

BRIDGING THE INFORMATION GAP

HOW ACCESS TO LAND CONTRACTS CAN SERVE COMMUNITY RIGHTS

BY LARA WALLIS
& SAM SZOKE-BURKE

Land contracts show what commitments a forestry, farming or renewable energy company has made and what the government has said the company can do on the land. These promises define the positive and harmful effects the company's project could have on community members' livelihoods and human rights, and on the environment.

Accessing land contracts is a crucial strategy for local organizations. With the contract, organizations can help communities to:

- **Understand** company and government obligations related to a company project
- **Monitor** whether those obligations are being fulfilled
- **Hold companies and the government to account** for bad contracts or for failing to deliver on commitments that are important to communities



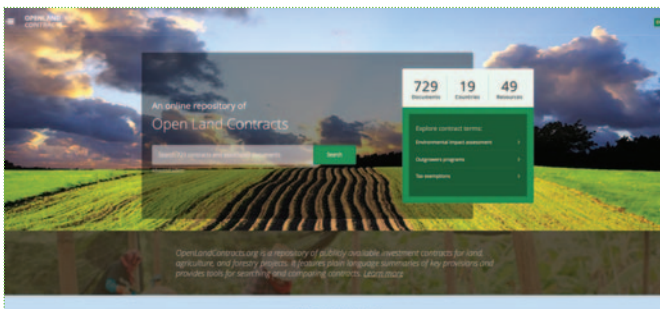
WHAT IS A LAND CONTRACT?

A land contract (also known as an investor-state contract, or a concession agreement) is an agreement between a government and a company that gives the company the right to use certain land for a forestry, farming or renewable energy project. In exchange, the company makes commitments to the government. These commitments are recorded in the contract.

Land contracts can have many drawbacks. They are usually negotiated secretly and may not properly consider local communities—even when laws require that the community participate in the project's design or in land contract negotiations. Ideally, company operations should be regulated by laws that protect human rights and the environment, rather than governed mainly by contracts. But land contracts are commonly used, so it is important for local communities to access and understand these contracts.

Communities have a right to know the details of the company projects that affect them, and land contracts can be an important source of information. However, communities and the local organizations that support them often cannot access these contracts. This means that there is an information gap that places communities at a disadvantage when trying to protect their rights and interests.

OpenLandContracts.org helps communities bridge the information gap and make the fundamental right of access to information a reality. This growing site collects and displays publicly disclosed land contracts and related documents from a range of countries.



BRIDGING THE INFORMATION GAP:

Knowing what commitments the company and the government have made can help communities to defend their rights. The information that you can find in a land contract can help you understand how the project may affect community members' livelihoods and human rights, and the local environment. These effects can be good or bad. Land contracts may include details regarding:

- ➔ When and how the company is required to give **information** to community members, **consult** with them and/or obtain their **free, prior and informed consent**.
- ➔ The **exact land** that the company can use (and the land it cannot use), what it can do on the land, and for how long.
- ➔ The amount of **other resources**, such as water, wood, clay and stones, among others, that the company can use.
- ➔ Any **payments** that the company must make to the community.
- ➔ **Jobs** that must be created for community members or national citizens, and business opportunities that must be created for community members to sell **products or services** to the company.
- ➔ **Infrastructure** that the company must build and maintain for the community, such as, for example, wells, bridges and roads.
- ➔ **Skills training** that the company must provide to community members.
- ➔ The parts of the project land and infrastructure that community members are allowed to **access**.
- ➔ Processes a company must put in place to address community **complaints or concerns** about its operations.

“Having open access to contracts has the potential to ‘level the playing field’ and address imbalances in knowledge. Knowledge is power!”

JUSTINE SYLVESTER, VILLAGE FOCUS
INTERNATIONAL, LAOS

OPENLANDCONTRACTS.ORG OFFERS:

1. Contracts that are easy to find

Contracts are collected and organized in one place, making it easy to find the contract that is important to you. You can search the site for contracts by country, resource, company name and other categories.

2. Understandable information

Contracts are often written in language that is hard to understand. [OpenLandContracts.org](https://openlandcontracts.org) has simple explanations of each contract's social, environmental, financial and operational terms. The site also has **contract guides** to help you better understand how these contracts work.

