and their families. Third, it suggests alternative models organisations can set up that offer more protection and anonymity to community members seeking legal support in *contexts where it is not safe to report a community–investor conflict and there are very high levels of fear* among the population served.

Billboard advertising a rapid response hotline.

2.1 General elements of a rapid response mechanism

Overall, rapid response mechanisms tend to work best when operating organisations adhere to the following procedures:

1. Clearly state the limits of service

Stating the limits of your service might include:

- **Stating where you can and cannot provide services.** If you are not explicit about the regions your RRM serves, it is likely that you will receive calls from areas where you are not able to provide support (especially if you work in a place where word travels fast through informal systems). This may result in your organisation receiving an overwhelming number of requests for legal support that you are unable to respond to.

- **Stating what cases your organisation will and won't take.** It is crucial that you are very precise about the kinds of cases your organisation will take. This means having very clear criteria for discriminating between what kinds of conflicts you will support and what kinds of conflicts you will not support. These criteria should be well publicised. This is important because:
  - If you are not precise enough, you may receive hundreds of calls concerning land conflicts within families or between neighbours.
  - If you do not have clearly stated criteria at the outset, when you decline to take a case, you may be perceived as not being impartial or of being on the side of one of the parties (especially in cases that involve conflicts between neighbours or families).

STRATEGY TIP: It may be useful to occasionally take a case that falls outside of your criteria, on the grounds that you can learn something important from it, or because the power differentials are severe. For example, a case may appear to be between two community members, but on closer examination it becomes apparent one of the conflicting parties is a local government official or has ties to high-level government officials or national elites.

2. Set up a streamlined intake process that includes a structured questionnaire and associated database

Because your organisation might receive hundreds of calls, it is important to have a systematised intake process. Setting up a questionnaire and database can help you: treat all calls the same way; gather data (that you may be able to use for policy advocacy); and keep track of each case and the actions taken.

Intake process

A suggested or sample intake process might be:

- **Step 1:** A call or request for help is received. An 'intake officer' asks a standard set of questions to determine the nature of the case and what kinds of responses are warranted.
- **Step 2:** The intake officer enters the request for help and answers to the questionnaire into a database (ideally immediately, as the caller/informant is answering them, or directly after the conversation ends) that allows staff members to easily access the information.
- **Step 3:** Staff members in charge of reviewing all new case intakes discuss the matter and determine how to respond.
- **Step 4:** Your organisation either provides legal and technical support or refers the case to another organisation which will be able to help.

Questionnaire

Each time a community member or key informant calls or contacts your organisation to report a potential or active conflict, the receiving staff member may want to ask the questions on a pre-established questionnaire to ensure your organisation has all the information necessary to make a decision about what action to take. This can be done either on the first call or in a separate, follow-on conversation, if circumstances require.

STRATEGY TIP: It is best to stay flexible and open about your questionnaire and be ready to improve it over time. As you use it, you will likely discover that you need to change the questions you are asking or how you are asking them (to ensure you are gathering all the information necessary to know how best to respond, or simply because you need more detailed information). You may also decide to add questions aimed at gathering data you can use to inform your policy advocacy efforts.

Intake officer recording a caller's responses to the questionnaire.

Database

The database can help your organisation:

- Keep all the information related to each request for help in one central place;
- Keep track of all actions taken for opened cases, including what information was provided, what legal actions were taken, all follow-up support provided;
- Keep track of the nature and progression of each conflict over time, including the terms of a conflict's resolution;
- Identify trends (what type of actors routinely violate community rights, which regions of the country have the most rights violations, what industries violate community rights most, etc.); and
- Make a map of where the conflicts are located.

Over time, as many requests for help are entered into the database, analysis of the collected information can provide valuable data on community–investor conflicts, developing a picture of national patterns and practices. This can help civil society actors, trusted government officials and other interested parties when it comes to crafting laws, policies and interventions that ensure land-based investments do not violate communities' rights or otherwise spark conflict (see Part IV for more information).

Sample data collection questionnaire

1. May I take written notes about what you are telling me so I can share them with colleagues and discuss how to best support your community?
2. What is the conflict you are calling about?
   Please describe the situation in detail, as well as your specific concerns.
   - What stage is the conflict currently in?
   - Who, specifically, is involved in the conflict?
   - Has your community taken any actions to try to resolve the conflict on your own or with the help of local government officials?
   - How volatile is the conflict — might it very quickly increase in severity/intensity?
   - Have the local police or national army been called in? Has anyone been arrested?
   - Has anyone been hurt or killed?
3. Who is the investor? Name, nationality, affiliation with a global company?
4. What is the investor's business? What is the existing or planned investment?
5. Status of the investment:
   - Is the investor already situated on your land/neighbours' land and currently in production?
   - Or: has the investor already been granted a concession but not started operations?
   - Or: is this a potential future investment?
6. Is the investment affiliated with any specific government officials or their families?
7. Which government agencies are involved, and which ones are interfacing directly with the communities and the investor(s)?
8. What information has the investor provided to your community? Have you been shown any paperwork regarding the investment's licence or permitting, or proof of a formal land concession granted by the government?
9. How much land has been taken/granted or requested, and where is it located?
10. Who are the owners of the land? (Which families, communities, villages, groups?)
11. How many communities/villages/Indigenous groups are or will be affected by the investment?
12. Was a formal free, prior, informed consent (FPIC) process carried out? Did the investor or government agency provide detailed information about the investment to the community?
13. Did your community give consent?
    - If no, did other affected communities?
    - If yes, were all agreements documented and signed? Or were any other papers signed?
    - If yes, what community benefits — or protections and conditions — were negotiated and agreed?
    - Were any bribes or initial 'payments' made, and if so, to whom?
14. What have been the negative impacts of the situation that has sparked the conflict?
    Please describe any and all impacts:
    - Environmental impacts?
    - Health and wellness impacts?
    - Livelihood impacts?
    - Governance impacts?
15. What is the level of fear among community members? What is the level of anger?
16. What actions do you think would most support a peaceful resolution of the conflict?
17. Does your community have a clear idea of how the conflict could best be resolved, and what outcomes would lead to peace? If yes, what would those be?

3. Establish procedures that ensure that advocates quickly provide the best support possible

After you receive a call, your organisation may need to provide immediate support to prevent imminent violence or harm. To support your organisation's staff to take immediate action, it may also be helpful to create internal 'roadmaps' for typical cases, including what steps to take/what process to follow, which ministries or specific authorities to contact, which government departments will have the necessary paperwork or information, etc. (these roadmaps would be for internal use by staff, separate from the 'guides' you might create for community education and capacity building). You might also proactively set up systems or relationships that help you to quickly research the inventors' permits and licences, link the community with trusted journalists, and connect the community to other civil society groups. Such systems can ensure that when a call comes in your organisation does not need to spend time charting new paths each time.

CAUTION: If a conflict is serious, your organisation should give immediate necessary legal support over the phone, including advice on how to de-escalate a conflict before it becomes violent, and how to manage the arrests of community members, etc.

4. Allocate trained staff

There are various strategies your organisation might pursue when staffing your rapid response mechanism, including:

- Hiring a specific advocate (or re-assigning an existing staff member) whose sole responsibility is answering and responding to all requests for help that come in through the rapid response mechanism;
- Sharing the responsibility for staffing the RRM among a few advocates; and/or
- Training existing receptionists, administration staff, or monitoring and evaluation staff members to take calls from the hotline. Other staff with relevant legal and technical expertise can then review the details together and decide how to respond.

The staffing system you create will depend on whether you decide to answer calls seven days a week, day and night, or instead restrict the RRM's operation to weekday working hours. It is likely that your organisation will receive calls outside of working hours — so if you do decide to limit the hours you are available to respond to calls, you may want to create an answering message that states the hours of operation and the expected response time.

5. Find ways to ensure that help is as local as possible

While phone calls are a good first step, it is useful to have someone who can go to the community and do a basic 'ground truthing' by talking to the affected people and verifying the information relayed by the person who contacted you about the conflict. This can help to:

- Ensure that local people have someone to meet with and talk to (offline and in private, which may feel safer for them);
- Ensure that the information you are getting is accurate; and
- Collect additional information about the conflict.

6. Create a system that allows your organisation to decide relatively quickly whether you will get involved in a case and what action you will take

A streamlined decision-making process concerning how to respond to every call that comes in — or every case that is reported through informants — is central to running a rapid response mechanism. If your RRM is to work well, your organisation will need to promptly and professionally select which cases to take on and which to refer elsewhere. For those cases you do take on, a group decision-making process can help your organisation make sound decisions about what steps to take to resolve or address the conflict.

STRATEGY TIP: It is important to manage affected communities' expectations about what outcomes may ensue and avoid promising that you will be able to fully resolve a conflict. You may want to clearly state that while you will do your best, you cannot guarantee the conflict's resolution or promise the situation will change. For those cases you do not take on, it is best to communicate your decision to refer the case to another organisation in such a way that the community does not become frustrated or feel they have no recourse.

7. Contract with litigators (if you do not have a lawyer on staff), medical teams and therapists

Not every case needs a legal solution — you may not need a lawyer if you do not have one on staff. Some cases may only require diligent advocacy within the right government departments or at the appropriate local government level. In such instances, your organisation can use existing staff who are experts in conflict mediation, policy, land grabbing, political corruption, investment and other relevant topics. However, some cases do require legal advocacy by a lawyer. If your organisation does not have a lawyer on staff, you may want to consider having a lawyer or litigation firm on retainer, should a case require litigation or other kinds of legal work.

In a similar vein, your organisation might consider partnerships with therapists and medical teams to be ready for conflicts that will likely cause psychological trauma or physical violence/harm. In certain circumstances, victims may be injured and/or traumatised, and may need medical and psychological help. Connecting community members to such help will not only support their healing, but create legal evidence of the harms perpetrated.

8. Ensure that your rapid response mechanism reaches and serves the most marginalised community members

Land-based conflicts impact community members in different ways according to their livelihoods, identity, and level of marginalisation and vulnerability. Dominant groups' proposed solutions to land conflicts may further impoverish the most vulnerable community members. To address this, proactively invite representatives of marginalised groups (women, Indigenous Peoples, youth, members of minority ethnic or religious groups, refugees, etc.) to all discussions regarding the community–investor conflict, give them space to speak, make sure they are heard, and ensure their interests are fully represented in all potential solutions.

It can also be helpful to meet privately with a diverse array of community members to ensure that you receive the full range of community perspectives on a given conflict. Such meetings can help your organisation better understand the perspective of more marginalised segments of the community and work with them to design an intervention that does not exacerbate inequalities or create tensions.

