



Increasing leverage working group  
**Increasing Leverage report - FINAL**

## **DBA - Increasing Leverage report - FINAL**

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### **1. Introduction**

In the Dutch Banking Sector Agreement on international responsible business conduct regarding human rights (the "DBA"), parties and adhering banks have agreed to *"work together and commit themselves to conducting and publishing a study on good practices of how to increase leverage when supporting companies to improve responsible business conduct regarding human rights for the different types of financial services, including corporate lending and project finance."* (section 9.1). The study would include different categories of (innovative ways to increase) leverage and the adhering banks have committed to *"use the outcomes of this study as input for their continuous constructive efforts to increase their leverage when engaging with clients when, for example, the adhering banks address the findings of the value chain mapping exercises"* (section 9.2). The parties have committed to *"support the banks adhering to this agreement in increasing their leverage, including sharing the necessary knowledge and contacts, when the adhering bank encounters challenges in the client engagement and vice versa."* And the adhering banks have committed to *" , where relevant and achievable, support the Parties when they need to find ways to increase their leverage to improve the responsible business conduct of companies"* (section 9.3).

To implement the commitments laid down in section 9 of the DBA, the parties and adhering banks established the working group on increasing leverage in January 2017. Through this publication, the increasing leverage working group would like to inform the broader public on the process that the working group went through, the choices that were made along the way and the results of the efforts and work of the working group.

### **2. The course of the increasing leverage working group**

#### *A theoretical start*

After establishing the increasing leverage working group, parties and adhering banks chose to outsource the study on increasing leverage. The tender for the study was circulated in April 2017, specifying the aims of the study:

- Increase mutual understanding of common practices and the possibilities to increase leverage when supporting companies in improving responsible business conduct regarding human rights in the context of corporate lending and project finance; and
- Find new ways of increasing leverage by: developing a mutual understanding of the barriers to increasing leverage in order to reduce the risk of adverse human rights impacts by companies linked to banks through corporate lending and project finance; developing a practice of cooperation between agreement parties to seek to overcome those barriers, taking into account the position and safety of all concerned, including human rights defenders.

In June 2017, the parties and adhering banks commissioned “phase one” of the work to SILA consulting (the “SILA team”), a project team affiliated to the London School of Economics. The intent of “phase one” was to “*increase a mutual understanding of common practices and the different roles and room for manoeuvre of various agreement parties.*” Based on interviews, desk research and individual stakeholder workshops, the SILA team produced a lengthy study containing:

- (i) a slide deck on key concepts related to leverage;
- (ii) a compendium of *topic cards* presenting the “topics” that impact the exercise of leverage and the ability of the DBA parties to collaborate; and
- (iii) a draft framework and questions for understanding “leverage in practice”.

The study produced by the SILA team proved very valuable and the working group built on this study for its publication in August 2018: [Increasing Leverage Working Group – Progress report phase 1](#).

#### *From theory to practice: the topic cards*

After studying and discussing this vast amount of information, the working group concluded that the topic cards presented the most promising way forward. The cards reflect the large and diverse amount of content, practices and opportunities for moving forward that the SILA team collected during their work. Each topic card offers a short description of the topic, a mapping of practices related to that topic, the views from different parties about the topic and suggests future discussion points and ideas for action to increase leverage.

The working group therefore agreed that the topic cards would be the best way to put theory into practice and decided to focus on how to apply the theoretical ideas for leverage in practice through joint actions. Out of the 18 topic cards presented, the working group decided to choose the topic cards that would meet the following criteria:

<b>Practical</b>	Implementing the use of various ways of exercising (joint) leverage in practice.
<b>SMART</b>	Specific, measurable, achievable, relevant and time limited.
<b>Beneficial for the banks/ banking sector</b>	The (joint) action should help the bank(s) increase their leverage internally/externally.
<b>Added value of multistakeholder approach / innovation</b>	All the parties should have a role in and a contribution to the follow-up action(s) in the WG. The added value should be in the collaboration.

In addition to these criteria and as an overarching principle, the joint actions should generate more positive impact and effect on the ground than when adhering banks were to act on their own.

Based on these criteria and the overarching principle, the working group selected the following topic cards as a basis for follow-up actions:<sup>1</sup>

- Topic card 2 and 11: *Organizational aspects and internal governance of human rights* and *Banking sector capabilities and practices on human rights*
- Topic card 3 and 4: *Human rights due diligence practices* and *Use of incentives*
- Topic card 5: *Remediation, grievance mechanisms and leverage*
- Topic card 6: *Awareness and use of government in-country presence and networks*

<sup>1</sup> The findings and ideas of topic cards 5 (*Remediation*) and topic card 12 (*Value chain*) are not carried out in the IL working group. Instead, parties chose to incorporate those ideas for actions in the Enabling remediation working group and Value chain working group.

- Topic card 12: *Value chain*
- Topic card 15: *Human rights defenders*
- Topic card 18: *Building knowledge about each other*

The working group decided that it would share the lessons learned from the implementation of the topics cards with the broader public. The choice of topic cards selected by the working group is the result of a focus on the benefit of collaboration within the scope of DBA. This choice should not be interpreted as a dismissal of the other topic cards identified by the SILA team. As such, the working group encourages parties and adhering banks to consider making use of the opportunities described in all the topic cards.

