

Land rights

While there is no explicit broad right to land under international human rights law, several international human rights instruments link land issues to the enjoyment of specific substantive human rights, including non-discrimination and the rights to an adequate standard of living, including the right to housing, food, water, health, work, cultural integrity, freedom of opinion and expression, and self-determination, as well as the right to participate in public affairs and cultural life.

Closely tied to land rights, Art. 17 of the [Universal Declaration of Human Rights](#) concerns everyone's "right to own property alone as well as in association with others" as well as the guarantee that "no one shall be arbitrarily deprived of his property".



▼ Read more

Land and resource rights can be individual or collective. Collective land rights are also closely linked to community rights (see [Community rights](#)) in general, and [Indigenous peoples' rights](#), and both ILO [Indigenous and Tribal Peoples Convention, 1989 \(No. 169\)](#) and the [UN Declaration on the Rights of Indigenous Peoples](#) (UNDRIP) include a series of articles on indigenous peoples' rights to their lands, territories and resources. International law recognises, among other things, the right of indigenous peoples to land they customarily occupy or use even if it is not titled. In order for an impact assessment adequately assess potential impacts on indigenous peoples, it is also important to extend the assessment to the whole area of project influence or impact, which may extend well beyond immediate proximity to the proposed project. It could include lands and resources traditionally owned

or under customary use under seasonal or cyclical use, for livelihoods, or cultural, ceremonial, and spiritual purposes. According to ILO Convention No. 169, indigenous peoples' 'lands' includes the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

A company may negatively impact an individual's or a group's right to land and resources by e.g. not recognising customary land use, and by relying on a governments flawed land cadastre when assessing land ownership. When adhering to national legislation, companies risk failing to identify the extent of land rights (e.g. land demarcation in consultation with the group concerned) before a decision to purchase/sell the land begins.

This is particularly important for communities who do not have official land titles as they may rely only on customary occupation and use as a form of claim to the land. Another common mistake is to conflate individual and collective land rights, since the legal frameworks and processes, as well as institutional frameworks for addressing these are very different. In all cases of planned acquisitions of land for large-scale projects, consultation, participation and consent is of significant importance. Read more about land rights and indigenous peoples [here](#).

Companies should consult in good faith with individual and collective rights-holders through their legitimate representatives at an early stage as possible in order to understand the concerns of the community and to explain the project in ways that are understandable to the identified rights-holders. This may include tailoring the language, presenting the materials in a culturally sensitive manner, and clearly outlining both the potential positive and negative impacts of the project.

In order to detect land rights related issues at the earliest possible stage, companies should develop grievance mechanisms together with impacted communities. In developing projects companies should address benefit-sharing with the impacted communities, and in cases where communities agree to sell their land they should always receive adequate compensation "compensation in the form of land of at least equal quality and legal status to that from which they have been relocated". In the case of indigenous peoples, Where the peoples concerned express a preference for compensation in money or in kind, they should be compensated under appropriate guarantees , and should also be ensured the right to return once the grounds for relocation no longer exist.

Companies should consider land rights and corresponding appropriate measures in respect of screening, impact assessments, and implementation and monitoring of projects, and related ongoing dialogue and consultation mechanisms. Further, any mitigating measures, and compensation and benefit sharing mechanisms should also be developed in respect of land rights.

▼ Links to SDGs and targets







Among the various ways that the SDGs relate to the protection of land rights are the goals on ending poverty (SDG 1), responsible consumption and production (SDG 12), and life on land (SDG 15). Certain actions may also relate to the goals of zero hunger (SDG 2) and gender equality (SDG 5).









When companies actively engage and consult with communities when they have an interest in acquiring land on which they live or otherwise use, but a government claims they have no title over, companies can contribute to ensuring ownership and control over land and natural resources (1.4). Again, by respecting land rights and land use rights, including through good faith engagement and consultation with local communities, companies can contribute to sustainable land and natural resource management (12.2).







When businesses carry out holistic assessments that take into consideration the whole area of influence and impact on lands, they can also contribute to the sustainable use of terrestrial and freshwater ecosystems and their services (15.1). A company can also contribute to the SDGs by taking actions that ensure equal rights and access to land (2.3), especially for women (5.a) that are otherwise often overlooked in national legislation concerning land ownership.

These are merely examples of ways in which actions to respect land rights can contribute to certain SDGs and is not an exhaustive list of such links.