9. Create short, low-literacy guides and written materials that provide legal information and give basic advice

To prepare for the launch of your RRM, you might consider preparing short, low-literacy materials in various national/local languages that you can give to communities facing conflicts with investors.
Such publications might briefly describe:

- Communities' legal rights within the national legal system and international law.
- Strategies for effectively navigating government agencies/using national laws to protect community rights.
- The full range of potential actions communities can take to address investment-driven conflict, including community–investor dialogue, mediation, filing a complaint or a grievance with an international oversight body or funding institution, and working through the national ombudsman's office.

Working with lawyers in the investor's home country to file legal actions where the company is domiciled/incorporated.

These guides might also share the address, phone numbers and contact information for key government agencies and international grievance mechanisms, as well as any other useful and necessary information.

These materials can then be shared throughout affected communities, helping people teach themselves and each other.

STRATEGY TIP: The Sustainable Development Institute (SDI), a Liberian organisation, created an illustrated publication entitled 'Community Guide to Getting a Fair Deal from Companies and Investors'[3] that explains how a community can proactively prepare to negotiate with potential investors before an investor approaches them; what questions community members should ask both themselves and investors before going into contract negotiations; and how to ensure they receive equitable benefits in return for sharing their land and resources. The guide also includes actions that communities can take if, having signed an agreement in the past, they feel they are being treated unfairly or want to enforce elements of the contractual agreement. SDI provided copies of this Community Guide whenever it was called by a community facing a potential investor. After only a few months of distributing it, SDI staff noticed that community members were bringing copies of this guide to their meetings with investors and actively referring to it during meetings.

3 https://grassrootsjusticenetwork.org/wp-content/uploads/2013/10/SDI-Namati-community-guide-Fair-Deals-LR.pdf

10. Create a network of partner organisations to help with cases or to refer cases to

As part of your rapid response mechanism, your organisation may want to create a network of national civil society organisations and global advocacy organisations (see Appendix B) that can work together with you to provide immediate support to communities facing conflicts with investors. Your organisation can then partner with other organisations to:

- Take cases that are outside the scope of your organisation's mandate.
- Provide a wider range of services (that your organisation does not provide, or for more support), such as media coverage, policy advocacy, litigation and environmental advocacy.
- Expand the reach of the RRM to other regions in the country where you are not working; and
- Support global advocacy efforts when the company is registered internationally.

It is especially useful to **create good working relationships with local, community-based organisations** (even if they work on other issues) whose staff can go quickly to the affected community and verify information on the ground (in instances where your organisation cannot send someone immediately to do so).

Ideally, to create the most well-oiled response, your organisation might launch any such collaborations or coordinated response strategies with one or more trainings to ensure all involved organisations are:

- Well-versed in all relevant international and national laws that impact community land rights in the context of investment; and
- Fully aware of and ready to participate in the RRM's systems, process, messages, etc.

2.2 How to set up a rapid response mechanism in a context where citizens are not afraid of speaking up

The basic system outlined above is relevant for starting an RRM in any context. This section describes additional details about how your organisation might set up a rapid response system in a context where citizens do not actively fear speaking out, reporting injustices, or otherwise taking civic action against investors or government officials.

If your organisation is based in a country where people are not regularly imprisoned, killed or otherwise severely penalised for speaking up, the following rapid response strategies may work well:

1. Set up a free hotline and publicise it widely

To operate the rapid response mechanism as a hotline, your organisation can easily purchase a new mobile number, attach it to one or more phones, then direct all phone calls and text messages regarding community–investor conflict inquiries through that phone line. (If relevant, you might consider setting up a few hotline numbers with a few of the major mobile providers in your country.)

Hotline costs. You may be able to make an agreement with one or more of the main mobile service providers in your country to provide the mobile line(s) for this hotline for free — allowing all calls made to the hotline to be no-cost for callers. Alternatively, your organisation can simply purchase mobile bundles that allow for unlimited talking and texting. You can then publicise that when anyone texts or calls the hotline, you will immediately call them back, so that you cover the cost of the call. This will allow community members to have ample time to tell the full story, answer all questions and relay all relevant information.

Hotline publicity. Once you have established a hotline phone number and established a streamlined system for responding to calls, you may want to formally launch the hotline. It may be helpful to:

- Hold launch events in the region(s) where you will provide services to raise awareness about the rapid response mechanism. The launch event(s) can serve to both celebrate the new service offered and provide relevant legal and technical training to attendees. Your organisation may want to invite relevant community leaders, local government officials and journalists to put them on notice that the hotline exists.
- Use social media to publicise the hotline and consider making announcements or running advertisements in national newspapers or on television. You may also want to create culturally appropriate radio advertisements to publicise the hotline and share the hotline number. It is best to record radio announcements in both the national language and all regional languages, and to broadcast them on all relevant radio stations in the region(s) you will be working in.
- Run a wider awareness-raising campaign that might include dissemination of flyers, multiple workshops, guest appearances on radio talk shows, and other kinds of media announcements.

2. Create a network of clinics to serve the most disenfranchised populations

Experience has shown that hotlines may not be the best strategy for reaching the most marginalised groups in any region, and that it is these groups that suffer the most rights abuses by investors and powerful elites. In particular, Indigenous Peoples, women and refugees/internally displaced peoples (IDPs) may be less likely to call a hotline or access legal services that provide general support. For this reason, it is helpful to collaborate with other organisations that work directly with these populations to create population-specific 'clinics' designed to reach these groups. Such collaborations can also build synergies that increase the sustainability of interventions.

Such clinics might be mobile clinics that travel directly to certain locations, or they could be held in the offices of national or local organisations that are already trusted and accessed by women, Indigenous Peoples, IDPs and other marginalised groups. For example, your organisation might partner with an organisation that focuses on Indigenous Peoples' rights and/or is run by Indigenous Peoples, or collaborate with a women's rights organisation that is already serving women's health or education needs. Your organisation can then add to those existing services by providing a weekly 'land rights clinic' in their offices, offering help related to the needs and interests of these groups in the context of community–investor conflicts.

2.3 How to operate a rapid response mechanism in an atmosphere of fear and intimidation

In some countries, government actors at the highest levels of power—government ministers, cabinet members, military officials, members of the national legislature—and their family members and associates are involved in land grabs. They may directly grab land, engage in corrupt practices that allow them to claim community lands in bad faith for their own business enterprises, or act as facilitators of large-scale land concessions to international investors. These national elites often operate entirely outside the national rule of law and are unaccountable to international legal instruments. They may bribe local leaders; use fear and intimidation to coerce consent; have community members arrested; or remove leaders who stand in their way. When a land conflict involves such actors, it may be very dangerous for community members to seek justice.

PRACTITIONER EXPERIENCE: Fear of reporting a conflict

"When we held meetings [to investigate a reported conflict], we explained to the investor and the leaders that we have a hotline, that we advertised the project on the radio and invited people to report their grievances to us—we have to show them how we identified their case. They then asked, 'I would like to know the specific person who reported'. Even the district leaders are saying. 'We want to know who is reporting, who wants to sabotage development'. The investments are backed up by the state and by powerful people, so people fear to make the call. Even the leaders do not want to talk about it. Even in a closed room, the leaders are afraid, and make us swear we will say nothing, that we are bound by confidentiality—then they tell us more, but even then, with some fear. No one wants to risk their life—to put their life on the line for having reported the President's family. There is a lot of fear—if you are found out to have reported, then you will be in trouble. The hotline would be effective if people felt free and felt safe, but people do not know how safe they would be if they called."

In these contexts, or in countries where there is a significant degree of fear of the government, it may not be safe to call a hotline. Protecting communities is the top priority in all cases. If a community is contesting powerful vested interests, reporting on a community–investor conflict may put the person reporting the conflict in substantial personal danger. In such situations, it may be necessary to set up covert systems that allow people to seek support without exposing themselves to recrimination, backlash, arrest or danger.

It is also important to note that even just investigating a report of a community–investor conflict may put your staff and/or your organisation in danger. If your organisation takes on a case involving high-level government officials, the state may find a fraudulent reason to revoke your licence or otherwise shut you down, and/or your staff may be personally threatened, arrested or assaulted. If you plan to take on these kinds of cases, you may want to consider establishing both covert reporting strategies and covert advocacy strategies that do not expose the help you are offering, or else expose it in a strategic way.

This section offers some strategies for working on community–investor conflicts in an atmosphere of intimidation, fear and danger.

1. Set up a cadre of secret regional informants

Protecting your sources must be a top priority. While someone living in a large city who reports on land corruption, a land-related injustice or human rights abuses by government actors or large corporations may be exposed, someone living in a small town or village who makes a similar report may be truly endangered. Over the past decade, over 1,700 community-based land, water and environmental activists have been killed.[4]

To protect community members who want to report an investment-based land conflict or injustice, your organisation could set up a cadre of clandestine informants, none of whom know the others working in the broader region (so none of them can betray the others). For each area, you might select a few highly competent, motivated, trusted and discrete individuals to receive reports of conflicts and violations. Ideally, this will be someone with a high degree of personal integrity and honesty, who has already proven that he or she is willing and able to stand up for the community, despite the potential risks. While community members will know these individuals are working with you, the fact that there are various informants will make it difficult for those in power to trace back how your organisation got the information—the more informants in a region, the harder it will be to know which informant received a report and who they received it from.

4 Global Witness (2022) Decades of Defiance: Ten Years of Reporting Environmental Activism Worldwide. www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance/#decade-killings-globally

Meeting with secret informants in a busy, loud restaurant at the edge of the capital city.

Having a network of local informants on the ground also addresses a variety of other challenges. First, selecting a diverse group of informants (youth, elders, women, men, people from minority ethnic or religious groups) can open up the possibility of a more diverse group of people reporting conflicts: women may be more open to talking to a female informant, while youth informants might more easily talk to another youth. Second, having more than one informant in a region allows your organisation to ask another informant to double-check the information passed on by the first informant, helping verify or 'ground truth' the information.

Once selected, each clandestine informant may be supplied with a small salary, a mobile phone, phone credit and funding to cover basic transportation costs, etc. Your organisation might also provide them with training on relevant laws, the national legal system and other pertinent topics. For example, your organisation might provide informants with training on income-generating projects they are interested in (e.g. beekeeping, mushroom production, etc.), as well as some of the key inputs for starting such small businesses. In-kind payments like this are safer: your organisation may need to be mindful of how funding is disbursed to these informants, as mobile money payments and other kinds of electronic payments can be traced.

CAUTION: When the national political atmosphere makes it too unsafe for communities or even national NGOs to take action, efforts may need to be led by advocates living outside the country. In such situations, quiet, covert legal empowerment efforts can help provide a handful of carefully selected community members with the tools needed to gather appropriate evidence for international journalists and/or international NGOs to use when exposing the situation in international news or by filing court cases.