### 3. The implementation of the topic cards

In this section the working group will briefly explain, per selected topic card, what the topic card entails and how the working group has implemented the actions. Furthermore, the working group will explain to what extent the actions carried out led to “increased leverage” of the parties and banks and what the lessons learned are.

- Topic card 2 and 11: *Organizational aspects and internal governance of human rights and Banking sector capabilities and practices on human rights.*

It is essential for banks to maintain and strengthen the knowledge and awareness of human rights issues internally to ensure they are better embedded in the due diligence processes, corporate culture and incentives structures of the bank. To increase the internal leverage of Social and Environmental (“S&E”) teams, it is also vital that the governance of banks gives appropriate weight to S&E issues and provide S&E teams with decision-making power. In case the structure of the bank does not contain/provide for separate S&E teams, it remains important that S&E considerations are embedded in all the relevant parts of the organization and considered in decision making processes. To make progress on these fronts topic card 2 considers some ideas for actions, one of them being:

*“developing the skills and knowledge of bank personnel (including board members, relationship managers, risks teams, commercial teams) on human rights by organising joint trainings among the banks and consider taking recourse of CSOs expertise on substantive issues.”*

Moreover, adhering banks operate, compete and collaborate not only with each other, but also with other (non-Dutch) banks and financial institutions globally. The level of awareness on human rights is internationally growing, but the lessons learned in the DBA could be of great interest for other (international) banks. Topic card 11 therefore has several suggestion for action, amongst others:

- *“Collaborate to help level the playing field in the banking industry. This includes opportunities for capacity building, peer learning, sharing of good practices with other banks outside the DBA, regulators, industry bodies and international organisations.”*
- *Further explore risks and practices concerning general purpose loans.*

Within various DBA working groups, there was a request for more practical knowledge on land rights in relation to finance.<sup>2</sup> Therefore the Dutch Banking Association organised a training in February 2019 together with the LANDdialogue to develop land right related skills and knowledge of bank personnel, specifically aimed at risk teams within banks. The training (the powerpoint is attached as Annex 2) made clear that the knowledge level on land rights and FPIC was quite diverse and that potential follow-up training should be tailored to the needs of specific bank

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<sup>2</sup> The adhering banks with corporate lending and project finance activities in countries where land rights and FPIC are at risk, attended the training: ING, FMO, ABN and Rabobank (the so called “Tier 1 banks”).

personnel. The training resulted in a basic guidance document for banks, exploring the concept of land rights and FPIC and addressing dilemmas banks face in this field. Banks will use the guidance document for further internal training on land rights and FPIC where relevant, e.g. by integrating it in existing training modules for employees. By raising awareness and increasing the knowledge on land rights and FPIC within the banks and by publishing the guidance document as a learning tool for other financial institutions, parties and adhering banks aim to eventually achieve a material positive impact on actual and potentially affected people on the ground. In addition, a session was organised by Amnesty International, Oxfam Novib and FMO on human rights defenders to exchange more information on how to protect human rights defenders effectively (see more information topic card 15). Moreover, FMO, Oxfam Novib, Amnesty International, MoFA and the Business and Human Rights Resource Center gave presentations on the topic.

Topic card 11 has been taken up by the NVB and its members by presenting the lessons learned in the DBA internationally at various conferences, e.g. at a mining conference at the Dutch Embassy in London and a large conference in Brussels on SDGs and Initiatives for Sustainable Global Value Chains. In addition, in November 2019 a large international conference will be organised on banking and human rights. International banks and member states will be invited. The objective of the conference is to increase the knowledge and level playing field on banking and human rights by sharing best practices and the lessons learned in the DBA. The topic of land rights and (the broader application of) FPIC is likely to be further explored in a dedicated break-out session.

- Topic card 3 and 4: *Human rights due diligence practices and Use of incentives*

Human rights due diligence ("HRDD") comprises an ongoing management process that a bank needs to undertake to meet its responsibility to respect human rights. This process encompasses six key steps<sup>3</sup> that should allow banks to identify the information they need in order to understand their specific human rights risks and impacts, as well as the actions they need to take to prevent, mitigate and account for how they address these risks and impacts.

Topic card 3 suggests that banks could benefit from sharing experiences and collective reflection with peers. In addition, there can be opportunities for innovation and collaboration on tools and approaches to engage clients on human rights issues. Topic card 4 identifies an opportunity to carry out peer learning exercises to discuss and learn from the use of financial incentives and contractual clauses. Banks can use both financial and contractual incentives to encourage the client to identify, manage and address human rights impacts and more generally make improvements in their S&E practices. Contractual and financial incentives constitute some of the most important tools to induce or encourage clients to adapt their conduct to ensure adverse impacts on people are avoided, mitigated and remediated. For example, sustainability improvement loans offered by banks to clients, linked to improvements on sustainable ratings and performances.