Cases on Land rights

Case brief	Goals	Targets	Due diligence
<p>Bank's policy on improper land acquisitions</p> <p>In 2014 the National Australia Bank (NAB) released a policy statement on improper land acquisitions. The policy includes a commitment to not lend to companies where credible evidence exists that these companies have engaged in "improper land acquisition". It also requires companies whose operations include significant land acquisition, to which NAB provides financial advice and support, to prove by 2020 that they are respecting the land rights of local and indigenous communities. This includes seeking evidence of clients' application of free, prior and informed consent "when the project has the potential to have adverse impacts on affected communities of indigenous people".</p> <p>For its own part, NAB has committed to engage and educate its own employees through training programmes around the issue of illegal land acquisition. NAB has also committed to engaging with relevant stakeholders, suppliers and customers in order to encourage good practice that respects and protects the land rights of potentially and actually impacted communities.</p> <p>NAB additionally committed to annual public reports on the actions that the bank has taken to meet such standards. In its 2016 Progress Report, NAB reported that it had not identified any cases where credible evidence existed that its customer companies had engaged in improper land acquisition. It also reported that information on improper land acquisition was included in its training for credit managers and relevant bankers. Additionally, NAB's 2017 Equator Principles Report contains case studies that detail the bank's social and environmental due diligence, including land management and indigenous peoples.</p>	<div><div><div>1 NO POVERTY</div></div><div><div>12 RESPONSIBLE CONSUMPTION AND PRODUCTION</div></div></div>	<div><div>1.1</div><div>1.4</div><div>12.2</div></div>	<div><div>Corporate commitment</div><div>Assessing impacts</div><div>Integrating and acting upon findings</div><div>Tracking and monitoring</div><div>Communicating and reporting</div><div>Stakeholder engagement</div></div>
<p>Corporation commits to respect community ownership</p> <p>The Red Dog Mine in Alaska was developed in 1982 under an operating agreement between NANA Regional Corporation (NANA), an Alaska Native Corporation (ANC) owned by the Iñupiat people of Northwest Alaska, and Teck Alaska – Canada's largest diversified mining company. The agreement granted Teck exclusive rights to build and operate the Red Dog Mine and to market its metal production in exchange for royalties to NANA which owns the land on which the mine is located. Since the beginning of the agreement, NANA has kept approximately \$480 million of the total \$1.3 billion that has been produced in net proceeds from the mine. Additionally, over half of the Red Dog employees are Iñupiat. An advisory committee, with members drawn equally from both Teck and NANA, identifies opportunities to work towards the goal of 100% local employment.</p>	<div><div><div>1 NO POVERTY</div></div><div><div>2 ZERO HUNGER</div></div><div><div>11 SUSTAINABLE CITIES AND COMMUNITIES</div></div><div><div>12 RESPONSIBLE CONSUMPTION AND PRODUCTION</div></div></div>	<div><div>1.4</div><div>2.3</div><div>11.1</div><div>12.2</div></div>	<div><div>Stakeholder engagement</div></div>

Case brief	Goals	Targets	Due diligence
<p>Fruit producer supports local employment and land rights</p> <p>The Malawian fruit producer Malawi Mangoes has instituted a smallholder outreach and development programme which has garnered support from the International Finance Corporation (IFC) and the Global Agriculture & Food Security Program (GAFSP). It sets out to integrate smallholder farmers into the company's supply chain without taking land rights or ownership away from individual farmers. With usage agreements in place that leave ownership with the local people, the company aims to support local employment and protection of land rights by involving local farmers in the business supply chain without stripping them of any rights. This policy has been developed to help sustain small-scale farming in Malawi while also creating a profitable and innovative model for the growth of the company.</p>	  	<div>1.4</div> <div>2.3</div> <div>12.2</div>	<div>Integrating and acting upon findings</div> <div>Stakeholder engagement</div>
<p>Companies use their leverage for community and indigenous peoples' land rights</p> <p>The Interlaken Group is a network of leaders from influential companies, investors, civil society organisations (CSOs), and government and international organisations, that seeks to increase the leverage of private sector actors to secure community land rights, with a particular focus on indigenous peoples. From the private sector, representatives of, for example, Coca-Cola, Nestlé and Unilever count among the members of the group.</p> <p>One of its primary stated objectives is to "scale up efforts to secure community land rights and strengthen communities' ability to exercise their rights to govern and manage their lands and forests", especially those of indigenous peoples and women, by aligning their actions with the UN Voluntary Guidelines on the Responsible Governance of Tenure (VGGT), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and other international agreements securing tenure rights including the SDGs, the New York Declaration on Forests, and the Paris Climate Agreement. It has also made an explicit commitment to FPIC. It publishes and disseminates tools and analysis related to land rights and commits to supporting companies and their investors to promote improved land governance and the land rights of rural people.</p> <p>Among other things, the Interlaken Group has published a guide called Respecting Land and Forest Rights for companies that have already signed up to the VGGT.</p>	    	<div>1.4</div> <div>5.a</div> <div>12.2</div> <div>13.1</div> <div>15.1</div> <div>15.2</div> <div>15.3</div> <div>15.b</div>	<div>Corporate commitment</div> <div>Integrating and acting upon findings</div> <div>Communicating and reporting</div> <div>Stakeholder engagement</div>