2. Hold small, private meetings with key leaders

It can be helpful to hold small, unpublicised meetings with local leaders and diverse community members to gather information about community–investor conflicts in a way that makes people feel less exposed. Whether individually or in small groups, leaders often speak more openly in person, when there is no possibility of anyone recording the meeting. Some organisations have found that such local meetings lead to a 'snowball' approach to conflict reporting: one leader will refer you to another leader that he or she knows is facing a similar community–investor conflict, who many then refer you to other leaders, and so on.

If it is safe to do so and will not endanger the youth (or be seen as politically subversive), your organisation might also hold local meetings for youth, who tend to have less fear of speaking out against injustice. In many cultures, cultural norms prevent youth and women from speaking publicly in the presence of male elders, especially if government officials are present.
To empower youth, it may be useful to convene special meetings for youth to give them space to speak, as well as train them on their community's rights in the context of external investment; help them create 'watchdog groups' to act as sentinels for rights violations or corruption perpetrated by investors, government officials, or community leaders; and otherwise be 'land protectors'.

CAUTION: Above all, maintain strict confidentiality of the personal details of the people who reported the case and the people who provided information about the conflict. Any named individuals may be targeted by the investors and government officials for intimidation, bribes, blackmail, denial of services, and, in the worst-case scenario, murder.

3. Carefully manage the community's risks

Even just reporting a conflict can endanger community members and key informants. These individuals may be targeted by the investors and government agencies and intimidated, threatened, blackmailed, denied services, fired from their jobs or taken out of their positions, and, in some circumstances, beaten, tortured, abused or murdered. It is therefore critically necessary to protect your sources. This can be achieved by, among other strategies:

- Ensuring the confidentiality of the personal details of those individuals who reported the case or collected evidence of the conflict;
- Teaching these individuals to wipe their phones clean in seconds, should that be necessary;
- Meeting with informants in private, where your meeting cannot be observed or overhead by anyone; or
- Having a 'cover' activity that the informant can engage in with other people, thereby allowing you to meet him/her without arousing suspicion.

PRACTITIONER EXPERIENCE: Protecting your sources

"We make a serious effort to protect the people in the field as much as we can so they will not be at risk for providing information to us. People should know: if I have a problem, I can go somewhere for help. They need to know where to go/who to go to, and trust that the person they have talked to will protect them. We discovered that it was better to have a lot of different numbers that people can call — various local contact people. The communities know those guys and have their numbers. We choose people that community members already see as 'enlightened': people come to them for advice, information, etc. — but without knowing that they work for/with NGOs. So they are talking to a friend or a resource person they know already — only the information they give goes into our system now. For example, in Area A, there are three informants who are available to receive information — they might know each other, but they also don't know that the others are working for us. This is also for their safety, so they cannot betray the others to the government. Because that has happened already.

"When the local informant receives information, he or she has to report on it: who, what, when, where. They provide the maximum information—and that can be done by phone. It is very informal: they use SMS, or WhatsApp, or phone messages—there are many modalities of communicating with us. Sometimes we also sit face to face, taking advantage of a community visit. They may take a motorbike from a village where there is no phone network to a bigger town to report to us. There are places where I will not meet our informants in the village — if I want to meet them, I get them out of the area and meet them in a town far away. And there are other places where our organisation has many different activities, working with many people, so if you go and have a drink with somebody, it is not a problem for them. We also bring people from the field to the office to train them and work with them."

4. Carefully manage your own risks

If working on a community–investor conflict will put your organisation at risk, there are a few strategies that may help mitigate that risk. Your organisation might:

- **Cultivate close, trusted relationships with local, national and international journalists**, then help those journalists expose the conflict. Once your organisation has received and verified information about a community–investor land conflict, you can provide this information to trusted journalists, supporting them to publicise the story (if it is safe for them to do so). Your organisation might facilitate journalists' field visits (covering all of their costs), help them speak with the correct people, and gather all the information necessary to properly report on the story. If possible, your organisation might work with a number of journalists across different kinds of media — radio, print, television, etc. — so that multiple stories come out over time. It is important that the journalists make no mention of your organisation's involvement when they publish the story. Then, once the media has fully exposed the conflict — and the national public is broadly aware of the matter — your organisation may be able to step forward more safely and publicly bring a case.

Supporting journalists to expose the conflict may help to hasten the pace of the conflict's resolution: a company keen on protecting its image may seek to resolve the conflict or take remedial action more quickly if company officials know their actions are being reported on in the national or international press.

In situations where the company — or its parent company — is from another country, it is especially useful to work with journalists from that country and bring them to visit the site of the conflict.

This has two benefits: first, it may be less dangerous for foreign journalists to cover a community-investor conflict, as a journalist living in London or New York may face much less personal danger when the story is published than a journalist living in the national capital of the country where the violation is occurring.

Second, bad press in the national media of the investor's home country has a greater chance of being seen by the company's board members, core investors and major shareholders — none of whom will welcome being publicly shamed in the national news.

- **Work in collaboration with other civil society actors**. If no other organisation is working on a case involving a large company with ties to national government or military officials, your organisation will be highly exposed and may face significant risk. In such situations, it is best to work collaboratively with like-minded national and global organisations. Building alliances and collaborating behind the scenes can help manage risk, keep one organisation from being in the spotlight, create trust with other actors, and be more effective in bringing about change.
- For cases that are especially risky, **let advocates and lawyers in the investor's home country take the lead**. Feed them information from the ground, discreetly.
- Finally, your organisation may need to manage reputational risks related to working with community leaders who, while zealous advocates for their communities at first, eventually succumb to investor bribery and effectively begin to undermine your advocacy efforts from within. These leaders may sew doubt about your organisation's position or interests among community members, disclose the community's advocacy plan to the company, or otherwise create intra-community conflict related to the advocacy effort. To protect against this: if there is no risk of imminent harm, it is best to move gradually — allowing the community to slowly decide what to do and when to do it. This will give your organisation time to assess leaders' integrity, honesty, level of commitment and mutual confidence. Your organisation may also want to craft a general strategy for how you will respond to such situations.

CASE EXAMPLE: Working with journalists

"Last week, a palm oil company and the communities around the concession were in conflict. One of our informants sent us information about the conflict. She said, 'There is a conflict: the company has destroyed their existing oil palm trees in order to replant. The locals are saying, "No more replanting too close to our houses!" Yesterday when the company tried to start planting, communities broke through, there was a conflict, and the chief of the village was arrested and put in jail'. We got that information from two sources: the local NGO and one of our informants in the field. The question was: 'What to do?' We needed more information: why is the company trying to plant so close to the houses? While looking for that information, we were also trying to decide what to do.

"The first thing we decided to do was to put this in the newspapers. So we called a meeting with four local journalists, and we shared the information with them and said, 'There is someone waiting for you to take you around if you are willing to go there'. Three journalists — two radio and one print media journalist — went. They went to the field to gather more information, and to let the people there, including the authorities, know that it would not stay as a local issue, that it would be in the national media. This is important — for the company to know it will be known by their bosses and by everyone else. So they went there, and it was in the TV news, and meanwhile we gathered more information about the company's rights, their contract, etc. Now we are designing our strategy to see what to do now that we have more information in our hands. But we started with the publicity. The following day the chief was released from jail."

News about a community-investor conflict being broadcast on television and reported in the newspaper - *before* a legal advocacy organisation (publically) provides support.

STRATEGY TIP: "What we do is that we have contacts with the media, and we bring them to the field. We select journalists we trust who are not afraid of publishing information, and who will also not put themselves at risk. We work with various journalists, to keep bringing stories, one in two weeks' time, another in three weeks' time. We let the facts be shared, but not with our name. So we are not targeted as the people who 'started it'. Then we wait for a case to grow in the media, and for the outrage to grow nationally, until finally we can come forward to pick up the matter. And then you are 'second' to pick it up. Then the media writes about your work on the case, which seems to have come out of the media coverage. Don't be too strong, don't be first, work through people who can expose the case rather than you, then pick it up."

CASE EXAMPLES: Using technology to protect your safety and security

TIMBY (This is My Backyard): TIMBY is a suite of interconnected, encrypted digital tools that help organisations and communities report on-the-ground information safely and securely. Its reporting app (available in 26 languages in 50 countries) allows users to report incidences of land and environmental injustice by uploading pictures, videos, data and descriptions of the situation. Even in non-network areas, the app allows community members and advocates to collect and upload data seamlessly — stamped with geolocation and date/time. The app also helps users understand data trends with the help of built-in analytics and visualisation tools. For example, its tools — which can link to global satellite data — can be used to track local deforestation, illegal wildlife trade and environmental destruction. TIMBY also includes an investigation dashboard and a storytelling tool. Community members and/or advocates can use the storytelling tool to turn their field reports into a published narrative for advocacy purposes (such as reports for shareholders and national enforcement agencies) or as journalism stories for the general public. TIMBY's staff also help connect communities who may need additional support with appropriate lawyers and journalists. **www.timby.org**

MapMe: In Cameroon, the organisation COMAID has created an app called 'MapMe', which can be used only by members of 'Regional Land Observatories' who work with communities facing large-scale land acquisitions in the South, South West, North West and Littoral regions of Cameroon. The MapMe app permits users to share their position in real time. It has three functionalities. First, users can create a 'Quick Alert' while online, telling all other members of the Observatories that you are in danger and sharing your position for quick security action. The second functionality is tracking a member's position when heading to the field or taking part in sensitive meetings, allowing real-time monitoring. The member's position is shared every 15 minutes, even when their phone is off or without reception. The third functionality is to generate reports, which helps members share instant reports of land grabbing or abuses of land defenders, integrating photos, videos, voice recordings and videos into reports. For more information, contact COMAID through their website at **www.comaidcameroon.org/** or write to comaidbamenda@yahoo.com or info@comaidcameroon.org.

3. Deciding whether to take a case, then co-designing a strategy with the affected community

After receiving a report of a community–investor conflict, your organisation will need to investigate the conflict and make an internal decision regarding whether or not to open a case and support the community through a conflict resolution process. For those community–investor conflicts that your organisation does decide to take on, fully understanding the situation, determining what support you can offer and how you might provide it, and co-creating a conflict resolution strategy with the affected community are crucial aspects of successfully resolving a conflict. This section offers basic advice about how to approach each of these elements.