To give effect to both of these topic cards and as a follow-up to the [cocoa value chain analysis](#), the NVB has organized a human rights due diligence exchange in relation to the cocoa sector. Banks active in financing cocoa received a human rights due diligence questionnaire. This questionnaire contained questions on e.g. sources for human rights due diligence, minimum requirements for clients, time bound improvement plans, monitoring progress and communication on human rights due diligence. It also contained a first exploration on contractual incentives. The answers to these questionnaires were aggregated and anonymized (when necessary due to competition law) and summarized in a power point presentation. The power point

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<sup>3</sup> 1. Embed responsible business conduct into policies and management systems; 2. identify & assess actual and potential human rights impacts; 3. cease, prevent or mitigate the adverse impacts; 4. track implementation and results; 5. communicate how impacts are addressed; and 6. provide for or cooperate in remediation when appropriate.

presentation unfortunately turned out to be too general to discuss and learn from. Therefore, the banks and parties decided to continue this exercise within the cocoa value chain working group. The parties discussed with each bank individually their cacao due diligence practices and provided recommendations on how to improve these processes. The progress of the implementation of the discussed recommendations will be further monitored by the Steering Committee in November 2019. In addition, the NVB will explore with the relevant banks if and how a further exchange on legal and/or financial incentives could be facilitated in a meaningful way before the end of 2019, all within the boundaries of competition law.

- Topic card 5: *Remediation, grievance mechanisms and leverage*

When a business enterprise causes or contributes to an adverse human right impact, its responsibility to respect human rights requires, amongst others, active engagement in legitimate processes for remediation. One of the most systematic ways for an enterprise to address complaints and to provide remediation is through operational-level grievance mechanisms ("OLGM"). When a bank is directly linked to an impact it should use its leverage to enable access to remedy for victims. While the working group on Enabling remediation is comprehensively looking into the issue of remedy and grievance mechanisms for the DBA, the Increasing Leverage working group has the opportunity to reflect on the relevance of OLGM, and other non-judicial grievance mechanisms, for increasing leverage. And to seek ways to increase leverage to enable access to remedy in practice. The working group on enabling remediation has concluded that remedy is a relevant consideration in all cases in which banks are directly linked, contributing or causing a negative impact.

The relevance of grievance mechanisms in terms of leverage is twofold. Firstly, grievance mechanisms can reinforce aspects of human rights due diligence by helping the identification of "adverse human rights impact in a timely manner and in tracking the effectiveness of responses to impact raised through the mechanism. Secondly, grievance mechanisms can "help build positive relationships with stakeholders by demonstrating that the enterprise takes their concerns and the impact on their human rights seriously." <sup>4</sup>

The working group on Enabling Remediation aimed (i) to explore the responsibility of banks for enabling remedy for impacts they might be connected to through their client relationships, and (ii) to explore the roles that banks could play in meeting this responsibility more effectively in practice. The most important insights gained are shared in a [discussion paper](#).

With regard to OLGM, the discussion paper (i) defines the concept of a grievance mechanism (GM), (ii) extended the focus from the existence of an GM on client and/or banking level, to supporting an effective remedy eco-system, and (iii) contains recommendations for practical actions for a bank to strengthen the grievance mechanism infrastructure, where and if relevant.

To build on these findings and look at OLGM from a leverage perspective, the NVB (with the input of the other parties) will organise a follow-up session on the effectiveness of OLGM's in 2019.

- Topic card 6: *Awareness and use of government in-country presence and networks*

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<sup>4</sup> The Corporate Responsibility to Respect Human Rights, An Interpretative Guide. UN Office of the High Commissioner for Human Rights, 2012, p.68

Through its embassies, trade missions, development activities and financial support to local CSOs, the Dutch government has a presence in the geographies where the banks' clients operate. This presence allows the government to have access to local information and actors (including local CSOs, actors in the client's value chain and the local government) that can be useful for Dutch banks and CSOs when exploring opportunities for using and increasing leverage.

One idea that this topic card mentions is mapping the in-country presence and networks of the Dutch government. The parties and adhering banks chose the cocoa sector as a pilot for the mapping, due to the relative concentrated origin of this commodity. On 1 February 2019 an expert session with 22 participants was organized at the Ministry of Foreign Affairs (MoFA). Representatives of the different DBA parties, adhering banks, and external experts of IDH and Solidaridad spoke with the Heads of Mission (HoM) Accra and Abidjan about the challenges and opportunities in the cocoa value chain and the options to increase their leverage in the local context of Ghana and Ivory Coast. As one of the results of the expert meeting, the DBA NGO's are initiating a meeting with IDH and interested banks to explore if and how banks could participate in already existing IDH initiatives such as the Dutch Initiative for Sustainable Cocoa (DISCO) and the Cocoa & Forest Initiative (IDH & WCF). Based on this meeting, banks can individually choose in what role they can contribute to an initiative aimed at making the cocoa trade more sustainable. Furthermore, 3 to 4 times per year, the MoFA organises Responsible Business Conduct (RBC) calls with the Dutch embassies (a.o. Asia, Middle East, Sub-Sahara Africa, and Latin America). The purpose of these calls is to inform the embassies on the developments on RBC in the Netherlands and EU, such as the RBC Agreements, debates in parliament, to exchange best practices between embassies on RBC, to ask their input and to answer questions on RBC. In addition, MoFA developed a dedicated internal website for embassies with background information on e.g. policies and RBC Agreements that they can use for their own work related to RBC. The calls and dedicated website contribute to a better understanding within Dutch embassies of the work and goals of the RBC Agreements, such as the DBA. This should eventually lead to tailored support from embassies to parties and adhering banks in addressing negative human rights risks and impacts abroad.

- Topic card 12: Value chain

Addressing impacts on people requires being aware of and engaging with a diverse range of actors. This topic card looks at the value chains in which banks and their clients are active, and thus considers the actors that are part of a set of business relationships related to a product, service or sector.

