

Creating Enabling Environments for Global Gateway Investments Advancing People-Centred Justice in the Land Rights Ecosystem through Civic Participation

Outcome Report of the virtual TED RoL Clinic, 12 June 2025

Overview

TED WG 1.1 “Rule of Law and Access to Justice” has identified as one of its two goals for the period 2024-2025, “enhancing understanding on people-centered justice (PCJ) and its application in programming with the focus on tailoring justice interventions to meet specific needs of local populations and ensuring accessibility and inclusivity.” In taking forward this goal, and subsequent to the first three clinics on PCJ in RoL programming that took place in October 2024, November 2024 and June 2025, the TED network organised the fourth clinic in this series on the topic of land rights in European programming. Given the strategic importance of the European Union’s Global Gateway (GG) strategy and the complementary development and investment initiatives by individual member states, this clinic was the second of two to explore practical means by which TED members can ensure rights-based and people-centered approaches to preventing, mitigating, and addressing land rights-related conflicts in the context of large-scale investments, this time exploring the role of civic participation in fostering people-centered justice.

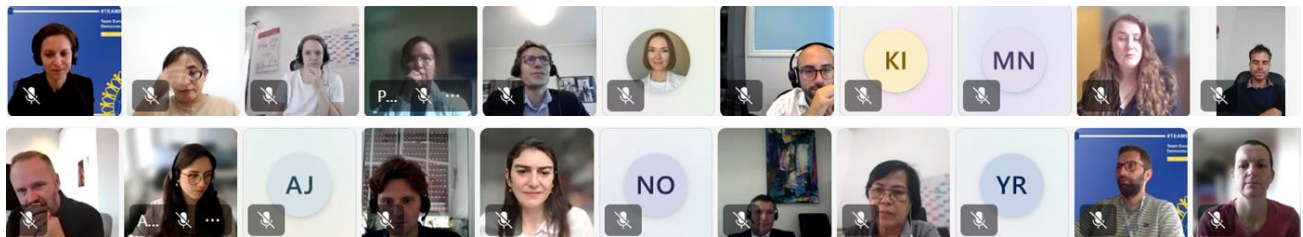
Key Takeaways

- Land is the backbone of the economy and the guarantor of livelihoods, and it is one of the **most common sources of conflict**. Land disputes make up more than half of the civil caseload in many countries. In fragile settings (Great Lakes, Sahel, Somalia, and other places), up to a third of violent crime is related to a prior unresolved land dispute. Despite this, land programs often ignore the **justice systems that are essential to making and keeping land rights**.
- Critical nexus points:
 - Land and Justice: if you work on land, you work on justice.
 - Land and Investments: Investments under the GG strategy will require (a lot of) land. Lessons should be drawn from two decades-long history of large-scale land acquisition for agriculture.
 - Land, investments and civic participation: Civic participation is unlikely to come about organically since the power asymmetries between the communities and the investors, between the communities and the state, and also within the communities themselves are just too big. Free, prior and informed consent (FPIC) involves engaging with affected communities early, honestly and continuously, not just at the start.
- **Differences between investments in agriculture and investments in GG pillars (e.g. energy, infrastructure)**
 - Stronger government role in energy/infrastructure due to risks for affected communities (e.g. expropriation issues) and greater urban impact
 - Limited benefit-sharing options in energy/infrastructure projects often leads to displacement instead of employment (population providing agricultural labour) or compensation
- **Trends in large-scale infrastructure projects that affect civic participation:**
 - Denial or systematic exclusion of indigenous peoples (IPs) and their associated rights;
 - Lack of disclosure, misinformation and false documentation on assessments;
 - Militarisation and suppressive measures;



- Non-compliance with international law
- **Recommendations** for ensuring civic participation in intended large-scale infrastructure projects:
 - **Rely on people-driven data** since governments usually have insufficient data on land tenure rights outside urban centres (see outcome report “Land Rights and Data and Evidence, TED RoL Clinic 5th June 2025);
 - **Recognise IPs as parties to negotiations**, not only the governments; support meaningful participation which includes their meaningful participation in **negotiating benefit sharing**;
 - Carry out free, independent studies that ensure meaningful participation and FPIC **prior to dealing with the government**;
 - Ensure **adequate grievance handling mechanisms on the ground that align with IPs customary practices** - and not only those of international investment bodies that are out of reach for most IPs. This will require a critical consideration of **bottom-up approaches to conflict resolution**;
 - **Think critically about mobile land tenure** and overcome sedentist bias in concepts of land tenure security. The more common conceptualisation of land tenure is through some kind of possession or land ownership which is antithetical to the pastoralist ways of life;
 - **Empower local governments and local citizens’ councils** as key sites of citizen participation instead of creating a new system. Local governance and customary systems are being weakened through top-down licensing processes;
 - Ensure companies comply with **international best practices** in impact assessments, even when national governments do not require them.