3.1 Investigate the conflict to fully understand the situation – then decide whether to take the case

1. Train intake staff to gather the information necessary to make a careful decision

As described above, your organisation may want to create a questionnaire that allows you to gather all the relevant facts of an existing or potential community–investor conflict. By the time the intake officer has asked all the questions on it, he or she should be able to assess whether the situation is urgent and what kind of action may be necessary. Key to this discernment is fully training your organisation's intake staff to distinguish between cases and conflicts that should be referred, and those that should be presented to the broader staff as potential cases. They might also be trained to code what 'stage' the conflict is in, so that the urgency of action is clear. For example, you might code each reported conflict as 'latent', 'emergent/nascent', 'escalating' or 'violent'.

2. Set up an internal decision-making process

Because community–investor conflicts have the potential to endanger your organisation and staff, it is important to have an internal process for reviewing the reports of conflicts that come in to decide how to respond. This could be a weekly meeting for non-urgent conflicts or immediate emails to key staff if the conflict is potentially explosive and a decision needs to be made that day/immediately.

Having taken these steps, your organisation might be able to make a decision about whether or not to take the case—or you might need to do more research. The following research and investigation efforts could be taken at any stage of advocacy, in whatever sequence and time frame is most appropriate for the situation.

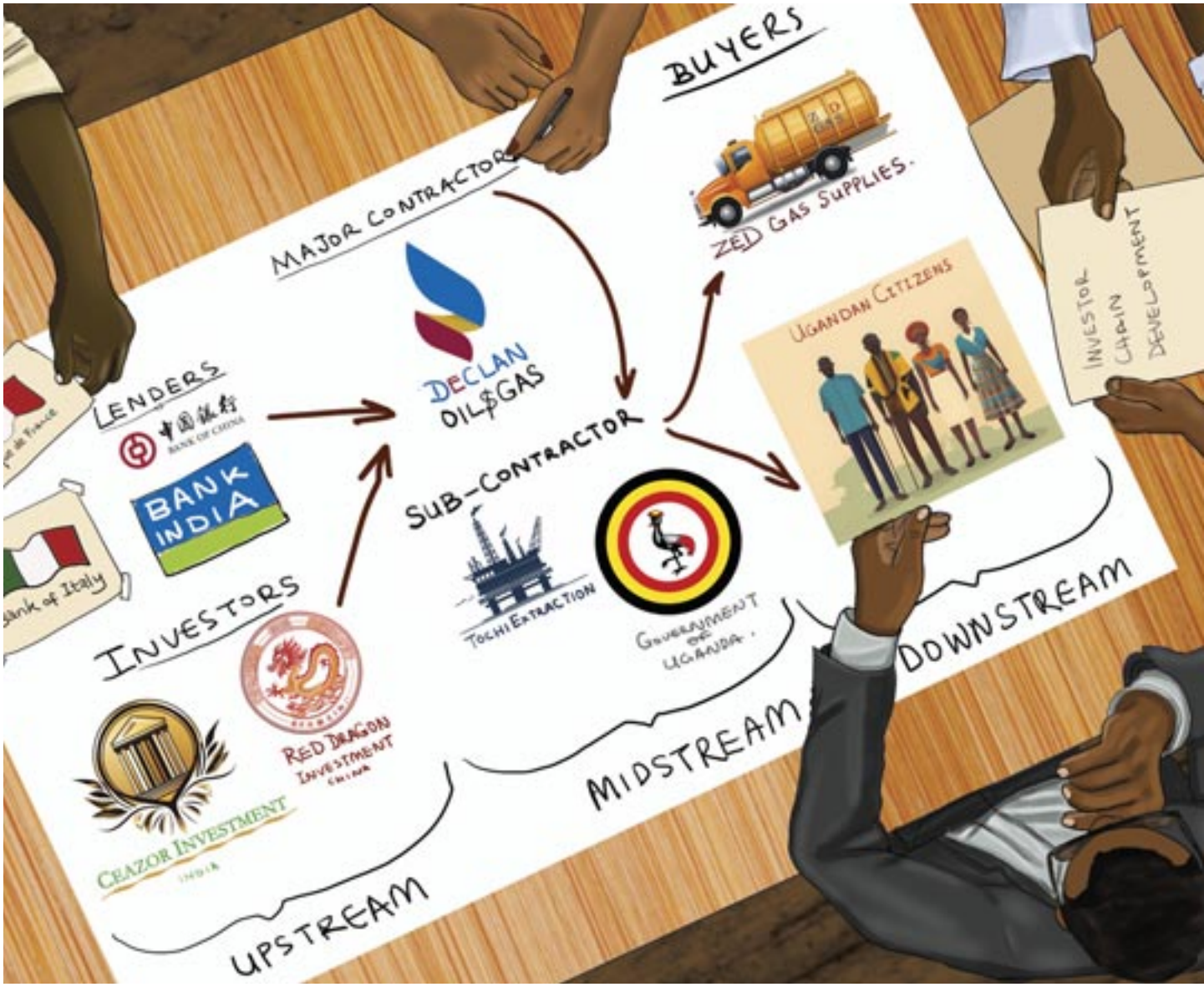
3. Review relevant national and international laws, including any bilateral investment treaties

This will ensure you fully understand the laws as they apply to the situation at hand. A comprehensive legal review will also help ensure you are aware of the full range of rights (of each party), as well as all possible advocacy strategies, penalties and remedies available.

4. Do research to understand the company and its financial backers

'Investors' are often complex conglomerations of businesses, investors and government officials acting either as representatives of the state or on their own behalf as co-investors. Global companies often create national subsidiary companies — with different names — to do their work in a given nation. Your organisation might do some research to:

- Learn who the owners and managers of the company are, as well as board members and controlling shareholders;



Community members and advocates mapping an investment chain to identify pressure points.

- See if the company is a subsidiary of a larger parent company based in another country — and if so, what laws in that country regulate the conduct of investors;
- Investigate who is financing the company and this particular investment project;
- Find out if the company has made commitments at the international level on social and environmental issues, or has a Corporate Social Responsibility policy;
- See if the investment is financed by a multilateral institution or bank (such as the World Bank, the Asian Development Bank or African Development Bank) that has policies intended to mitigate the adverse social and environmental impacts of their clients (see below for more information about global oversight bodies and the safeguarding policies of multilateral institutions).
- Find out if the company is certified by a global oversight and certification body (such as the Roundtable on Sustainable Palm Oil), and thus has an obligation to comply with the rules of that body;
- Discover if the company, or its parent company, has been involved in similar conflicts in other countries where it operates; and
- Any other salient information that is relevant to how the company must act, who is behind the investment, how the company is financed, etc.

The more you can learn about the company and its structure, managers/owners, funders, etc., the more you will be able to leverage strategic pressure points and additional avenues for advocacy.

STRATEGY TIP: Learn about the company's investment chain – and its pressure points

When supporting a community in conflict with an investor, it is always helpful to research and understand who is backing the project financially. Find out which corporations, banks and private investors are involved. It will be helpful to understand the entire investment chain, including where parent companies, subsidiary companies and investors are legally incorporated (and what laws apply in each of those countries).

The project planners and developers may include:

- The government, or a government official acting on their own behalf as a front man for the investment (who is often being paid to do so);
- The government of another country;
- An international company;
- A national subsidiary company;
- A local government authority (a national ministry or department);
- A bank or international financial institution (such as the World Bank, the Asian Development Bank, the African Development Bank or the International Finance Corporation); and/or
- International investors and national financial backers.

Once you know who is financing the project, you can determine where you can apply pressure to ensure that the conflict is fully resolved and any harms are remedied—somewhere among the investment chain will be a company or individual that has a reputation to protect and will not want to be publicly exposed as having violated a community's rights or polluted the environment, etc. There may be one or more funding institutions or industry oversight bodies that you can file a formal complaint or lodge a grievance with (see Appendix B for more information).

STRATEGY TIP: Such technical information may also come from a trusted network and experts working in the sector. If the investor is international, it may be useful to work with an advocacy organisation form the investor's home country for help gathering all the necessary information.

5. Look at public records and government documents related to the investor/company

You might investigate the following questions:

- Does the company have a **valid licence to operate** in the country, and specifically in the area and sector it is working?
- What kind of **lease agreement** governs the investor's use of the land?
- What **government agencies** have been involved — and which government officials exactly?
- What is the company's **business plan**?
- Has an **investor–state contract** been signed, and if yes, can you get a copy of it to see what it sets out?
- Are there any **FPIC documents** on file, or an **Environmental and Social Impact Assessment**?

You might consider asking the government to provide information to you about the investment or project. If the government refuses to give you some or all of these documents and your country has passed a Freedom of Information Act (FOIA) that allows citizens to request information from the government (called a 'FOIA request'), you can file a FOIA request to force the government to give you the documents.

CASE EXAMPLE: Exposing when investors are operating without licences or permission

"In a recent case, there was an investor who was in the process of bringing equipment in from China and bringing in Chinese people to do the mining. We received this case through the hotline when someone called. Then we went to the community, did hotspot mapping, held an intervention meeting, then held a community meeting. Finally, we held a dialogue with the local community, the local government and the investor.

"When we held that meeting with local leaders, the district government and the investor, it all came out: the investor didn't have a legal mining licence. He even had forged documents, and he had sneaked his workers and machines into the community without the knowledge of the district leaders and the mineral inspector, who is based in the region. The Chinese people he had brought didn't have work permits. The investor had also colluded with an NGO official to forge a document saying that he had compensated some of the community.

"All those things came out during that meeting — the forgery, the sneaking, the lack of work permits, and doing it all behind the backs of the district leaders. When we brought up these issues, it was clear that he didn't have the backing of the state, so he was quick to accept his mistakes, to negotiate, to be held accountable, and to begin to make promises, to create an MoU. So we managed to intercept most of his activities. But we could not stop his investment completely, as he has connections to a member of a very powerful family. He is working on behalf of that man, and he had already invested more than a million dollars. So he is not able to be stopped, he could not be kicked out."

Community members and advocates mapping "hotspots" of existing or potential land conflicts.

6. Travel to the community to gain a deeper understanding of the situation

It is often difficult to truly understand a situation without going to the community/region and speaking directly to leaders, local government officials, community members, and all other stakeholders and affected individuals. It can be helpful to record these interviews as they may be useful as evidence. If it is safe to do so, your organisation should also try to directly observe any damage and harms caused, etc. If appropriate, it may also be useful to bring journalists with you to document the injustices, abuses, environmental destruction and harms.

If the community is already working with a trusted NGO (from any sector, such as health), it can be helpful to go into the community with staff of that NGO accompanying you for your first few visits.

Depending on its area of work, the NGO might also be able to help gather evidence or help run community meetings, etc.

7. Do a hotspot mapping exercise

One particularly useful activity is to support leaders and key community members to make a map of their lands and the conflict area, so that people can get an overview of how the conflict is playing out on the ground.