This issue relates closely to the work of the Value chain working group which is jointly carrying out value chain mapping exercises of high-risk sectors that are material to the banks. Looking at value chains per sector (i) enables building collective information and knowledge by pooling data and expertise from multiple actors; (ii) facilitates brainstorming to find creative ways for parties to exercise leverage in a particular value chain.

This topic card has been addressed in various ways. One *example* of this is that representatives of parties and adhering banks to the DBA visited two palm oil plantations in Indonesia as part of their efforts to map the palm oil value chain. The main purpose of this visit was to get workers on the plantations, trade unions and banks at one table to discuss with some of the local stakeholders how the right information from plantations and mills could reach the banks in the most efficient way in order to help build or improve the social dialogue on ground level. Another example is that the entire range of topic cards (1-18) was used in the brainstorming of the value chain analyses to find creative ways to increase and exercise leverage.

- Topic card 15: *Human rights defenders*

Human rights defenders (“HRDs”) are those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. DBA parties and banks are concerned with the situation of HRDs and provide a special focus to this topic in their work where relevant.

This topic card raises the idea to work collectively on developing a common policy concerning HRDs, which goes beyond considering them as impacted stakeholders and acknowledges the value of creating a safe space for civil society. With this idea in mind, two NGOs set up a learning session on HRDs in November 2018.<sup>5</sup> As the knowledge level on HRDs differed amongst DBA parties and adhering banks, the programme took off with an introductory learning session. The learning session resulted in:

- (i) a slide deck summarizing the findings and presentations of the session that was shared with DBA parties and adhering banks;
- (ii) a resource document (attached as Annex 3) with HRDs information that banks can use in their human rights due diligence processes, containing:
  - i. databases/reports about HRDs;
  - ii. a list of Dutch CSOs working on HRDs; and
  - iii. a list of international CSOs working on HRDs.
- (iii) an idea for a session between banks and HRDs in order to exchange knowledge and experiences, organised by the MoFA through their Shelter City programme. The MoFA and the NGOs are preparing a session for early July 2019, which will be connected to one of the recommended actions of the palm oil value chain analysis.

- Topic card 18: *Building knowledge about each other*

A common thread in conversations of the SILA team with different DBA parties and adhering banks, was that there was insufficient understanding of each other’s’ practices, methods, risks, motivations, challenges and limitations.

An example of a limitation of the adhering banks to cooperate with CSOs in the DBA is client confidentiality. According to the [legal report on client confidentiality](#) produced in the context of the DBA, banks can share or make public individual client information with the client’s consent or pursuant to a statutory obligation (provided that none of the disclosure prohibitions under the MAR and Wwft are applicable)<sup>6</sup>. In all other cases, banks currently cannot share individual client information and exchange information on individual cases with third parties, including CSOs and the government. As a practical solution, the working group brainstormed on innovative ways to enable this exchange within the remit of client confidentiality.

The parties and adhering banks organised a brainstorm session in March 2019. Three banks (ING, ABN AMRO and Rabobank) and three representatives from the NGOs tried to answer the following two questions:

- *How can CSOs discuss specific cases with banks, within the boundaries of client confidentiality?*
- *How can a bank reach out to third parties about a specific case or client, within the boundaries of client confidentiality?*

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<sup>5</sup> [https://www.imvoconvenanten.nl/banking/news/2018/12/shrinking-civic-freedoms?sc\\_lang=nl](https://www.imvoconvenanten.nl/banking/news/2018/12/shrinking-civic-freedoms?sc_lang=nl)

<sup>6</sup> Market Abuse Regulation and Wet ter voorkoming van witwassen en financieren van terrorisme

By brainstorming from a “what is possible” mindset instead of a “what is not possible” mindset, parties and adhering banks were able to come up with and discuss opportunities (i) for banks to improve and expand the information about specific clients, which could lead to improved human rights due diligence and might eventually lead to impact on the ground and (ii) for all parties to try new ways to cooperate and increase leverage. These opportunities are shared with all DBA parties and adhering banks and the working group encourages everyone to explore these further.

#### **4. Conclusion**

After a theoretical start, DBA parties and adhering banks have managed to test ideas to increase leverage in practice. Overall, it is safe to conclude that the subjects of client confidentiality and competition law have proven to be barriers for effective exchanges in the context of the DBA. Obviously, if banks are not able to share information on individual clients, potential expertise with regard to clients identified by NGOs, trade unions and the government becomes impossible to ask and use. The subject of competition law turned out to be a similar barrier to exchanges between adhering banks.

The abovementioned barriers required parties and adhering banks to search for other ways to exchange information. Outside the box thinking appeared to be important, as well as taking a “what works” attitude instead of a “what doesn’t work” attitude. Parties and adhering banks intend to use and further develop the innovative ways of exchange, with the aim to eventually strengthen the cooperation under the DBA.

The process of the increasing leverage working group also proved that more can be achieved when personal relations and trust are built and all people at the table have a mutual understanding of other parties practices. However, as people move and make place for new colleagues it is advisable that representatives of parties and adhering banks maintain their personal relations and that these relations are also introduced and utilised into the different organisations, by e.g. ensuring proper hand-overs and introductions of new staff in case of personnel changes.

Finally, the choice of focus of the Increasing Leverage working group on a select group of topic cards from the SILA report should not prevent the parties and adhering banks to further explore the possibilities for increasing leverage presented in the remaining topic cards.