The clinic was organized and moderated by the International Development Law Organisation (IDLO) and attended by about 70 participants. The full summary of the clinic can be found below. A practical guide summarizing lessons and resources from this clinic will be uploaded on Cap4Dev.



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1. Opening by Jonathan Van Meerbeeck, Head of Sector, Democratic Governance, DG-INTPA

This Clinic is the 4th in a series of Rule of Law (RoL) clinics conducted within the TED network, it is a joint venture between TED WGs 1 Rule of Law and 2 Political Participation. The idea of this is to be very concrete on how we can support the programming of our actions in a Team Europe fashion. Land rights is one of the most pressing legal issues globally. Land issues such as tenure insecurity, forced evictions and land disputes are not only widespread, but also often go unresolved. When those rights aren’t protected, people face insecurity, conflict escalates, and justice remains out of reach – all of these can be exacerbated by land investments. Land is central to most SDGs and is also an enabler of fair and inclusive investments. This webinar is very much a part of our GG 360-degrees approach, where we want to build governance programmes around our investments. The issue of land governance is one that we want to delve into and support further. The link to civic participation is also important to the GG 360 approach - FPIC principles, HR based approach.



2. Introduction to Civic Participation in the Land Rights Ecosystem, Marco Lankhorst, Chief, Programme Development Monitoring and Reporting, IDLO

Exploration of the connection between land, justice, GG, and civic participation: **Regarding the connection between land and justice, if you work on land, you are working on justice, whether you plan to or not.** Example of a land tenure registration exercise in Rwanda: it had the massive potential to generate disputes between neighbours and within communities in general. Despite this potential, very little was done to prepare the court system, which was already overwhelmed with enormous backlogs. In Burundi, two years after land had been registered in a very similar exercise, we found that courts rarely used the new land registries that had been created, which meant that even when land was officially documented, people could still lose it despite making recourse to courts.

In many countries where land is the backbone of the economy and the guarantor of livelihoods, it is one of the most common sources of conflict. Land disputes make up more than half of the civil caseload in many countries. And **in fragile settings, especially such as in the Great Lakes, but also in the Sahel,**

Somalia, and other places, up to a third of violent crime is related to a prior unresolved land dispute. Despite this, land programs often ignore the justice systems that are essential to making and keeping land rights.

The connection between land and the GG is a somewhat underexplored nexus. A lot of the investments that will take place under GG, especially in the green energy and infrastructure pillars will require land - a lot of it. Think of wind and solar farms, green hydrogen production, upgrades to electricity networks, the creation of energy corridors and new roads, railways and ports. All these **would require land already in use and occupied with people whose livelihoods depend on the land. We can draw valuable lessons in this regard of the over two decades-long history of large scale land acquisition for agriculture.** When these land deals are poorly managed, they can have significant adverse social and economic effects, especially for women and the poor, and generally for people with lower social status, fewer resources and weaker rights. To avoid this, there needs to be free, prior and informed consent - FPIC - which is about more than just consultation.

FPIC involves engaging with affected communities early, honestly and continuously, not just at the start. It is about being transparent with them, not just about the financials, but also



about the environmental impact, compensation schemes, and decision making. This requires pre-existing rights to be taken seriously - whether these rights are formal, customary, or informal.

Regarding civic participation, **many countries where GG initiatives will be implemented will be characterised to some extent by poverty, weaker democratic representation, legal pluralism, limited access to justice, structural discrimination, and corruption in land governance. In such contexts, civic participation will not come about by itself** since the power asymmetries between the communities and the investors, between the communities and the state, and also within the communities themselves are just too big. **Civil society involvement is indispensable to making investments fair and equitable,** including through **information provision, accompaniment of communities in negotiations with investors, supporting them when a dispute emerges.** It also includes advocating for fair land laws and policies, creating openings for broader participation in land governance, assisting women and groups with weaker tenure rights, monitoring land governance and investments and collecting and sharing land data.

