

Community rights

The concept of communities encompasses a broad range of groupings including minorities, rural communities and other kinds of groups. Although “community rights” is not a defined concept in international law, community members are entitled to the full range of human rights. Moreover, given the social, economic and political structures and cohesion of communities, there may often be a collective aspect to their rights. In this regard, there may be commonalities between community rights and indigenous peoples’ rights, especially when projects impact lands and resources that concern entire communities rather than individuals.

Communities, and in particular rural communities, are often the poorest and most vulnerable groups in society. Minority communities, and indeed rural communities in general, are often extra vulnerable because of discrimination, marginalisation and exclusion. This vulnerability can take the form of low employment rates, land rights violations targeting those vulnerable communities and labour exploitation, among other things.



▼ Read more

The rights of communities may be recognised in different forms in different countries.

The [United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas](#) encompasses aspects of both individual and collective rights relating to rural communities in general. It emphasises the right of rural communities to exercise their right to development, to participate

equally and effectively in the formulation and implementation of development planning at all levels, and to equal access to, use of and management of land and natural resources, and to equal or priority treatment in land and agrarian reform as well as in land resettlement schemes. Moreover, it requires states to ensure consultations in good faith, and modalities for the fair and equitable sharing of the benefits of natural resource exploitation. These rights are also enshrined in a variety of other international legal instruments and reflect a number of universal, existing international standards.

While the concept of community rights encompasses a variety of things, an issue that is often present in relation to business activities concerns communities’ rights to their land and resources. Customary land and resource rights are at particular risk in relation to business activities. Customary law may be recognised in national or statutory law, as it is in many African countries, but mostly it is not recognised, leaving rural communities who are reliant on customary rules for land ownership vulnerable to exploitation. Customary rights may be informal (without formal state recognition), or they may be formal where they are given the force of law by ratified international treaties, by national constitutions, by statutory laws and ordinances, or through court decisions. Relying on national laws, companies often fail to acknowledge the existence and relevance of customary land rights.

The rights to consultation and participation of communities in decisions affecting them should also be respected by companies. The UN Declaration on the Rights of Peasants, and relevant international law regarding indigenous peoples are pertinent in this respect. The right to participation is also a key tenet of international law in this regard.

Companies in sectors that have been in the news concerning a lack of respect for community rights are often the same companies that have later adopted policies and taken action with regard to potential human rights impacts related to communities. At the same time, companies that have yet to face problems are not developing similar policies and processes to address the issues. Many mistakes have unfortunately already been committed and human rights have not been respected, but that means that there are plenty of lessons-learned to be had, which companies in all sectors who have identified community rights as a salient issue should make use of.

Companies should consider the rights of communities and corresponding appropriate measures in respect of screening, impact assessments, and implementation and monitoring of projects, and related ongoing dialogue and consultation mechanisms. Furthermore, any mitigating measures, and compensation and benefit-sharing mechanisms should also respect their rights.



▼ Links to SDGs and targets






The SDGs provide multiple entry points for businesses to promote the rights of communities and their members. Those points of entry can be found across the goals of gender equality (SDG 5), decent work (SDG 8), sustainable cities (SDG 11), no poverty (SDG 1) and more.











Some ways in which companies can take actions to address negative impacts on communities while also contributing to the SDGs include: ensuring culturally appropriate consultation that focuses on the participation of women (5.a); the employment of local community members by a transnational business venture; the creation of affordable housing in tandem with the establishment of a new work site (11.1); or profit-sharing with community members for the use of their lands, territories and resources (1.4).





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



Cases on Community rights

Case brief	Goals	Targets	Due diligence
<p>Dam project cancelled after severe impacts are identified</p> <p>Enel (previously Endesa Chile) planned to develop six dams in the Patagonia region of Chile. This concerned the local communities who are highly dependent on tourism in the area for their livelihoods. Endesa carried out social and</p>	<div> 1 NO POVERTY</div> <div> 12 RESPONSIBLE CONSUMPTION AND PRODUCTION</div>	<div>1.4</div> <div>12.2</div>	<div>Assessing impacts</div> <div>Integrating and acting upon findings</div>

Case brief	Goals	Targets	Due diligence
<p>environmental impact assessments and ended up abandoning the project after local communities and potentially affected people opposed it, despite having already invested \$52 million in the project. The reason provided by management was, in part, because Enel strives to only develop projects that have “the acceptance of the [local] communities”.</p>			Stakeholder engagement
<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>1.1</div> <div>1.4</div> <div>12.2</div>	Corporate commitment Assessing impacts Integrating and acting upon findings Tracking and monitoring Communicating and reporting Stakeholder engagement
<p>Mining company makes space for women's participation</p> <p>In Papua New Guinea (PNG) women have been included in the process of negotiation of the compensation agreements relating to the Ok Tedi mine. When the mining company management realised that women's participation was necessary for the success of the mine, the company representatives and independent facilitators convinced local community leaders and the state to include women in the community's negotiating team. With their participation in the negotiations ensured, women leaders went on to secure an agreement giving them 10% of all compensation, 50% of all scholarships, and payments into family bank accounts (to which many women are co-</p>	  	<div>1.4</div> <div>5.a</div> <div>12.2</div>	Stakeholder engagement

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<p>signatories). They also obtained mandated seats on the governing bodies implementing the agreement, enabling them to address systemic gender issues in the community. In PNG, as well as in many other developing countries, women often have limited agency over land and natural resources. By ensuring higher female participation in negotiations, the project attempted to deal with this issue.</p>			
<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>1.4</div> <div>2.3</div> <div>11.1</div> <div>12.2</div>	<p>Stakeholder engagement</p>
<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>	<p>Integrating and acting upon findings</p> <p>Stakeholder engagement</p>
<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</p>	  	<div>1.4</div> <div>5.a</div> <div>12.2</div>	<p>Corporate commitment</p> <p>Integrating and acting upon findings</p> <p>Stakeholder engagement</p>

Case brief	Goals	Targets	Due diligence
<p>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>			
<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 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>	  	<div>1.4</div> <div>5.a</div> <div>12.2</div>	<p>Corporate commitment</p> <hr/> <p>Assessing impacts</p> <hr/> <p>Integrating and acting upon findings</p> <hr/> <p>Tracking and monitoring</p> <hr/> <p>Communicating and reporting</p>
<p>Suppliers held accountable by company for community land rights</p> <p>In 2014 Nestlé released a Commitment on Land & Land Rights in Agricultural Supply Chains where it adopted a zero</p>		<div>1.1</div> <div>1.4</div> <div>5.a</div>	<p>Corporate commitment</p> <hr/> <p>Assessing impacts</p>

Case brief	Goals	Targets	Due diligence
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.	 	12.2	Integrating and acting upon findings Tracking and monitoring Communicating and reporting Access to remedy

Credit Card Company Addresses Gender Equality

In order to reach their global priorities of inclusion, opportunity and empowerment, Mastercard created a programme titled “Give Me 5” which focuses throughout its value chain. Give Me 5 is inspired by SDG 5 and formatted into three pillars: People, which focuses on creating a dynamic, engaged and balanced workplace globally; Society, which focuses on driving an inclusive approach to business; and Market, which focuses on bringing balance and equal access to products and solutions. Each pillar is led by a senior executive and Mastercard’s initiatives ladder up to the three pillars to ensure that they are advancing gender equality in each of these critical areas.

  	8.5	Corporate commitment Communicating and reporting Stakeholder engagement
	8.8	
	5.1	

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