**Annex 1 Composition of the working group**

- Dutch Banking Association
- Ministry of Foreign Affairs
- Ministry of Finance
- ING
- Oxfam Novib
- PAX
- Amnesty International



# Land governance and FPIC in relation to the financial sector





**LAND GOVERNANCE**  
MULTI STAKEHOLDER DIALOGUE



**Universiteit Utrecht**

## **Outline**

- 1. Land rights in short**
- 2. Land rights and FPIC**
- 3. Relevance**
- 4. Dilemmas for financiers**
- 5. Guidance**
- 6. Tools and practices**
- 7. Land-specific data**
- 8. Good practices**
- 9. Recommendations**
- 10. LANDDialogue contact**

## 1. Land rights in short

### An increase of issues related to land governance

- Increasing claims on natural resources: land, water
- Investment in LDC's: increasing risk of land rights violations
  - Informal/customary rights, often ignored by governments
  - Formal land acquisition for investment may involve human rights violation – displacing local people from housing, livelihood
  - Land matrix: 49,193,878 ha concluded transnational deals confirmed; 20 million ha intended

## 2. Land rights and FPIC (I)

- Free Prior and Informed Consent – An Indigenous Peoples' [right](#) and a good practice for [local communities](#) for the realization of other human rights
- In an FPIC process, the “how”, “when” and “with and by whom”, are as important as “what” is being proposed
- All elements within FPIC are interlinked, and they should not be treated as separate elements
- Increasingly, companies are recognizing FPIC as a fundamental aspect of human rights due diligence that can help to create shared value for companies and communities and mitigate the risk of social conflict.



## 2. Land rights and FPIC (II)

### International standards/guidelines:

[VGGTs](#); [ESS7](#); [IFC PS5](#); [IFC PS7](#); [FAO-OECD](#)

### Tools/resources for implementation:

- Oxfam Guides to FPIC
  - [Guides and manuals to FPIC](#)
  - [Testing community consent \(Kenya\)](#)
  - [FPIC in Africa](#)
  - [Community consent Index](#)
  - [The right to decide \(Australia\)](#)
- UN-REDD [Guidelines on FPIC](#)
- FAO FPIC [Manual](#)
- PIPLinks: [Making free Prior & Informed consent a reality.](#)
- IIED: [Applying FPIC in industrial projects](#)
- Forest Peoples Project [Resources on FPIC](#)
- Initiative for Responsible Mining Assurance (IRMA) [Chapter 2.2](#)
- RSPO [Guidelines for companies](#)



Photo: Kieran Doherty

## TESTING COMMUNITY CONSENT

Tullow Oil project in Kenya

### Box 3: Timeline of Tullow Oil operations in Turkana

2009: Africa Oil acquires interest in first blocks in Turkana  
 2010: Tullow Oil acquires 50 percent joint interest and role of operator in some blocks, including Block 10BB  
 2012: Tullow's first discovery at Ngamia-1  
 October 2013: protests and road blockages at various Tullow work sites  
 2015–16: Exploration and appraisal  
 August 2015: IFC investment in Africa Oil, triggers IFC Performance Standards  
 February 2016: Tullow Human Rights Policy released  
 July–October 2016: Consultation processes with Lokicheda and Nakukulas communities  
 November 2016: Signing of agreements and ceremonies  
 December 2016–March 2017: Construction and drilling in Amosing-6 and Ngamia-10



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### **3. Rationale**

- **Business:**
  - **Responsible business operations: the right thing to do**
  - **Rational self-interest:**
    - Source of conflict, unforeseen costs
    - Reputation risk
    - Especially in case of large-scale external interventions
  
- **Financiers:**
  - **The right thing to do**
  - **(Chain) responsibility for investors under the UNGPs when land governance issues occur.**
  - **Negative reputation impacts also affects financiers**
  - **Cost related to land governance conflicts create financial risks.**

## 5. Guidelines

- VGGT: [Voluntary Guidelines on the responsible Governance of tenure of Land, fisheries and forests](#) (2012, CFS-FAO)
- [IFC Performance Standards](#); specifically PS 5 on land acquisition and involuntary resettlement
- [UNGP on Business & Human Rights](#)
- [Framework and guidelines on land policy in Africa](#) (2009, African Union, UN Economic Commission for Africa, AfDB)
- [Interactieve guide over implementatie van VGGT & land legacy issues](#)

## 6. Tools and practices for sustainable land governance

- Responsible governance of tenure: [a technical guide for investors](#) (2016, FAO)
- [Landesa Business Enterprise Guidebook](#): instructions and tailorable tools for business professionals seeking to design and implement an agricultural investment in a socially responsible manner that recognizes and protects community land rights (2018, Landesa)
- [IAN Risk and Due Diligence platform](#). Its current form covers tenure risk and has two complementary tools, IAN Risk and IAN Diligence
- ABN AMRO and Solidaridad, in the context of [LANDdialogue](#) (2015)