Notwithstanding the lessons to be learnt from large-scale land acquisitions for agriculture, there are **some differences between investments in agriculture and investments in energy and infrastructure:**

- *Government involvement:* There will likely be a bigger role for the state in investments in green energy and infrastructure due to the heightened risk to the rights of affected communities. Expropriation is generally a very problematic field of law and policy in many countries.
- *Increased urban impact:* Investments in energy and infrastructure are likely to also affect urban populations more than the agricultural investments of the past.



- *Scope of benefit sharing:* Agricultural investments had the imperfect alternative of at least involving the population in providing agricultural labour. Where there is no benefit sharing or compensation with a solar farm or infrastructure, the only option for the population is likely to be displacement.

Developing frameworks to ensure broad and meaningful participation and respect for the rights of affected populations is not just about protecting communities. It also makes economic sense because it is critical for investments to actually happen and for them to succeed over the longer term. If there is a risk that the investor will face opposition, sabotage, bad press, legal action, whether it's in the country where they are investing or back home, this will affect the investor's bottom line and may prevent some mutually advantageous initiatives from taking off. It will also help to create a more level playing field for EU investors who usually have more restrictions back home.

It is highly useful that the land and justice communities are being involved in the GG this way.

3. “Zoom In” on Civic Participation

- a) **Nepal: KIOS and their partner Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) – Veera Teittinen, Adviser at KIOS Foundation, and Shankar Limbu, Human Rights Attorney, Secretary and Vice-Chair of LAHURNIP**

KIOS’s work focuses on supporting local human rights and civil society organisations across East Africa and South Asia. It works on three key thematic areas: non-discrimination and gender equality; democratic rights and the rule of law; and responsible business environment and human rights. LAHURNIP was established in 1995 and it works to promote, defend and protect the collective and human rights of indigenous peoples and marginalised communities in Nepal. **The sensitivity of land to indigenous peoples links to the country’s history, when the lands of IPs were given to dominant groups. According to government census results, IPs make up 35% of the country’s population, but we believe the number to be closer to 50%.**



IPs are unique nations, many with historical treaties with the state that granted economic self-governance, including the rights over land, territories, and natural resources. The issue first arose with **the 1964 Land Reform Act** that converted collective land into individual land titles, with overall ownership over land, territories and natural resources vested in the state. **It was however silent on the collective land rights of indigenous peoples.** This is despite the strong connections IPs have with their land. Therefore, when it came to the questions of large infrastructure development, the rights of IPs are not recognised or forgotten.

The Constitution recognises the identity of IPs and their right to live in with dignity, but this identity directly relates to land, territories, and natural resources. The Constitution also recognises the supremacy of international law and if there is inconsistency between the national law and international law, the international legal provisions will prevail over the national law. Nepal is a party to the UN Declaration on the Rights of Indigenous Peoples (UN DRIP). Despite these, we have had vast tracts of land being assigned to various international organisations, and

when IPs opposed, they were met with force from security operatives, massive attacks with lethal weapons, torture and intimidation. There have even been false court cases raised against human rights defenders.

We can identify some trends in large infrastructure projects:

- Denial or systematic exclusion of indigenous peoples and their associated rights;
- Lack of disclosure, misinformation and false documentation on assessments;
- Militarisation and suppressive measures;
- Non-compliance with international law.

Recommendations for intended large-scale infrastructure projects:

- Recognise IPs as parties to negotiations, not only the governments;
- Recognise the rights of IPs over land territories and natural resources;
- Carry out free, independent studies that ensure meaningful participation and FPIC prior to dealing with the government;
- Meaningful participation of IPs, including benefit sharing;
- Ensure adequate grievance handling mechanisms on the ground that align with IPs customary practices - and not only those of international investment bodies that are out of reach for most IPs.

b) Mongolia, Dr Ariell Ahearn, Departmental Lecturer in Human Geography at the School of Geography and the Environment at the University of Oxford; also speaking on behalf of their partner “Steps without Borders”

I would like to reiterate the point of the previous speaker about the importance of recognising the IPs’ customary justice systems. The focus of this presentation will be on mobile IPs and their mobile customary tenure system, which is very poorly understood.

