COVID-19 and Land-based Investment: Changing Landscapes

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I. Introduction

The COVID-19 pandemic has had far-reaching implications for land-based investments in low- and middle-income countries. The pandemic has exacerbated long-standing land governance problems; at the same time, it has also created opportunities to reconfigure the governance of land-based investments. Beyond the first-order effects on human health, the disruptive force of COVID-19 is linked to the measures adopted by many governments to address the public health emergency, as well as to policies and practices ostensibly undertaken to mitigate the economic fallout. The impact on public institutions and processes has raised concerns, for example, about the further marginalization of Indigenous and local communities. This is visible where governments and companies have forced through agribusiness and mining projects in the context of COVID-related emergency measures, and as heightened threats against land rights defenders have further restricted space for dissent. In other respects, the disruption created by the pandemic and related government responses presents initial glimpses of possible longer-term shifts, such as a greater reliance on digital technologies and evolving rural-urban relations.

Building on earlier work by IIED and CCSI, this report reflects on select COVID-related developments that may result in longer-term shifts relevant to land-based investments in Sub-Saharan Africa and Southeast Asia. Our objectives are two-fold. In the short term, monitoring developments can support more effective interventions that anticipate and respond to impacts on the governance of land-based investments. In the medium to longer term, analyzing developments can inform efforts to support inclusive post-COVID-19 economic recovery strategies in low- and middle-income countries.

The report draws on our efforts to monitor developments that affect the governance of land-based investments in the context of the COVID-19 pandemic. Building on a conceptual framework, we tracked developments at three broad levels:

- changes in the overall political economy context,
- changes in governance systems and regulatory frameworks related to land-based investments, and
- developments related to specific land-based investments.

These dimensions were chosen to capture both the deeper-level drivers of change in land-based investment governance, as well as specific policy measures or investment outcomes that arose as a result of changes to the overall political economy context. Data collection against the framework relied on a hybrid approach: we set up web alerts for relevant keywords and, as this exercise progressed, it revealed emerging themes and narratives that guided more targeted research on specific themes across the three levels. Evidence originates from diverse secondary sources, including local, regional, and global media reports, civil society statements, and research reports, as well as some primary sources in the form of government legislation.

The issues that emerge from our research are set against the backdrop of the socioeconomic and financial pressures created by the pandemic. These pressures are, in turn, causing governments to intensify their focus on attracting investment in land-based resources. This includes a renewed focus on agricultural investment linked to food security concerns that arose towards the beginning of the pandemic, as well as increased attention on mining by oil-producing countries interested in diversifying given the drop in oil prices in early 2020.

As governments have worked to address pandemic-induced pressures, international institutions and civil society have urged greening the COVID-19 recovery. Although evidence suggests that most investments are not “green”, at least two climate-related investment trends—which pre-date the pandemic but seem set to continue—are likely to have significant impacts on land during the post-COVID-19 recovery period. First, the projected growth of renewables will intensify mining in countries that produce critical minerals and will directly impact land use in countries that seek to rely on onshore renewables as an energy source. Second, an increased focus and interest in carbon markets will likely increase pressures on land and ecosystems that are overwhelmingly located in the Global South.
While further monitoring will show how emerging trends evolve over time, it is already clear that the governance of land-based investments is highly relevant to government efforts to promote a just and sustainable pandemic recovery. As governments in Sub-Saharan Africa and Southeast Asia focus on private sector investments in sectors such as agriculture, energy, and infrastructure, these investments will raise complex land rights issues that require effective responses.

II. Emerging trends

Under pressure, governments turn to natural resource-based economic recovery strategies.

The economic fall-out from the COVID-19 pandemic has included a precipitous drop in foreign direct investment (FDI) worldwide (42%). Although FDI into Africa and developing Asia was less affected than in other regions, it still fell by 18% and 4%, respectively in 2020. A historic economic downturn, combined with the increased public spending required to address the pandemic, has led to higher levels of debt in countries that were already experiencing debt risks well before the pandemic hit. As a result, many countries in Sub-Saharan Africa and Southeast Asia are under significant financial pressure. For example, Zambia became the first country in Africa to default on its debt in 2020, as COVID-19 exacerbated its large debt burden. Indonesia fell into a recession for the first time in 22 years, and Africa’s oil producers are struggling, with one early estimate predicting losses of $65 billion in oil revenues across the continent’s top ten oil exporters.

In response to these financial pressures, some countries have looked to ramp up efforts to attract investment in natural resources to rebuild their economies. In South Africa, for instance, the President has signaled an intention to promote investment in agriculture, manufacturing, mining, and renewable energy, among others, as a cornerstone of the country’s economic recovery plan. Rwanda has given prominence to the mining sector in its economic recovery strategy; among other things, it has sought to improve the availability of geological data and to grant incentives to promote exploration. Badly affected by low prices, oil producers are also looking to the mining sector to grow their economies. For example, Nigeria has moved to reform its artisanal mining sector in a bid to increase government revenue, while Angola, Africa’s second-largest oil producer, has worked to attract investment into its “prospective diamond, gold, and iron ore deposits.”