## 7. Land-specific data

- [Land Matrix:](#)
- Provides an overview of land deals (transfer of rights to use, control or ownership of land through sale, lease, or concession; initiated since 2000; 200 hectares or more; imply the potential conversion of land from local to commercial use)
- [Land Portal:](#)
- Collects and disseminates knowledge and data from information providers around the world – from global to local organizations; including research reports, news items, country specific data, information about local organizations working on land etc.
- [TIMBY:](#)
- Presents a database/ dashboard with reporting of on-the-ground issues around the world on governance, environmental, social and health issues.
- [Global Donor Working Group on Land:](#)
- Database of all projects and programs of members of the GDWGL, accessible per country or per VGGT focus area. Includes 821 programmes of which 248 are currently active.
- [FAO Gender and Land Rights Database:](#)
- Country profiles, gender and land related statistics and Legal Assessment Tool.
- [Prindex:](#)
- Measures perceptions of land tenure security, taking into account that in many countries there are differences between for example legal security and reality. Currently 15 countries available, more countries to be added.
- [LandMark:](#)
- Indigenous and community land maps covering 12.4% of the worlds lands, out of an estimated 50% or more that is held by indigenous peoples and communities worldwide.
- [LANDac:](#)
- News, info, reports and links of the NL-based knowledge platform on land governance, including LANDdialogue; including country fact sheets

## 8. Some inspiration, examples of good practices

- [ILLOVO sugar](#). In 2013 the company had been linked to land grabs, and in 2015 it adopted a zero tolerance land grabs policy
- [The FPIC guide](#) for RSPO members
- [Learning Platforms](#) for land based investment to facilitate dialogue with local communities
- [An overview](#) of opportunities and challenges in an FPIC process (p.32)

## 4. Challenges brought up by financiers during the workshop

- **Applying FPIC in practice:**
  - Indigenous communities are not always defined in an exact manner. Which communities qualify as indigenous? Is FPIC an good standard for non-indigenous communities or is Broad Community Support more appropriate?
  - In theory FPIC requires unanimous consent. Does every individual have a right to veto?
  - Stakeholder consultation: Which individuals represent the interest of their community?
  - Monitoring: Which actions should the financier undertake with regard to monitoring, once FPIC has been established and a project is being developed? What are proper guidance tools for monitoring?
  - What action should a financier undertake when a community withdraws its consent?
  - There is no universal assessment method to enquire whether FPIC has been established in a proper manner. Which tools/methods are best suited in which projects?
- **Engagement vs Divestment**
  - When should banks try to use their leverage to improve land governance in projects (and risk their reputation) and when should they divest from a project?
- **Proportionality**
  - How much resources should a bank devote to HRDD on land governance issues (especially in the case of minor investments, syndicated loans or in the case of SME clients and banks)?

## 9. Recommendations

- Explore alternatives to or minimalization of land acquisition in high risk activities
- Engage in an early stage and continuously during a project with stakeholders including indigenous peoples
- Manage expectations of positive and negative impacts of economic activities.
- Keep in mind that formal institutions may be weak or corrupt.
- Try to avoid resettlement. If that is not possible, livelihood restoration is key. Meaning also also non-monetary compensation could be considered according the LANDDialogue.
- Create positive local impacts, such as local jobs and business opportunities.
- Be transparent: give access to information regarding the investment
- Make sure that effective complaints mechanisms are in place
- Keep in mind that the issue is broader than land: access to waters, fisheries etc. Also consider indirect and spillover effects: indirectly involved populations, extensive or seasonal land users, cumulative effect of different initiative in the same area according the LANDDialogue.
- Formulate a responsible exit strategy: what are the consequences for stakeholders if the project (unexpectedly) is broken off.



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## **10. LANDDialogue contact**

- For any questions on Landrights, FPIC or possibilities for workshops and trainings, contact: Gemma Betsema

## About this slidedeck

This slidedeck has been written following a workshop on land governance and FPIC by Oxfam Novib and Utrecht University (being members of the Organising Committee of the LANDDialogue) for the NVB and its members on February 5th 2019. The information in this slidedeck is based on the presentations and discussions during this workshop and has been coordinated with the organisations that participated in the workshop. The workshop and this slidedeck also form the deliverable several commitments in the Dutch Banking sector Agreement, being:

- Dutch Banking sector Agreement clause 4.6.b
- Increasing leverage working group Progress report phase I: Topic card 2 (p.34)