Once a good sketch map has been made, support community members to use the map to:

- Identify where the community's land overlaps with the investment.
- Mark the places on the map where there are present or potential future conflicts as 'hotspots'.

You might ask key informants or leaders to tell the story of each 'hot spot'. You may want to record these stories, either in writing or with a recording device, as evidence or documentation for use in advocacy efforts. It may be helpful to get multiple versions of the story, then triangulate from the various versions a fuller picture of what happened. These maps can also be helpful as 'snapshots' of enduring land conflicts at certain moments: done repeatedly, they can show how the conflict has evolved over time.

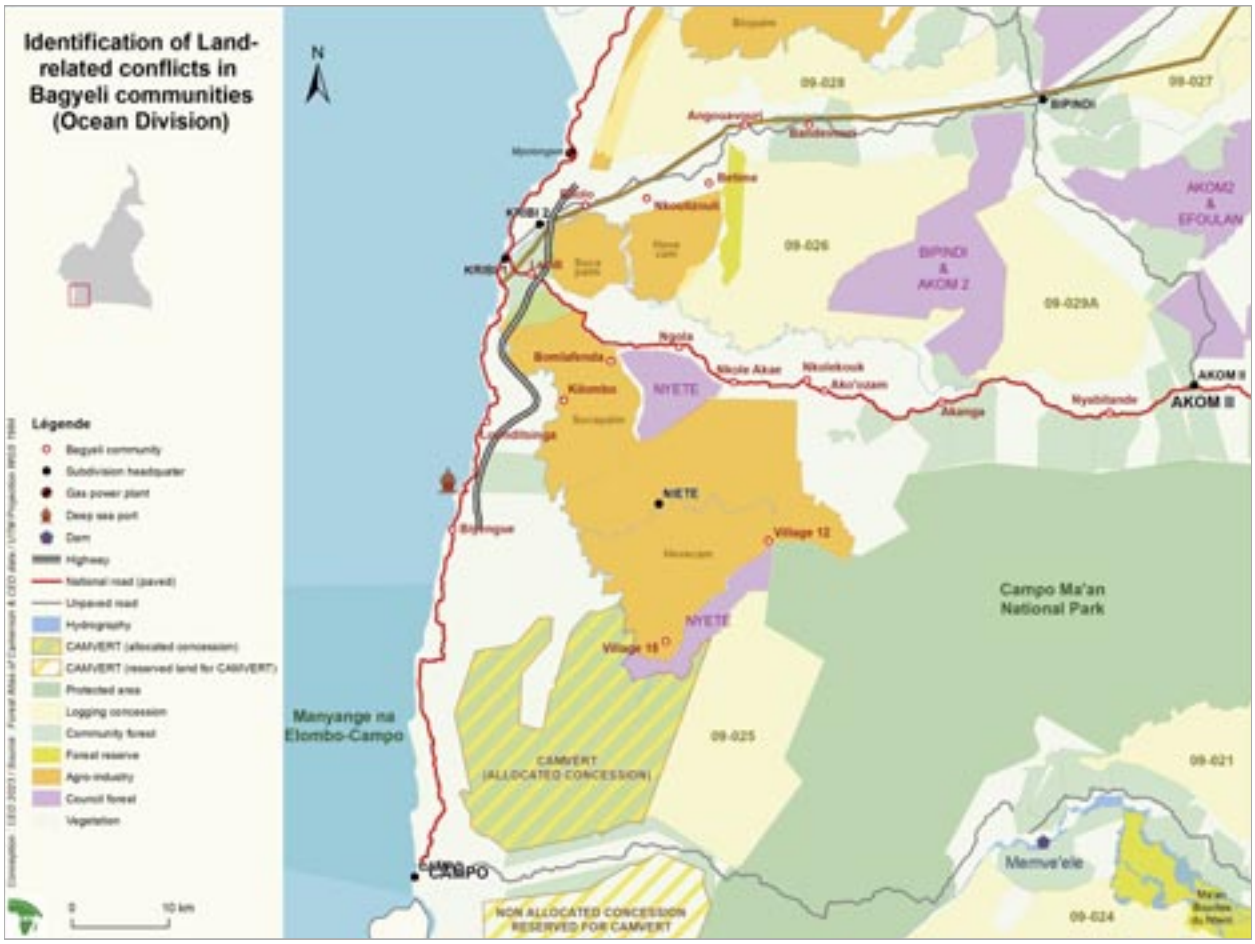
STRATEGY TIP: In a hotspot mapping activity, anywhere from two or three to a few dozen key informants gather together and draw a sketch map of the community's lands and resources. This map can be drawn on the earth using a stick, or on paper with markers. Community members might be guided to sketch the community's boundaries, roads, rivers, water bodies, forests, grazing areas, residential areas, market areas, cemeteries, sacred sites, and the locations of important resources that communities depend upon for household survival, livelihoods and cultural practices, as well as the boundaries of any concessions and investment projects located within their lands.

- Provide a clear sense of the size of land and remaining natural resources available for community use. This area can then be assessed against the community's population and its present and future land, livelihood, food security and water security needs.

STRATEGY TIP: Your organisation may also want to do your own mapping exercise to thoroughly analyse land and resource allocations issued by the government across the wider region. This can help identify which areas have a large number of land concessions to private companies or individuals. It can also show which communities are hemmed in by multiple investment projects and thus may be facing land, water and resource scarcity. This more comprehensive assessment can help your organisation (and the affected communities) get a sense of when and where land and resource scarcity will likely lead to conflict.

CASE EXAMPLE: A conflict hotspot within a conflict area

"In an area containing many villages where part of the traditional land has been occupied for several decades by agro-industrial farming ventures, we observed a general situation of conflict which had been going on for years. Among the complaints, the lack of arable land for family farming came up quite often, along with the pollution of some of the local rivers and lakes. But when we spoke to the older people, the problem that they mentioned again and again was that the tomb of a historical leader, who had been a great resistance fighter against colonisation, was now located within the boundaries of an investor's plantation. They felt that his memory was tarnished by the fact that his remains were buried on a plantation belonging to a company of one of the colonial powers that he had fought against during his lifetime. The elders decided to fight to recover this land, and so our organisation is currently preparing a case: so far, we have gathered data and discussed the matter with a lawyer in the investor's home country."



Map indicating land-related conflicts in Cameroon's 'Ocean Division' region (2023). This map shows the high number of land-based investments and protected areas in the Ocean Division region — all of which are on land that Indigenous communities still consider to be their customary land. As the number of land-based investments grow, there is less land for community use. As a result, there is an increasing incidence of community–investor conflicts in the area.

8. Consider asking community members to gather local evidence, *if it is safe for them to do so*

Your organisation might ask community members to play an active part in gathering information and evidence about the evolving conflict. This can help to support community ownership and agency in a way that leads to greater empowerment; collect and generate evidence and information in real time; and reduce frequency of travel to the community, keeping organisational costs lower. If necessary, your organisation might provide community members with phones equipped with cameras and recording devices to capture evidence in real time. Such phones should have the capacity to record video and sound, scan and save documents, record GPS coordinates, and take good photographs, etc. The community is best placed to decide who will be the caretaker of the phone and how it can be most safely/securely used (so that no one person assumes all the risk).

Your organisation might also create other helpful tools for community members to use, such as a 'community log book' in which community members can, *if they feel safe to do so*, document all interactions with the investor/potential investor, as well as all interactions with government officials and police. This logbook can help communities create a record they can use in court, should that be necessary, or that they can share with journalists or with the company's board members and investors.

CAUTION: Take safety precautions!
If you ask key informants and community members to gather data and evidence, it is a good idea to provide local informants and key community members with basic training on how to gather evidence, how to upload it to secure global servers, and how to wipe their phones clean of all photos, videos, phone numbers and data in seconds, should that be necessary for safety reasons.

CAUTION: Be careful to create evidence in a way that will strengthen your position, but be aware that creating documentation may incite the investor or government officials to begin a campaign of intimidation and/or violence. If they do, creating evidence of this intimidation will be especially necessary, but may put community members in even greater danger.

Community members gathering soil and water samples to create evidence of investor pollution.

3.2 Brainstorm various conflict resolution strategies and co-design a way forward in collaboration with the affected community

After your organisation has decided to take the case and gathered as much background information as possible (although more information may become evident over time), it is useful to carefully think through all the conflict resolution and advocacy options available and co-design, together with the community, your case strategy. In making this decision, you might ask the affected community: "What advocacy strategy would be most supportive of a peaceful, nonviolent resolution that ensures the legal rights of your community are respected and all wrongs suffered are remedied?"

Some potential strategies may include:

1. Community–investor dialogue

As a first step, the community might try to find a solution in meetings with the investor. Sometimes, simply holding a community–investor dialogue may diffuse tensions and allow for immediate remedy. Genuine dialogue is a powerful tool for conflict prevention and resolution. Such a dialogue involves bringing all the parties to the conflict together and creating an open, public discussion. The purpose is to hear all relevant stories and identify the roots of the problem, the harm done, and what each side thinks a helpful and complete resolution might look like. If appropriate, respected elders and leaders may help the parties talk through and resolve the conflict. You may choose to invite trusted government officials to this meeting to witness the discussion and/or represent the views of the government. At the meeting, your organisation might:

- Present the issues at stake in the conflict, and all evidence gathered.
- Teach about the content of relevant national laws and international conventions.
- Teach about relevant customary or Indigenous laws.
- Facilitate the discussion, ensuring that both sides get an equal chance to speak, all important details are addressed, and the discussion remains calm (if your organisation will not be facilitating the dialogue, you might support the community to select the facilitator).

Your organisation might also want to capture in writing all agreements and promises made by the investor and create safeguards to ensure such promises are followed through.

It is important to work with community members in advance of the dialogue to co-create a strategy for the dialogue and make sure they are united about the desired outcome(s) of the dialogue; are well-prepared to present their side of the conflict; have a common message and strategy; and have a plan for how to react if the meeting become heated or the investor becomes threatening and/or tries to use 'divide and conquer' tactics, etc.

The intersection of community–investor conflicts and free, prior, informed consent (FPIC)

If an affected Indigenous community went through an FPIC process and the conflict concerns an unanticipated or unagreed change to the company's actions, the community has the right to demand another FPIC process that clearly addresses the investors' changes.

It is critical to remember that if an Indigenous community consented to the project as it was described (before its initiation), it does not mean that the community has also consented to major *changes* to the project. If the investor significantly changes the project scope or activities, how it is using local lands and resources, or the area of land used, the affected community has the right to withhold its consent to those changes. In other words: **FPIC is not a one-time event—it is an ongoing process that must be repeated if the project changes**.

Community-investor dialogue.