There has been a **massive expansion of mineral extraction in Mongolia**, which has led to significant land expropriation by the state. **Herders have no right to FPIC, the state does not require social impact assessments, and there is no process for resettlement in accordance with international norms, thus herders have been forcibly resettled.** The grassland is treated as terra nullius. This is despite long-standing mobile indigenous land tenure practices that work really well, and which should be recognised. There isn't much focus on people in Mongolia. It's very much focusing on a state-led development through mineral interests. And I haven't seen any of the EU missions in Mongolia actually draw any attention to the human rights violations regarding mineral extraction, which are well publicized in many UN reports. The Special Rapporteur on the Rights of Indigenous People presented a [report](#) at the UN General Assembly in October 2004 outlining the particular situation of mobile indigenous peoples, with recommendations attached.



Mobile land tenure does not mean that people are just randomly moving around and lack place attachment. There is actually **very significant attachments to place through sacred sites and even their formal registration with local government.** Despite this, **land outside of urban areas is designated as state owned.** This enables this amazing mobility to continue, but it also **makes it very easy for the central government to expropriate land for mineral licensing,** effectively overriding longstanding forms of mobile land tenure, and the rules and regulations that apply to them.



As of 2024, there have been over 2,700 mineral licenses issued by the central government across the country, all on pastoralist land since all land outside of urban areas is used for pastoralism. There has been minimal information sharing with pastoralist households or even the local governments that could enable civic participation. Local governments are not engaged in any of the discussions on potential impacts.

Mongolia completely lacks a regulatory framework for any methodology for conducting social and human rights impact assessments. Environmental impact assessments are conducted by law. Some social impact assessments have been conducted if the mine receives investment from the IFC or EBRD, but that is a small minority of the 2,700 mineral licenses that exist.

Recommendations:

- There is a need to **think critically about mobile land tenure - there is a sedentist bias in concepts of land tenure security** that needs to be overcome. The more common conceptualisation of land tenure is through some kind of possession or land ownership. But actually, that's antithetical to pastoralist ways of life.
- A true regard for human rights and democracy would require attention to political, economic, social and cultural rights of all local citizens.
- **Empower local governments and local citizens' councils which are key sites of citizen participation - we don't have to create a new system.** Local governance and those customary systems are being weakened through top-down licensing processes.
- **Ensure companies conduct international best practices in impact assessments, even when national governments do not require them.**

c) Indonesia, Oxfam and Consortium for Agrarian Reform (KPA) – Muh. Fardan Ngoyo, Project Manager Fair for All at Oxfam in Indonesia, and Dewi Kartika, Secretary General of the Consortium for Agrarian Reform (KPA)

Two sectors - palm oil and seafood - are the main sources of exports, and therefore economic development, in the country. This has had a huge impact for local communities, with increased challenges, especially for small-scale farmers, youth, and women. We advocate for business models that not only bring value to the companies, but also bring value and are sustainable for rural communities, especially since land grabbing is among the prominent issues faced by local communities.



We work at the intersection of land and participation in a number of ways: by addressing human rights and land rights abuses in value chains; strengthening CSOs to promote policies on land rights; strengthening CSOs in mobilising women farmers and farmer organisations; and capacity building for local farmers and local organisations to realise agrarian reform, and also build alliances with other organisations to strengthen their advocacy strength.

The context in Indonesia includes decades of agrarian conflict brought about by the plantation industry and infrastructure projects. We have a yearly land conflict monitoring report, based on which we find that the highest number of agrarian conflicts in Indonesia happen in the plantation sector that is dominated by the palm oil industry.