Case brief	Goals	Targets	Due diligence
<p>Sugar producer upholds land rights</p> <p>Illovo Group, Africa’s biggest sugar producer, launched its Group Guidelines on Land and Land Rights in 2015. The guidelines endeavour to ensure that impacts on the land and livelihoods of local communities resulting from Illovo’s activities, and those of its suppliers, are minimised and that any unavoidable impacts are managed in an effective and timely manner. To this end it foresees environmental and social impact assessments, stakeholder engagement, technical and financial support to local communities, and programmes for the redistribution of land to previously disadvantaged communities. The guidelines specifically foresee respect for Free, Prior and Informed Consent (FPIC) for Indigenous Peoples. They also aim to ensure compliance across the supply chain, and envisage periodic assessments and ongoing monitoring of their implementation. The guidelines also take into account cultural and language preferences of the affected communities as well as the inclusion of disadvantaged and vulnerable groups in decision-making processes. In 2016 Illovo announced its Road Map on Land Rights, which sets out to guide its interventions around land-related matters in its operations. In one of its most recent activities Illovo Group partnered with NGOs and donors to put its Group Guidelines on Land and Land Rights into practice in the Maragra project in Mozambique. One of the main objectives of the project was to “record the rights of smallholder farmers through an open, participatory process of community land mapping”. Through the project approximately 1,600 people are reported to have received legal land certificates that they were previously lacking.</p>	  	<div>1.4</div> <div>5.a</div> <div>12.2</div>	<div>Corporate commitment</div> <div>Integrating and acting upon findings</div> <div>Stakeholder engagement</div>
<p>Policy safeguards communities' access to land and natural resources</p> <p>In 2013 Coca-Cola adopted a policy on land rights and on its sugar supply chain, clarifying that land grabbing is unacceptable and outlining its plan to ensure that “land grabs and other land controversies” do not occur in its supply chain. Following its commitment the company had, by 2016, conducted five third-party assessments in sourcing regions identified as critical, and developed an action plan based on the findings of its Brazil Sugar Study. The new corporate action plan included provisions for auditing and monitoring activities to be carried out for its suppliers in Brazil concerning the issues of land rights and engagement with affected communities. It proposed language to be used in its Sustainable Agriculture Guiding Principles (SAGP) to recognise and safeguard the rights of communities and "traditional peoples" to maintain access to land and natural resources. It also committed to publishing FPIC guidance (Free Prior and Informed Consent, a specific right that pertains to indigenous peoples) in its Supplier Guiding Principles under the section regarding Laws and</p>	  	<div>1.4</div> <div>5.a</div> <div>12.2</div>	<div>Corporate commitment</div> <div>Assessing impacts</div> <div>Integrating and acting upon findings</div> <div>Tracking and monitoring</div> <div>Communicating and reporting</div>

Case brief	Goals	Targets	Due diligence
<p>Regulations as well as in its Sustainable Agriculture Guiding Principles.</p> <p>The plan also includes more efforts for capacity-building within the supply chain in order to raise awareness and knowledge around relevant issues. Coca-Cola has also adopted a policy of reporting on and providing public information relevant to its actions with regard to improving land rights protection in its supply chain in Brazil.</p>			

Suppliers held accountable by company for community land rights

In 2014 Nestlé released a [Commitment on Land & Land Rights in Agricultural Supply Chains](#) where it adopted a zero tolerance policy against land grabs and stated that it will hold its suppliers accountable for respecting community land rights. In order to achieve this goal, Nestlé aims to adhere to all national and international legal frameworks concerning land rights, to implement operational practices that manage and address illegal land acquisition, to establish grievance mechanisms for community members, engage with stakeholders to ensure that governments, communities, farmers, and other relevant groups are effectively cooperating with each other, and to issue regular progress reports on the matter. In the policy, Nestlé also commits to work with its suppliers to improve land rights wherever gaps are identified and to engage with stakeholders to improve access to land for men and women, communities and indigenous peoples.



1.1



5.a



12.2

Corporate commitment

Assessing impacts

Integrating and acting upon findings

Tracking and monitoring

Communicating and reporting

Access to remedy

DISCLAIMER*The case briefs featured on this site are not an endorsement of a particular company, their approach to human rights as such or their business model in general. Case briefs serve only as isolated illustrative examples for inspiration. The case briefs do not reflect all commitments or actions by any given company. In developing the case briefs DIHR has NOT evaluated the actual human rights and developmental outcomes or impacts of mentioned policies and activities. As such cases have been included for their ability to conceptually illustrate the link between human rights due diligence and sustainable development, not due to their verified impacts.*