2. Mediation

If dialogue does not work, you might support the community to move to mediation. Mediation is a structured process led by one or more neutral mediators. Mediation is generally appropriate if discussions have reached a standstill and people feel they need assistance from someone who is not part of the conflict. Mediators can be lawyers, paralegals, advocates, local or regional leaders, spiritual leaders or trained, respected community members. The mediator's job is to remind the parties of the relevant laws, help the parties communicate, find common ground and assist in identifying desired solutions. The mediator's goal is to help the parties reach a resolution that benefits both sides of the disagreement.

It is helpful to work with a mediator who is trusted by the community—while mediators are supposed to remain neutral, they may be exposed to pressures (direct, or more subtle) from the government or investor to act in a way that privileges the investor's position.

If dialogue and mediation do not resolve the conflict, your organisation might support the community to consider a range of non-judicial conflict resolution strategies. These include, but are not limited to:

3. File a complaint with the relevant national ministry or agency

If it is safe to do so, your organisation may choose to help the affected community file a complaint or grievance with the relevant national ministry — many government offices have administrative procedures or ombudsman's offices designed especially to hear grievances and complaints.

CASE EXAMPLE: When investors fail to respond to requests for dialogue or mediation

Some investors — often those with significant global or national power and limited accountability—do not respect any form of dialogue or proactive problem-solving engagement with communities. Often, they only respond to legal action. For example, a company whose mining activities caused a range of negative health and environmental impacts in a community was repeatedly invited to take part in a community–investor dialogue, with the goal of amicably finding joint solutions to the impacts. The investor ignored every Invitation, and only responded when it was served with an 'intent to sue' letter.[5]

Your organisation might also consider quieter outreach to trusted government officials who might champion the community's cause within their realm of influence and with the power available to them.

4. File a complaint with a global multilateral organisation, development bank or industry-specific complaints processes

A complaints procedure (also called a 'grievance mechanism') is the process through which affected people can raise complaints about an investment project—to the company, government, project financers or industry oversight body—and demand that a problem is resolved. If well-designed and implemented, complaints procedures can be easier for communities to use, may help resolve problems more quickly than litigation, and are generally less combative.

Once you have understood and mapped out the investment chain, you can strategise about the most effective place to file a complaint or initiate a grievance mechanism. It may be helpful to explore:

- If any industry or development bank standards apply to the investment;
- Whether there is a grievance mechanism or complaints process attached to those standards; and
- What remedies or processes might be available to you if you file a complaint to stop the project/protect your community against harm.

Depending on who is funding the investment, there may be more than one grievance mechanism you can lodge complaints with:

- Where a project receives financing from the International Finance Corporation (IFC), communities can bring their complaints to the IFC Compliance Advisor Ombudsman.
- Where a project gets funding from the World Bank, Asian Development Bank, African Development Bank or another of the development banks, each bank also has its own internal grievance processes.
- If the investment is part of an industry that has its own oversight procedures, such as commodity-based multi-stakeholder platforms like the Roundtable on Sustainable Palm Oil (RSPO), or the Initiative for Responsible Mining Assurance (IRMA), then you can file a complaint through the relevant platform's grievance mechanisms.
- If the investor comes from a country that is a member of the Organisation for Economic Cooperation and Development (OECD), the OECD has established National Contact Points that hear and resolve grievances.
- Companies also frequently have their own internal grievance mechanisms, meaning you may be able to bring your complaints directly to the company's board.

Some of these processes accept confidential complaints and may be a way to more safely expose the company's non-compliance. See Appendix B for links to the websites where your organisation can file these complaints.

5 A letter of intent to sue **notifies a defendant that a lawsuit will be filed against them in court if demands are not met**. The letter will summarise the alleged unlawful act and indicate a time frame in which the defendant may settle the matter to avoid legal proceedings.

5. Inform the company's risk insurers of the violation(s)

Informing the insurance companies that cover all risks associated with the company's operations that the company is violating national laws and/or human rights is a particularly impactful strategy: *if your organisation can prove the investor has violated the insurer's policies, the insurer must withdraw—and without risk insurance, the project must halt operations*. While information about which insurance company is insuring a given project is not generally available to the public, there are only a handful of large insurance companies that insure foreign investment risk — it can be effective to research which ones might be insuring the investment and send them each a letter detailing the violations, including any evidence you have gathered as proof.

STRATEGY TIP: If you are representing a community to file a grievance or lodge a complaint, you may want to create evidence of your authority to represent them, then submit this evidence along with the complaint. You can also clearly request confidentiality in your complaint to help protect the community.

6. Make a complaint to the relevant United Nations' institution

Your organisation might explore reporting any human rights violations to the United Nations' Human Rights Council, or to the relevant Special Rapporteur (in 2007, the Human Rights Council established a complaint procedure to address consistent patterns of gross misconduct and violations of "all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances"). Due to the nature of the United Nations, which represents member states, such complaints question the host state's ability to efficiently protect human rights within its territory. In other words, reporting a rights violation is likely to implicate your government, which will have to publicly respond to the United Nations and other member states, then commit to respond to the violations.

7. Launch an advocacy campaign

An advocacy campaign can raise awareness of the community's grievances — as well as any force, intimidation, violence or coercion the community has faced in relation to the conflict — and put pressure on the investor and/or government to halt the project, change the project, and/or fully address the community's concerns. When planning an advocacy campaign, having a complete picture of the project's investment chain can help you target your advocacy and apply pressure to those people and/or institutions funding or overseeing the investment (see page 35 for a list of who might be in an investment chain).

To protect community members' safety and security, it is best to use actors external to the community to publicise rights violations. Your organisation may want to work with national and international journalists and campaign-focused global NGOs that can share the community's perspective on the conflict through global and regional media. Work with seasoned campaigners to brainstorm which tactics may be most successful. Social media is especially powerful — a social media campaign will alert the public to harm and rights violations caused by the company, which might then change its behaviour and/or remedy any violations to protect its reputation and/or the reputation of the institutions funding the project.

8. Nonviolent direct action

Nonviolent direct action can include protests, marches, and other kinds of peaceful action by community members. Such efforts can help to publicise grievances and, in some circumstances, delay or completely stop company operations. **However, these actions may be considered illegal and thus may put community members at risk of imprisonment, criminal charges, and harassment or violence by national security forces.**

9. Strategic litigation

If none of these strategies work, the community may choose to file a case in court. Litigation might be pursued as an option of last resort, as it is costly, long and drawn out, and — if the courts have been corrupted or are not used to such cases — may not lead to justice or resolution.

Your organisation might present the full range of possible strategies to the affected community and help them to think through the pros and cons of using each.[6] Ultimately, as the conflict directly impacts their lives, homes, livelihoods, health and wellbeing, *community members should be the final decision-makers about what strategies to pursue*. The affected community should decide on the strategy or set of strategies they feel most comfortable with, as they will be the ones living with the impacts and ramifications of that choice in their daily life. Providing the community with the most information possible will help them make informed choices.

Depending on what strategy they believe is best, your organisation can then support the community to undertake activities necessary to ensure they are fully prepared for the conflict resolution process. These might include:

- Holding community awareness/education meetings on relevant legal and technical topics, such as responsible investments, environmental law, land law, investment law and compulsory acquisition law;
- Supporting the community to strengthen its own internal governance and/or sense of unity and internal cohesion, so that if the investor tries to use 'divide and conquer tactics' such efforts will fail;
- Supporting the community to carry out 'visioning' or land use planning exercises that can help them come to a united sense of their own goals for the conflict's resolution and their own future flourishing;[7]
- Working with the community to demarcate the boundaries of its lands using geographic information system (GIS) technology;
- Setting up local dispute resolution/prevention committees;
- Reviewing any community–investor agreements and contracts signed, any FPIC documents, and/or other contracts to review any agreed terms, including: the boundaries of the land allocated to the investment project; the risk mitigation strategies the investor committed to undertake; any benefits promised; and other relevant contractual agreements; and
- Tracking promised investment benefits against actual benefits delivered.

Community leaders and members should be the ones to decide the advocacy strategy, and then actively take part in all advocacy strategies and actions (if they do not, your organisation may be accused of manipulating communities to pursue your own objectives). However, throughout all advocacy and conflict resolution efforts, your organisation must take every precaution to manage risks and ensure the safety of community members, individual staff members and your organisation as a whole.

6 Note that this is only a partial list and that each strategy is not explained fully in this short guide. For a comprehensive, detailed list of possible strategies and how to pursue them, see FIDH's 600-page guide, 'Corporate Accountability for Human Rights Abuses: A Guide for Victims and NGOs on Recourse Mechanisms', available at: www.fidh.org/IMG/pdf/corporate_accountability_guide_version_web.pdf.

7 For information on how to lead a community 'visioning' exercise, see: https://grassrootsjusticenetwork.org/wp-content/uploads/2017/01/Community-visioning-CLP-Guide.pdf.

4. Using the data gathered for policy advocacy

By its nature, a rapid response mechanism generates an enormous amount of information that can be analysed as data and used for policy advocacy. This data can come from your case intake database, from your organisation's meta-analysis of all the conflicts you have been working to resolve, and from interviews with affected community members, among other sources. Such data can show, among other meta-analyses:

- What kinds of investment are most likely to generate conflicts;
- What issues, circumstances and challenges most frequently trigger community–investor conflict;
- How the behaviour of local administrators and/or investors can generate conflict/lead to conflict escalation—or help to prevent or resolve conflict;
- Where a high number of investors are acting illegally—potentially showing patterns of local corruption;
- Trends in investors' bad faith actions by industry, potentially identifying corruption within national government agencies;
- Trends in specific investors' bad actions across a range of projects (i.e. one family may be behind a number of land grabs/land conflicts);
- Patterns of government misuse of compulsory acquisition laws; and
- Effective conflict resolution strategies.

Gathering, analysing and publishing such data can inform policy advocacy efforts and deepen public understanding of community–investor conflicts. Your organisation and relevant allies can then use the data to shape proposals for legal reform.

If your data clearly indicates that specific systems, structures, laws and policies are leading to rights abuses, environmental harms and other impacts, it is helpful to present the data alongside clear, well thought-out mechanisms and strategies to remedy and improve the underlying causes of such harms. Policy-makers, legislators and government officials can then (more easily) take up your suggested strategies and advocate for them, without having to find their own solutions to your identified problems.