# Annex 3 Resource document with HRDs information

Databases & Resources

Organisation	Title	Subject	Country/Region	Type of information	Updated?	Description	Hyperlink
Business & Human Rights Resource Centre (BHRRC)	Shared space under pressure: Business support for civic freedoms and human rights defenders	Business & HRDs	International	Report	N/A	Practical guidance for companies as they address the challenges and opportunities to support civil society and HRDs.	<a href="https://www.business-humanrights.org/sites/default/files/documents/2018-%20Shared%20Space%20under%20Pressure%20-%20Business%20Support%20for%20Civ%20and%20HRDs%20Human%20Rights%20Defenders_Final.pdf">https://www.business-humanrights.org/sites/default/files/documents/2018-%20Shared%20Space%20under%20Pressure%20-%20Business%20Support%20for%20Civ%20and%20HRDs%20Human%20Rights%20Defenders_Final.pdf</a>
CIVICUS	CIVICUS Monitor	State of civic space	International	Database		Research tool that provides close to real-time data on the state of civil society and civic freedoms in 196 countries.	<a href="https://www.civicus.org/index.php/what-we-do/innovate/civicus-member">https://www.civicus.org/index.php/what-we-do/innovate/civicus-member</a>
Business & Human Rights Resource Centre (BHRRC)	Business, Civic Freedoms & Human Rights Defenders Portal	Attacks on HRDs	International	Database		Complements other databases such as the CIVICUS Monitor and the Global Witness reports.	<a href="https://www.business-humanrights.org/en/defenders">https://www.business-humanrights.org/en/defenders</a>
Business & Human Rights Resource Centre (BHRRC)	Business information	Information for business about	N/A	Webpage	N/A	Information for business about HRDs, with among others 1) international standards documents; 2) ideas for action; 3) case studies; and 4) examples of corporate activism.	<a href="https://www.business-humanrights.org/en/bs/hrds">https://www.business-humanrights.org/en/bs/hrds</a>
International Center for Non-for-Profit Law (ICNL)	Civic Freedom Monitor	Legal framework	International	Database		Provides up to date information on legal issues affecting civic society and civic freedoms: reports on 54 countries and 8 multilateral organisations.	<a href="http://www.icnl.org/research/monitor/index.html">http://www.icnl.org/research/monitor/index.html</a>
Global Witness	Environmental Defenders	Environmental activists	International	Webpage	N/A	Campaign page on environmental activists, including <i>Defenders Annual Report</i> .	<a href="https://www.globalwitness.org/en/campaigns/environmental-activists/">https://www.globalwitness.org/en/campaigns/environmental-activists/</a>
Collaboration (investors & CSOs)	Corporate Human Rights Benchmark	Corporate HR performance	International	Database	Yearly	Public benchmark: corporate human rights performance of 101 of the largest publicly traded companies (over 2018).	<a href="https://www.corporatebenchmark.org/">https://www.corporatebenchmark.org/</a>
Frontline Defenders	Frontline defenders report database	Cases & trends	International	Report	N/A	Reports on HRDs, about specific cases and trends.	<a href="https://www.frontlinedefenders.org/en/reports">https://www.frontlinedefenders.org/en/reports</a>
Frontline Defenders	Frontline defenders publication database	Cases & trends	International	Report	N/A	Publications on HRDs, about specific cases and trends.	<a href="https://www.frontlinedefenders.org/en/publications">https://www.frontlinedefenders.org/en/publications</a>
Frontline Defenders	HRDs in the news	HRDs in the news	International	Database		Database of HRDs (worldwide) in the news	<a href="https://www.frontlinedefenders.org/en/hrd-in-the-news">https://www.frontlinedefenders.org/en/hrd-in-the-news</a>
Office of the High Commissioner of Human Rights (OHCHR)	Special Rapporteur on the situation of human rights defenders	Developments about HRDs	International	Webpage		Latest news, developments and publications on HRDs	<a href="https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx">https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx</a>
RSPO	HRDs policy of RSPO	Palm oil & HRDs	N/A	Policy		RSPO Policy on Human Rights Defenders, Whistleblowers, Complainants and Community Spokespersons	<a href="https://rspo.org/news-and-events/announcements/rspo-policy-on-human-rights-defenders-whistleblowers-complainants-and-community-spokespersons">https://rspo.org/news-and-events/announcements/rspo-policy-on-human-rights-defenders-whistleblowers-complainants-and-community-spokespersons</a>
International Service for Human Rights (ISHR)	A HRDs toolkit for promoting business respect for human rights	Info for HRDs	N/A	Toolkit	N/A	Toolkit for HRDs with a) overview of legal and policy framework related to business and human rights; b) tools for strategic engagement with business stakeholders	<a href="http://www.ishr.ch/sites/default/files/article/files/hr_hrd_toolkit_english_web.pdf">http://www.ishr.ch/sites/default/files/article/files/hr_hrd_toolkit_english_web.pdf</a>
HRDs World Summit 2018	HRDs World Summit 2018 Action Plan	HRDs in general	N/A	Report	N/A	Action Plan for States, businesses (chapter 2), financial institutions (chapter 3), donor and intergovernmental institutions.	<a href="https://hrdworldsummit.org/wp-content/uploads/2018/12/EN_Action-Plan-2.pdf">https://hrdworldsummit.org/wp-content/uploads/2018/12/EN_Action-Plan-2.pdf</a>
United Nations	Situation of Human Rights Defenders (2017)	HRDs & Business	International	Report	N/A	UN Special Rapporteur on Human Rights Defenders report: examines position of Human Rights Defenders that work on business and human rights, including recommendations.	<a href="https://undocs.org/en/A/72/170">https://undocs.org/en/A/72/170</a>
Charities Aid Foundation (CAF)	Beyond Integrity – Exploring the role of business in preserving civil society space (2016)	Good practices for business	N/A	Report		The report examines four good practices (from Thailand, Cambodia, Angola and Pakistan), makes the “business case” for companies’ action on HRDs/civic space and provides recommendations for actions they can take.	<a href="https://www.cafonline.org/docs/default-source/about-us/publications/caf-beyond-integrity-report-web-out-16-17.pdf">https://www.cafonline.org/docs/default-source/about-us/publications/caf-beyond-integrity-report-web-out-16-17.pdf</a>
UN Global Compact	The role of businesses in protecting HRDs	Business & HRDs	N/A	Webinar	N/A	Webinar by UN Global Compact, BHRRC and ISHR on the role of business in protecting HRDs.	<a href="https://www.unglobalcompact.org/ibinary/4721-The-guidance-is-expected-early-2019-A-link-to-the-draft">https://www.unglobalcompact.org/ibinary/4721-The-guidance-is-expected-early-2019-A-link-to-the-draft</a>
UN Working Group on Business and Human Rights ITUC	The role of business in relation to HRDs in line with the UNGPs The ITUC Global Rights Index	Business & HRDs Freedom of Association	N/A International	Guidance document report	 Yearly	Specifies for companies what they are required to do to respect and protect HRDs under the UNGPs. Survey of violation of Trade Union Rights	<a href="https://www.ohchr.org/_layouts/15/WopiFrame.aspx?Source=/Documents/Issues/Business/HRD_Guidance_UNGP5.pdf&amp;action=default">https://www.ohchr.org/_layouts/15/WopiFrame.aspx?Source=/Documents/Issues/Business/HRD_Guidance_UNGP5.pdf&amp;action=default</a> <a href="https://survey.ituc-csi.org/?lang=en">https://survey.ituc-csi.org/?lang=en</a>