Agrarian Conflict in 2024 (all sectors)

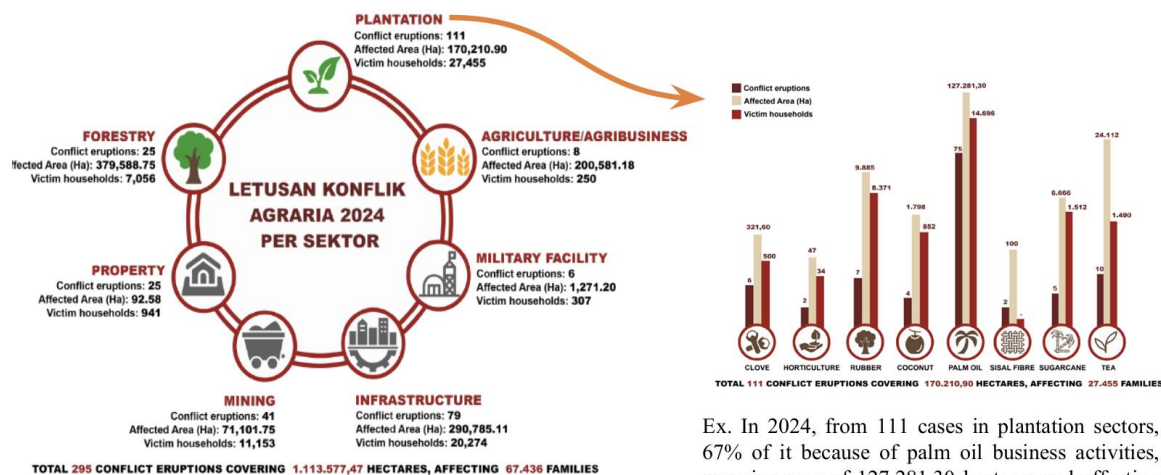


Figure 2. Agrarian Conflict Eruptions by Sector in 2024

Ex. In 2024, from 111 cases in plantation sectors, 67% of it because of palm oil business activities, covering area of 127,281.30 hectares and affecting 14,696 families (KPA's annual report, 2024).

KPA recorded over 556 instances (including 64 with women) of criminalisation, prosecution, shootings, and even killings due to agrarian conflicts in 2024 alone. The main issue is land inequality between peoples and corporate holders. Rapid urbanisation has also shrunk the divide between urban and rural land, meaning that these conflicts have now crept to urban centres also.

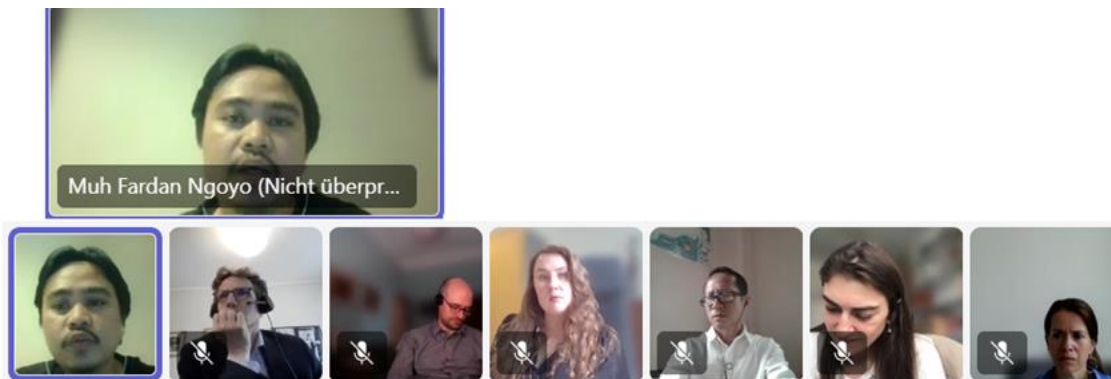
Why the problem persists:

- The root of the problem can be said to be capitalism, privatisation and land commodification - land becomes a transactional tool only, when it is in fact linked to the dignity of peoples.
- **Land dualism is also a problem** - majority of the land is claimed by the government as forest land and the rest is non-forest land. But there is a lot of overlap and contradictions in distinguishing these in the law and regulations.
- Challenges also ensue from projects that come from the World Bank on land registration and certification.
- Gaps between the positive regulations that have created agrarian reforms and practices on the ground.

- Friction between the responsible ministries, leading to disconnect in law and policy implementation.

Our recommendation for reform is the LPRA (Lokasi Prioritas Reforma Agraria) strategy, which is a bottom-up mechanism to transform land conflict areas into agrarian reform areas. It contains a step-by-step guidance tool for the implementation of government agrarian reform. Our first round started with 1.6 million hectares of land, with the second step proposed to cover 2.1 million hectares.