As land and natural resources become scarcer and increase in value, and as climate change impacts the availability of water and fertile land, it is likely that we will see a dramatic increase in land-, water- and resource-scarcity conflicts. As advocates, we have an affirmative responsibility to create systems and procedures that allow us to pre-emptively intervene in nascent conflicts—we cannot wait until a conflict has erupted into violence to get involved. A rapid response mechanism is one way to do this. Other strategies might include: strengthening community governance and unity; training local and regional government land administrators in conflict resolution (and about the nuances of how resource scarcity leads to conflict); teaching communities to monitor investor compliance with the terms of community–investor agreements and the internal policies of the investment's funding institutions and/or oversight bodies; and working with local groups to regenerate and restore degraded ecosystems (in places where resource scarcity is the driver of conflict).

This toolkit is designed to be a starting point for your organisation to design proactive, preventative land conflict resolution systems. As you continue to pioneer successful conflict resolution models, you will undoubtedly arrive at innovative new practices. It is our hope that advocates around the world can teach and support one another, continually improving our conflict resolution work.

Appendix A:
Applicable laws and standards for responsible land-based investments

Laws and standards for responsible land-based investments

United Nations' guidelines

The United Nations Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in June 2011, set out a framework for governments and businesses with the aim of ensuring that business activities do not violate human rights and remedies are provided if violations do occur. The UNGPs are an instrument consisting of 31 principles implementing the UN's 'Protect, Respect and Remedy' framework concerning human rights and transnational corporations and other business enterprises. These Guiding Principles provided the first global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity, and continue to provide the internationally accepted framework for enhancing standards and practice regarding business and human rights.

The UNGPs encompass three pillars outlining how states and businesses should implement the framework:

1. The state duty to protect human rights.
2. The corporate responsibility to respect human rights.
3. Access to remedy for victims of business-related abuses.

The UN Human Rights Council also maintains **'Special Procedures of the Human Rights Council'**, which are independent human rights experts with mandates to report and advise on human rights themes or country-specific issues. These human rights experts can send letters and urgent appeals to governments or other actors to bring alleged violations to their attention.

One of the UNGP's principles is that "Business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted" by their operations. This principle is intended to push companied to foster communication with affected communities, so that all-scale or brewing conflicts can be addressed before they escalate into larger conflicts.

You can submit a complaint about a human rights violation to the relevant 'thematic' expert—for example, on the right to food or adequate housing, or on Indigenous Peoples—explaining all the important facts and requesting they send a letter to the business managing the project, and/or one or more of the other key actors involved. See: **www.ohchr.org/en/special-procedures-human-rights-council/what-are-communications**.

In 2007, the UN General Assembly adopted the **United Nations Declaration of the Rights of Indigenous Peoples**, recognising Indigenous Peoples' individual and collective rights, making specific mention of FPIC as a prerequisite for any activity that affects Indigenous communities. As a General Assembly Resolution, the Declaration reflects global consensus on the minimum standards necessary to respect Indigenous Peoples' rights — **every country that signed it is required to pass national laws giving it legal standing**. The Declaration includes provisions expressly recognising the duty of states to secure Indigenous Peoples' FPIC in the following circumstances:

- Before Indigenous Peoples' relocation or resettlement (Article 10);
- Before the use of Indigenous Peoples' cultural, intellectual, religious and spiritual property (Article 11);
- Before implementation of any legislative or administrative measures that could affect Indigenous Peoples (Article 19);
- Before the use of Indigenous Peoples' lands (Article 28);
- Before the storage or disposal of hazardous materials on Indigenous Peoples' lands (Article 29); and
- Before state approval of any project affecting Indigenous Peoples' lands, territories and resources, especially projects related to the development, use or exploitation of mineral, water or other resources (Article 32).

The International Labour Organisation Convention 169 (ILO 169), ratified in 1989 — also known as the Indigenous and Tribal Peoples Convention — was the first international convention to recognise the sanctity of Indigenous Peoples' economic and political institutions, economic development, and the maintenance of Indigenous identities, languages, religions, values and customs. ILO 169 has treaty status and is a legally binding document for the 23 countries that have ratified it. ILO 169 acknowledges the right of Indigenous Peoples to be consulted when they will be impacted by development projects and "whenever consideration is being given to legislative or administrative measures which may affect them directly" (Article 6(1)(a)). Article 7(1) states that "The Peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social, and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly". Article 16 specifically requires Indigenous Peoples' "free and informed consent" prior to relocation.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, known as the VGGT, advise respect for all legitimate tenure rights, even if they are not expressly protected under national law. The VGGT promote responsible governance of tenure of land, fisheries and forests, encompassing all forms of tenure: public, private, communal, indigenous, customary and informal. Their overarching goals are to achieve food security for all and support the progressive realisation of the right to adequate food in the context of national food security. The VGGT are also intended to contribute to sustainable livelihoods, social stability, housing security, rural development, environmental protection, and sustainable social and economic development. The VGGT serve as a reference and set out principles and internationally accepted standards for the responsible governance of tenure, providing a framework that states can use when developing their own strategies, policies, legislation, programmes and activities.

The Guiding Principles on Large Scale Land Based Investments (LSLBI) in Africa also call for respect for the human rights of communities, with decisions on LSLBI based on good governance principles. In particular, the guidelines emphasise respect for the rights of and potential benefits to women and advise on how to minimise the risks and maximise the benefits of large-scale land based investments.

Global principles for responsible investment

The Committee on World Food Security (CFS) Principles for Responsible Investment in Agriculture and Food Systems — known as the RAI Principles — acknowledge that the starting point for responsible investment in agriculture and food systems is recognition and respect for human rights. They are a set of ten principles that apply to all types and sizes of agricultural investment, including fisheries, forests, and livestock. The RAI Principles address all stakeholders and apply to all stages of the value chain. As a soft law instrument, they are globally applicable and include actions to address a range of environmental, social and economic issues. The principles suggest that investments must:

1. Contribute to food security and nutrition.
2. Contribute to sustainable and inclusive economic development and the eradication of poverty.
3. Foster gender equality and women's empowerment.
4. Engage and empower youth.
5. Respect tenure of land, fisheries and forests, and access to water.
6. Conserve and sustainably manage natural resources, increase resilience and reduce disaster risks.
7. Respect cultural heritage and traditional knowledge, and support diversity and innovation.
8. Promote safe and healthy agriculture and food systems.
9. Incorporate inclusive and transparent governance structures, processes and grievance mechanisms.
10. Assess and address impacts and promote accountability.

The Organisation for Economic Co-operation and Development (OECD) has Guidelines for Multinational Enterprises, which define standards for socially and environmentally responsible corporate behaviour. The OECD Guidelines are recommendations from the governments of OECD countries to multinational companies operating in or from OECD countries. While the OECD Guidelines are not legally binding on companies, OECD governments are required to ensure they are implemented and observed. Among other requirements, governments must establish 'National Contact Points' (NCPs) to receive and handle complaints known as 'specific instances'.
If the business managing the project or any other company along the project's investment chain is *headquartered* in one of the OECD member states or 'adhering countries', you can bring a complaint to the NCP in that country. You can find the contact details for the NCPs in each country here: **http://mneguidelines.oecd.org/ncps/**. A format that you can use for writing a complaint to a NCP can be found here: **http://oecdwatch.org/filing-complaints/instructions-and-templates**.

Multinational lending agency requirements

If a multinational development bank (the World Bank, the IFC, the Asian Development Bank, the African Development Bank, the Inter-American Development Bank, etc.) is funding the project, the lending agency will have its own internal protocols that all projects receiving funding must follow. If you can prove that the project has breached or violated those protocols, you can file a complaint directly to the lending agency, which may result in the project losing that funding.

For example, the IFC's has a 'Sustainability Framework', which includes both a 'Performance Standards on Environmental and Social Sustainability' and a 'Access to Information Policy' that all projects receiving funding must comply with. The IFC's eight Performance Standards establish standards that funding recipients must meet throughout the life of their investments:

Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts

Performance Standard 2: Labour and Working Conditions

Performance Standard 3: Resource Efficiency and Pollution Prevention

Performance Standard 4: Community Health, Safety, and Security

Performance Standard 5: Land Acquisition and Involuntary Resettlement

Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

Performance Standard 7: Indigenous Peoples

Performance Standard 8: Cultural Heritage

A comprehensive summary of each standard is set out here: **www.ifc.org/en/insights-reports/2012/ifc-performance-standards**; and the IFC's guidebook, 'Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets', is available here: **www.ifc.org/stakeholderengagement**.

Similarly, the World Bank Group's 'Environmental, Health and Safety Guidelines' set out standards that all recipients of World Bank Funding are required to meet. The guidelines require that when host country regulations are different than the World Bank's requirements, projects comply with whichever standards is more rigorous. The guidelines are available here: **https://documents1.worldbank.org/curated/en/157871484635724258/pdf/112110-WP-Final-General-EHS-Guidelines.pdf**.

Multi-stakeholder industry groups

Multi-stakeholder industry groups bring together businesses and civil society, with the goal of making the sector more socially and environmentally sustainable. Companies can become members of these associations by agreeing to follow the group's code of conduct, or undertaking a rigorous certification process that verifies their business practices meet a particular set of social and environmental standards. For example, the **Forest Stewardship Council (FSC)** sets out principles and criteria for sustainable forestry. Businesses that manufacture, process or trade forest products can apply for certification if they meet the principles and criteria, and thereafter their products have an 'FSC-certified' label on them.

The FSC principles and criteria are available here: **https://ic.fsc.org/principles-and-criteria.34.htm**. You can find out whether a forestry investment has FSC certification through a database on FSC's website, available here: **http://info.fsc.org/**. If the company does have FSC certification and has failed to meet the criteria, you can submit an online complaint at **https://connect.fsc.org/participate/complaints**.

Similarly, the **Roundtable on Sustainable Palm Oil (RSPO)** has adopted standards called the 'Principles and Criteria for Sustainable Palm Oil Production'. Palm oil plantations and processors wanting RSPO certification must comply with these principles, which include an FPIC requirement, environmental protections, and other community rights protections. The RSPO website provides a complaint form, available here: **https://rspo.my.site.com/Complaint/s/**, through which communities can file a complaint against any company that is an RSPO member. To see if the company is a member of the RSPO, search the member directory: **https://rspo.org/search-members/**.

There are various multi-stakeholder groups for other industries as well.

Laws that protect citizen's access to information

United Nations protections

The right of access to information is recognised under Article 19 of the **Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights (ICCPR)** as an element of freedom of expression. Article 19 of the Universal Declaration of Human Rights (passed in 1948) states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". Article 19.2 of the ICCPR (passed in 1976) sets out that: "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

The UN Human Rights Committee, in General Comment 34 (2011), interpreted Article 19 of the ICCPR as ensuring the right to access information held by public bodies. It requires that states proactively disseminate information in the public interest and ensure that access is "easy, prompt, effective and practical". The Comment also states that countries must enact "necessary procedures", such as legislation, to give effect to the right to information. The Comment further stipulates that fees for access must be limited, responses to requests must be timely, authorities must provide explanations for withholding information, and states need to establish appeals mechanisms.