3. An easy way to compare a contract with other contracts from your country or from other countries

[OpenLandContracts.org](https://openlandcontracts.org) has contracts from a range of countries. While other contracts should not just be copied from one contract to the next, they may give you ideas for **how land contracts could better serve community interests** in the future. And if another contract includes those ideas, you can show your government that the ideas are realistic.

4. Other relevant documents

In addition to contracts, [OpenLandContracts.org](https://openlandcontracts.org) has hundreds of key documents linked to land contracts, which provide additional information about the project. These include social agreements between communities and companies, government decrees, management plans and other publicly available project documents.

DEFENDING COMMUNITY RIGHTS:

[OpenLandContracts.org](https://openlandcontracts.org) supports your work to defend community rights in many ways:

1. Monitoring

Once you know what a land contract says, you can monitor the actions of the company and the government to see if they are delivering on their commitments. If they are not, your knowledge of what the contract says can strengthen demands that the company or government act responsibly and in compliance with the contract.

2. Scrutinizing government contracting practices

Once you access a contract, you can use [OpenLandContracts.org](https://openlandcontracts.org)'s guides and comparison tools to check whether or not the government did a good job in negotiating contract terms that protect community rights and the environment.

3. Advocacy

If you find that the company or the government have breached their commitments, or that the contract does not protect community rights, you can use these findings as a basis for advocacy.

“Sometimes people support concessions based on the assumption that they will benefit. However, once they understand the contract, they realize many of the benefits are uncertain. People learn how to ask better questions and demand a seat at the table.”

FRANCIS COLEE, GREEN ADVOCATES, LIBERIA

- If the government did not ask enough from a company in the contract, or has included terms that have a negative effect on community rights, you can demand that the government:
 - **Renegotiate** problematic terms.
 - Provide opportunities for inclusive and thorough **public participation** in land contract negotiations and renegotiations.
 - Only enter into future contracts on **terms that benefit the community and protect the environment.**



“[B]uilding the capacity of communities to access and understand contracts has had a powerful effect on developing each community’s advocacy strategy. It is one thing to go to a company and say: ‘we are not happy.’ It is much more effective to say: ‘we are not happy because you have failed to comply with article 3 of this contract.’”

SAMUEL NGUIFFO, CENTRE POUR L’ENVIRONNEMENT ET LE DEVELOPPEMENT, CAMEROON

- ➔ If the company is not delivering on its commitments in the contract, you can pressure the company to comply with the contract and ask the government to hold the company to its commitments.
- ➔ If a company operates in different countries, you can use OpenLandContracts.org to check if the company often signs contracts with terms that are damaging for human rights or the environment in other countries. If this is the case, you can notify the government and raise awareness about the company’s practices among civil society in relevant countries, and collectively strengthen your advocacy efforts. You can also notify financial institutions, shareholders and other actors who have the power to influence the company’s behavior.

“We use OpenLandContracts.org to review land contracts across the African continent in order to assess provisions that governments have included in their contracts, and to provide guidance on the types of provisions governments in this region should and should not include. It is incredibly useful to have all the contract information in the same place.”

SAMUEL NGUIFFO, CENTRE POUR L’ENVIRONNEMENT ET LE DEVELOPPEMENT, CAMEROON

4. Raising community awareness

Local organizations can use OpenLandContracts.org’s training modules and guides to help community members understand what contracts say. With this understanding, a community can:

- ➔ Show the company and government that it knows what the contract says and will not tolerate breaches of the contract or of community rights more generally.
- ➔ Prepare to negotiate a social agreement with the company.
- ➔ Prepare for when the project reaches the community (if the company has not yet started using the community’s lands and resources).

5. Raising broad public awareness

Land contracts are also relevant to the public at large because they can affect human rights, the environment and the way that money received from the company is distributed. By analyzing contracts from your country, you can identify worrying contracting practices and raise public awareness about them. Awareness raising can encourage public conversations about how the government negotiates land contracts and create pressure for governments to improve how they negotiate with companies!

6. Campaigning for contract transparency

If your government does not disclose contracts, you can use examples of transparent countries from OpenLandContracts.org to support campaigns to disclose land contracts.



LOOKING FOR
CONTRACTS FOR
MINING, OIL OR GAS
PROJECTS?

Go to ResourceContracts.org

CAN OPENLANDCONTRACTS.ORG BE MORE USEFUL TO YOU?

How do you use land contracts or OpenLandContracts.org to advance community rights? Do you have suggestions on how we can make the site more useful to you?

We would love to hear from you!

Please write to us at: info@openlandcontracts.org