We create people-driven data because the government has insufficient data on how to implement agrarian reform. This has also become the tool to have evidence-based and effective advocacy with the governments, including on how to improve the policy with the government. **Because we sometimes face bottlenecks within the government, we advocate for the government to create special task forces to resolve the conflict and implement a land distribution.** Finally, we provide pro bono lawyers and expert witnesses to assist people on the ground when they are facing crises.



4. Q&A Session

Michael Warren, IDLO: Mongolia is very important since it's a provider of a lot of the critical minerals being sought by the EU and its member states. I have a question regarding power asymmetry between these durable land rights systems and the government and mining companies. What has actually worked in asserting custodial rights within such imbalances?

Annette Schramm, GIZ Laos: We face a lot of challenges in the Laos context since there is no space for open advocacy or to work on human rights openly. But we do have some experience working with the EU co-funded project on responsible governance of investment in land. I would invite colleagues to share their experiences. I think it would be important to reflect on how we can work on these topics in a way that does not endanger local communities and CSOs. This question would go beyond do-no-harm to also ask how we can open up these spaces.

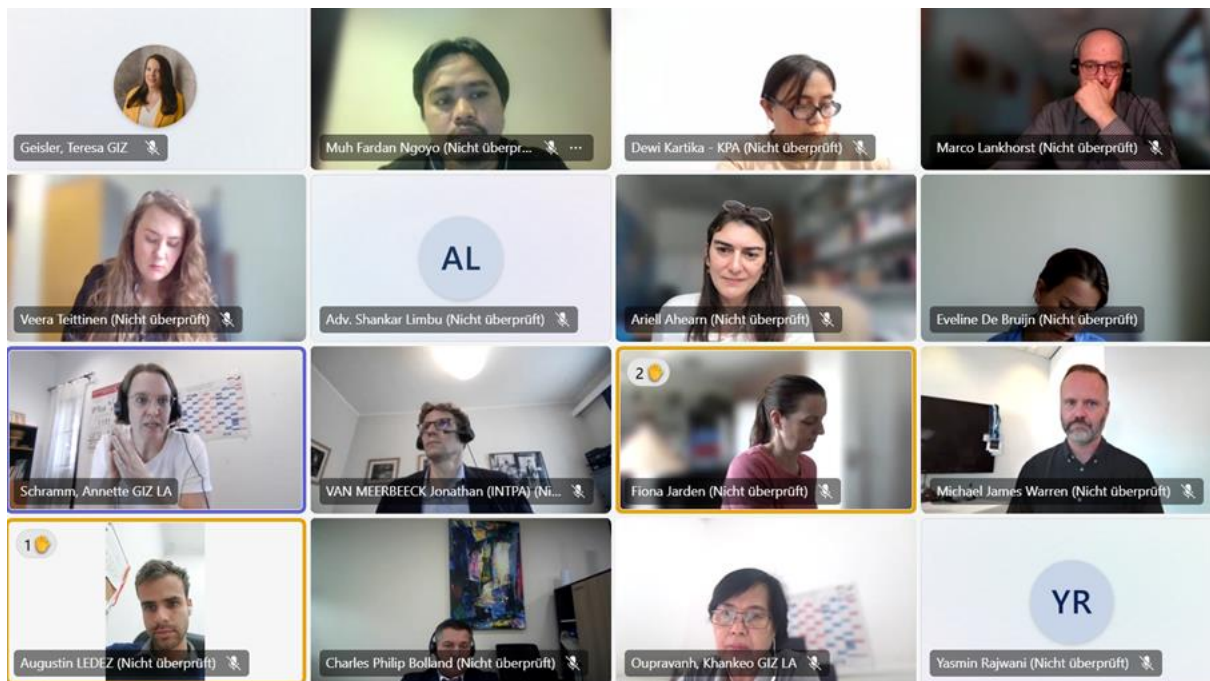
I was also shocked to see the numbers from Indonesia on human rights defenders that were killed. How do you deal with that in the Indonesian context?

Khankeo Oupravanh, GIZ Laos: One big challenge in Laos is that communities hardly ever have access to clear information about land law regulation or what responsible investment really means. Our project supports communities by raising awareness on their land rights, complaint mechanisms, and the meaning of legal

frameworks. We also facilitate dialogue between communities and investors - so far, this has covered about seven investment projects. Finally, we provide mapping to secure customary land tenure.