National freedom of information acts

Freedom of information laws allow access by the general public to data held by national governments and, where applicable, by state and local governments. They establish a 'right-to-know' legal process by which requests may be made for government-held information to be received freely or at minimal cost, barring standard exceptions. Governments that have passed these laws are generally bound by a duty to publish information and promote openness. 119 countries currently have freedom of information laws. A full list is available here: **www.freedominfo.org/?p=18223**, and a map is here: **www.statista.com/chart/17879/global-freedom-of-information-laws/**.

Appendix B:
Links and resources

Links for filing grievances and lodging complaints

- The International Finance Corporation (IFC) Compliance Advisor Ombudsman: www.cao-ombudsman.org/
- The World Bank's Grievance Redress Mechanism: www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service
- The African Development Bank: www.afdb.org/en/independent-review-mechanism/management-of-complaints/how-to-file-a-complaint
- The Asian Development Bank's Accountability Mechanism: www.adb.org/who-we-are/accountability-mechanism/how-file-complaint
- The Inter-American Development Bank's Grievances Portal (in English, Spanish and Portuguese): https://www.iadb.org/en/who-we-are/file-complaint/grievances-portal
- The European Bank for Reconstruction and Development: www.ebrd.com/ipam
- The Forest Stewardship Council (FSC): https://connect.fsc.org/participate/complaints
- The Roundtable on Sustainable Palm Oil (RSPO) grievance mechanism: https://askrspo.force.com/Complaint/s/
- Initiative for Responsible Mining Assurance (IRMA): https://responsiblemining.net/what-you-can-do/complaints-and-feedback/
- The Organisation for Economic Cooperation and Development (OECD) National Contact Points, which hear and resolve grievances: www.oecdwatch.org/how-to-file-a-complaint/

Guides and publications

- Accountability Council (2015) Accountability Resource Guide: Tools for Redressing Human Rights & Environmental Abuses in International Finance and Development. www.accountabilitycounsel.org/accountability-resources/guides/
- Blackmore E, Bugalski, N and Pred, D (2015) Following the Money: An Advocate's Guide to Securing Accountability in Agricultural Investments. IIED/IDI, London/Asheville. www.iied.org/sites/default/files/pdfs/migrate/12583IIED.pdf
- Cultural Survival (2023) Securing Indigenous Peoples' Right to Self-determination: A Guide on Free, Prior and Informed Consent. www.culturalsurvival.org/news/new-guide-supports-indigenous-leaders-develop-fpic-protocols-and-secure-self-determined

- FIDH (2016) Corporate Accountability for Human Rights Abuses: A Guide for Victims and NGOs on Recourse Mechanisms, 3rd Edition. www.fidh.org/International-Federation-for-Human-Rights/globalisation-human-rights/business-and-human-rights/Updated-version-Corporate-8258
- Global Witness (2018) At What Cost?: Irresponsible Business and the Murder of Land and Environmental Defenders in 2017. www.globalwitness.org/en-gb/campaigns/environmental-activists/at-what-cost/
- Knight, R (2019) The Challenge of Protecting Community Land Rights: An Investigation into Community Responses to Requests for Land and Resources. Namati. https://namati.org/resources/challenge-protecting-community-land-rights-responses-to-requests-for-land-resources/
- Knight, R, Szoke-Burke, S, Mebrate-Tsegaye, T and Cordes, J (2018) Community–investor Negotiations Guide 1: Preparing in Advance for Potential Investors. Namati and CCSI. https://namati.org/resources/community–investor-negotiation-guide-1-preparing-in-advance-for-potential-investors/ or https://ccsi.columbia.edu/content/guides-communities-interacting-investors
- Luhula, M (2022) Land-based investment in Tanzania: How simplified legal guides are empowering communities. www.landesa.org/land-based-investment-in-tanzania-how-simplified-legal-guides-are-empowering-communities/
- Natural Justice (2015) Seeking Justice at the International Level: A Short Guide to Regional and International Grievance and Advocacy Mechanisms for Indigenous Peoples and Local Communities. https://naturaljustice.org/seeking-justice-at-the-international-level-new-guide-published-by-natural-justice/
- Schwartz, B, Cotula, L, Luhula, M, Ferrando, T and Fairbun, H (2019) Redress for land and resource rights violations: A legal empowerment agenda. https://www.iied.org/17644iied
- Szoke-Burke, S, Knight, R, Mebrate-Tsegaye, T and Cordes, K (2018) Community–Investor Negotiations Guide 2: Negotiating Contracts with Investors. Namati and CCSI. https://namati.org/resources/community–investor-negotiation-guide-2-negotiating-contracts-with-investors/ or https://ccsi.columbia.edu/content/guides-communities-interacting-investors

Global NGOs that can provide support and resources to local and national advocates

The following organisations may be able to provide you with technical or legal advice and/or connect you with lawyers willing to provide pro bono advice or advice and assistance (for both litigation and when pursuing non-judicial grievance mechanisms):

- **WITNESS** helps people use video and technology to protect and defend human rights. See **www.witness.org/resources/** for guidance on how to safety record evidence, wipe phones clean, etc.
- **Global Witness** works to hold companies and governments to account for their destruction of the environment, disregard for the planet and failure to protect human rights. Their website, **www.globalwitness.org/en/**, has many publications, categorised by countries and campaigns, about how to hold corporations accountable.
- **OECD Watch**, a global civil society organisation network, is an excellent resource for further information and advice on filing a complaint to a National Contact Point in an OECD country. Available here: **https://www.oecdwatch.org/how-to-file-a-complaint/**.

- **Oilwatch**'s creation was inspired by the need to develop global strategies for communities affected by oil activities, support their resistance processes, and work for sustainability and collective rights. Oilwatch facilitates information exchanges on oil activities in every country, between different resistance movements, and between international campaigns against specific companies. **www.oilwatch.org/**
- **Environmental Law Alliance Worldwide (ELAW)** is a global alliance of attorneys, scientists and other advocates that works to help communities speak out for clean air, clean water and a healthy planet. **https://elaw.org/**.
- **Grassroots Justice Network** is a global community of over 14,800 members from 175 countries. Members include justice defenders, activists and organisers, educators, public servants, students and people with a passion for justice. Network members support each other and learn from one another through international exchanges, courses, online fora, and at conferences, events and other platforms. **https://grassrootsjusticenetwork.org/**
- **TrustLaw** is the Thomson Reuters Foundation's global *pro bono* legal service. It connects high-impact NGOs and social enterprises working to create social and environmental change with the best law firms and corporate legal teams, to provide them with free legal assistance. **www.trust.org/trustlaw/**
- **EarthRights** is a global team of community activists, campaigners and legal strategists who challenge powerful institutions that violate peoples' land and environmental rights. It supports frontline communities to hold corporations accountable for the harms they impose on people and the planet, and challenges the systems that allow corporations to exercise power and claim rights without accountability. **www.earthrights.org/**
- **International Senior Lawyers Project (ISLP)** provides top-tier pro bono legal services to governments, civil society actors and social enterprises when there is a genuine need for pro bono legal assistance and an opportunity to contribute to the rule of law and inclusive, accountable and sustainable development. **www.islp.org/**
- **Leigh Day** is a law firm working for people in the United Kingdom and across the globe who have been injured, discriminated against or had their human rights abused. They provide legal support when global corporations—especially in the extractive industries of mining, oil and gas—create pollution and environmental damage. **www.leighday.co.uk/**
- **Inclusive Development International (IDI)** helps advocates by unravelling financial data to expose the web of actors behind harmful investment projects. It also supports communities to prevent harmful investments and secure redress for harms suffered. **www.inclusivedevelopment.net/**
- **Accountability Counsel** advocates for people harmed by internationally financed projects, helping communities effectively use accountability offices to defend their rights and remedy harms. **www.accountabilitycounsel.org/**
- **Forest Peoples Programme** supports the rights of peoples who live in forests and depend on them for their livelihoods. It works to create political space for forest peoples to secure their rights, control their lands and decide their own futures. **www.forestpeoples.org/**
- **The Centre for Research on Multinational Corporations (SOMO)** investigates multinational corporations and functions as a knowledge and research hub, working with hundreds of organisations worldwide. **http://somo.nl/**

Knowledge Products

RRM Toolkit

April 2024

Land acquisition and rights

Keywords:
Small-scale farmers, Community, Commercial agriculture, Land-Based Investors

Rapid Response Mechanisms

Supporting resolution of community-investor conflicts related to Land-Based Investments - Toolkit

Often, approaches to investment-related land rights violations are reactive, rather than proactive and preventative: legal support is usually provided *after* communities have been negatively impacted, displaced or evicted — and *after* lives have been lost, property destroyed, local waters and soils polluted, and communities devastated. In such cases, legal support has a limited chance of reversing the damage caused.

To address this challenge, rapid response mechanisms (RRMs) are designed to ensure that community members can reach out for legal and technical help the moment a conflict arises, and/or as soon as their rights are threatened or violated — and for advocates to respond quickly, in order to preventatively resolve a potential conflict *before* major harm has been done and *before* it escalates.

RRMs often consist of some or all of the following components:

- A dedicated free hotline, advertised through posters, flyers, billboards, radio programmes, etc.;
- A network of key informants who provide advocates with reliable information as events occur;
- At least one staff member responsible for managing calls to the hotline and/or from key informants;
- A simple database to track and record incoming calls and requests for help; and
- Field visits for direct intervention.

This toolkit, based on direct field experience, provides guidance on how advocacy organisations might create rapid response mechanisms in a wide range of contexts.

IIED is an international policy and action research organisation delivering solutions to sustainable development challenges. Working with partners across the globe, we link local priorities to global challenges. We use evidence, action and influence to strengthen the voices of marginalised people in vital decision-making arenas – from village councils to international conventions.

International Institute for Environment and Development
www.iied.org

CED is an independent organisation working to promote environmental justice and protect the rights, interests, culture and aspirations of local and indigenous communities in Central Africa through the promotion of environmental justice and sustainable management of natural resources.

Centre pour l'Environnement et le Développement
www.cedcameroun.org

LEMU works to uphold and secure land rights for the well-being of the most vulnerable in Uganda. It works to enable citizens to understand and engage meaningfully with laws, policies, and issues on land tenure and to fight against abusive practices; to reduce the vulnerability of citizens by protecting land rights and preventing their abuse; to strengthen traditional and state institutions in land management and protection of land rights, and to conduct research and advocacy to enable policy makers to support customary tenure for socio-economic development.

Land and Equity Movement in Uganda
www.land-in-uganda.org