## Dutch CSOs (NGOs & Trade Unions) working on HRDs

Name	Activities related to HRDs	Country focus	Website
Amnesty Netherlands Both ENDS	Action/campaigns in support of HRDs; research cases, legal developments; organise trainings for HRDs; lobby governments (cases EU Guidelines, laws); relief fund; trail observations; human rights education.	Worldwide	<a href="http://www.amnesty.nl">www.amnesty.nl</a>
Free press unlimited	Free Press Unlimited supports journalists and media professionals with trainings, emergency support and capacity building in more than 40 countries.	Worldwide	<a href="https://www.freepressunlimited.org/nl">https://www.freepressunlimited.org/nl</a>
HIVOS: digital defenders partnership	To increase the safety of human rights defenders under (digital) threat or attack, and improve the effectiveness of the digital emergency response network.	Worldwide	<a href="https://www.hivos.org/program/digital-defenders-partnership/">https://www.hivos.org/program/digital-defenders-partnership/</a>
Justice and Peace	Dedicated to defending and promoting respect for human rights and social justice. One of their focusses is the protection and security of human rights defenders. Shelter City is an initiative of Justice and Peace	Worldwide	<a href="https://www.justiceandpeace.nl/">https://www.justiceandpeace.nl/</a>
Lawyers for lawyers	Lawyers for Lawyers stands up for lawyers who are threatened or are hindered in their work. We support them to fulfil their role as essential agents of the administration of justice. We commit ourselves to preventing and putting a stop to the prosecution, confinement and disappearance of lawyers.	Worldwide	<a href="https://lawyersforlawyers.org/">https://lawyersforlawyers.org/</a>
Netherlands Helsinki Committee	The NHC supports international and national NGOs in conflict prevention, human rights protection, upholding of the rule of law, and promotion of democracy in the OSCE region.	OSCE Region	<a href="https://www.nhc.nl/">https://www.nhc.nl/</a>
Oxfam Novib	Oxfam Novib works on human rights and the protection of civic space through several programmes. This paper outlines the analysis and strategic focus which inform Oxfam's contribution to the global defence of civic space.	Worldwide	<a href="https://policy-practice.oxfam.org.uk/publications/space-to-be-heard-mobilizing-the-power-of-people-to-reshape-civic-space-620523">https://policy-practice.oxfam.org.uk/publications/space-to-be-heard-mobilizing-the-power-of-people-to-reshape-civic-space-620523</a>
Peace Brigades International (PBI) Nederland	PBI provides protection, support and recognition to local HRDs who work in areas of repression and conflict and have requested PBI's support. PBI Nederland supports this work in project countries from the Netherlands.	Worldwide	<a href="http://www.peacebrigades.nl/">http://www.peacebrigades.nl/</a>
Shelter City	Initiative to protect HRDs in cooperation with Dutch cities and local organisations. Shelter is provided (in NL) to HRDs that are threatened because of the work they do.	Worldwide	<a href="https://sheltercity.nl/">https://sheltercity.nl/</a>
CNV Internationaal	CNV Internationaal works with local trade unions worldwide and broader stakeholders to improve labour rights in supply chains and human rights / labour rights through social dialogue.	Worldwide	<a href="http://www.cnvinternationaal.nl">www.cnvinternationaal.nl</a>

## International CSOs (NGOs & Trade Unions) working on HRDs

Name	Country focus	Focus	Website
ProtectDefenders.eu	Worldwide	EU Human Rights Defenders mechanism, established to protect HRDs at risk. Consortium of twelve NGOs active in the field of Human Rights	<a href="https://www.protectdefenders.eu/en/index.html">https://www.protectdefenders.eu/en/index.html</a>
Front Line Defenders	Worldwide		
Reporters Without Borders	Worldwide		
Peace Brigades International	Field projects & country groups		
OMCT	Worldwide		
FIDH	Worldwide		
ESCR-NET	Worldwide		
ILGA	Worldwide		
Urgent Action Fund	Asia & Oceania, Middle East, North America, non-EU countries		
Protection International	Worldwide		
EMHRF	South Mediterranean		
Forum Asia	South Asia, South-East Asia, North-East Asia		
EHAHRDP	East and Horn of Africa		
ITUC	Worldwide	Labour Rights and Trade Unionists	<a href="https://www.ituc-csi.org/?lang=en">https://www.ituc-csi.org/?lang=en</a>

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