Augustin Ledez, French Embassy in Mongolia: Is the National Foundation Pastoral User Group providing some legal protection to communities in their conflict with the mining industry?

Fiona Jarden, Oxfam: We have heard that the power imbalances are skewed in favour of plantations instead of rights holders. What is the role of certifiers such as the roundtable of sustainable palm oil (RSPO) when the rule of law or the power imbalance is not favouring rights holders?



Responses by speakers

Dewi: Regarding certifiers, our strategy focuses on the government and does not engage with either this company or the ISPO as it is known in Indonesia. **We find that these initiatives are becoming more of a checklist for the company and government. It is also not legally binding.** We need a more legally binding approach as well as law enforcement in the Indonesian context. There is a need for a paradigm shift in Indonesia, since, due to non-recognition of customary rights, indigenous groups are automatically the party in the wrong before the courts. Laws and regulations are used by the government to criminalise indigenous groups and farmers.

Ariell: **Mongolia does not complete any social impact assessments, no measurements are occurring. So, there is no baseline to understand any impacts to then enable a conversation about benefit sharing.** How can herders then engage with companies to negotiate benefits? There are great examples of this happening. Good social impact assessments, actual formalized resettlement processes following international standards, can ensure that people get good



negotiated benefits. I think FPIC should be the way to go in Mongolia. But there's controversy around the Mongolian government not recognizing herders as indigenous.

There is the really good example of the Tripartite Council, which came from a complaint. It involved the local government, herders and the mine management, but the central government wasn't involved. It didn't change legal practices. **They managed to resolve a complaint which had taken more than five years to arbitrate.** I think integrating basic ESG (economic, social and governance factors) principles would be a really great starting point in this context. Passive user groups (PUG) are also helpful, although they are not institutionalised locally in Mongolia. The experiment around this worked in some places, but not on others.

I think the best bet is to go back to building the capacity in local governments. There is no need to build new institutions. It requires human rights standards in the form of these processes that are pretty normal and not even radical. A social impact assessment is totally unradical.

Durga (on Nepal): Although FPIC is actually conducted, many investments in green energy still experience conflicts with indigenous peoples. **There is a need to consider effective mitigation mechanisms, as well as making the human rights due diligence law mandatory.**

5. Closing remarks – by Julia Fechner, Policy Advisor RoL and Governance, GIZ (on behalf of BMZ), Germany (co-chair TED WG 1.1)

The case studies from Mongolia, Nepal and Indonesia have shown that land rights and civic participation are not only justice and human rights issues, but they are also fundamental to building inclusive, stable and sustainable enabling environments for investments. We learned about the importance of considering the historical context in the country, particularly how indigenous people are deeply connected to their lands and how significant it is to recognize local and customary informal justice systems. Once more, we have heard about the importance of data and how important it is to understand the needs of people. This is a great follow-up from last week's land rights clinic. I think that the examples that we discussed today remind us that people-centered justice approaches are not just aligned with our values and ethically and also legally "right", but they are also strategic.



Inclusive governance and secure land tenure are essential building blocks for long-term fair and resilient investments, as highlighted in the Global Gateway, and many of our development strategies.

The TED Secretariat will compile a practical guide that brings together all that we have learned so far in the clinics, including key insights, good practices and further resources. This will be shared at the TED annual event in September, and also on TED's capacity for development website.



6. Agenda

Time	Agenda Item
10 min	Opening remarks by Jonathan van Meerbeeck, DG INTPA G1
10 min	Practical introduction to the land rights ecosystem <ul style="list-style-type: none"> By Marco Lankhorst, IDLO
45 min	“ Zoom-in” on Civic Participation Facilitated discussion with <ul style="list-style-type: none"> Nepal: KIOS and their partner “Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples” (LAHURNIP) Mongolia: Dr Ariell Ahearn, Oxford University and partner “Steps without Borders” Indonesia: Oxfam and their partner “Consortium for Agrarian Reform” (KPA)
20 min	Q&A Session
5min	Closing by Julia Fechner, co-chair TED Working Group Rule of Law & Access to Justice
Moderation: Eveline de Bruijn, Policy Advocacy and Engagement Advisor, IDL	