Government statements that emphasize the role of natural resources in post-COVID-19 economic recovery have been echoed by international, regional, and continental institutions. The head of the African Development Bank, for instance, has noted that improved management of Africa’s “minerals, metals, biodiversity, blue economy, forest resources, agriculture, and oil and gas” would be key to the continent’s recovery. Land-based investment is also on the agenda in Southeast Asia: the ten members of ASEAN “strongly reaffirmed” their intention to promote responsible investment in food, agriculture, and forestry to aid the COVID-19 economic recovery.

Amid disrupted supply chains and growing food security concerns, agriculture receives increased attention.

The pandemic has disrupted the food and agricultural sector, affecting agricultural supply chains as well as food security. Lost incomes and rising food prices have restricted the ability of many households to purchase sufficient food. Limited movement and health concerns amongst agricultural workers, as well as reduced access to agricultural inputs, have disrupted food production. Transport delays and the downsizing of informal, micro, small, and medium enterprises due to COVID-19-linked drops in available capital are also impacting domestic food supply chains. These disruptions have caused growing concerns around food security and have prompted some countries to respond by imposing food export restrictions.

These restrictions gave rise to concerns of “food nationalism” and possible knock-on effects on food insecurity. Some World Trade Organization members had urged support for efforts to mitigate the impacts of COVID-19 on agricultural trade and thus food security and to avoid food export restrictions. These disruptions to both domestic and global agricultural supply chains, along with the associated concerns around food security, could
have longer-term effects. How governments respond could significantly shape rural economies and will have long-lasting repercussions for investment models and rural communities.\textsuperscript{25}

As governments begin to focus on post-COVID-19 economic recovery strategies, the agricultural sector is receiving notable attention.\textsuperscript{26} Reportedly, concerned by the risks associated with long global supply chains, particularly in times of crisis, some countries are pursuing large-scale domestic agriculture to both kick-start economies and reduce reliance on imported food crops. In Indonesia, for example, the government has apparently pushed the development of extensive food estates to reduce reliance on imported food and anticipate any potential food crisis linked to the pandemic.\textsuperscript{27} In the Philippines, Indigenous communities have reportedly been targeted for agricultural expansion against the background of COVID-19 linked food security concerns.\textsuperscript{28}

Countries have also renewed their focus on smallholder producers. The realities of urban unemployment have highlighted the importance of rural farms as providers of social safety nets to which people can return. Cambodia, Nigeria, and Myanmar, for example, have reportedly introduced COVID-19 response and recovery measures to support smallholders and agricultural SMEs.\textsuperscript{29} In Nepal, authorities lifted legal restrictions on dividing land into smaller plots to provide returning economic migrants with access to land and livelihoods,\textsuperscript{30} and in the Philippines, land titling requirements for farmers have reportedly been eased.\textsuperscript{31}

Agricultural strategy within the context of COVID-19 recovery discourse is often promoted as a tool to address multiple cross-cutting issues. Agriculture has been discussed as a mechanism to help support, for example, youth employment,\textsuperscript{32} rural infrastructure development, localized food production,\textsuperscript{33} smallholder producer support,\textsuperscript{34} and climate change responses.\textsuperscript{34} Focus on the agricultural sector by governments, international organisations, international finance institutions, and others\textsuperscript{36} suggests a possibly heightened interest in the promotion of agricultural enterprise.\textsuperscript{36}

\textit{Urban to rural migration induced by COVID-19 increases pressure on rural land and incomes.}\textsuperscript{37} The COVID-19 pandemic disrupted global labor markets on an unprecedented scale. During 2020, an estimated equivalent of 255 million full-time jobs were lost.\textsuperscript{37} These losses were disproportionately low-paid and low-skilled jobs, affecting women and youths. While felt globally, there was substantial variation between regions and sectors.\textsuperscript{38} In many regions in the Global South, the loss of employment opportunities and informal support systems within urban areas, coupled with fears of the virus and wide-ranging government restrictions, led to mass migration out of urban areas.\textsuperscript{39} Urban to rural movement of people is an established strategy of resilience. In 2020, such migration occurred in places as diverse as India\textsuperscript{40} and Peru,\textsuperscript{41} all the way to countries in the Mekong region\textsuperscript{42} and many parts of Africa.\textsuperscript{43}

The return of unemployed urban workforces to rural, often small-scale, land-based family safety nets - a resource already recognized by the World Bank in 2008 as “farm-financed social welfare” for urban shocks\textsuperscript{44} - has highlighted the importance of land as an intergenerational asset. Land provides a place to live, a source of income, and place of refuge. This migration has also put in stark relief the scale of the current crisis, with its numerous converging pandemic-related impacts. Large-scale population movements, loss of employment and cash incomes, reduced public administration capacities, and wider economic trends and recovery strategies appear to be stretching rural land-based safety nets. Reported concerns of pandemic accelerated land inequality, weakened systems of land governance, and changing social dynamics, for example, could have long-term impacts, including in the context of land-based investments.

Two apparent trends illustrate such potential impacts and shifts. The first trend is of increased land conflicts linked to unequal gender dynamics. The second is of growing financial pressures linked to decreased remittance payments and increasing microfinance debts.

\textit{Increased land conflicts and gender inequality.} The sudden return of large groups of people to rural areas could increase competition for land in many places. This, in turn,
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creates risks of greater land dispossession and conflict, from which rural women and girls suffer disproportionately.\textsuperscript{45} In Kenya, some widows who lost their husbands to COVID-19 have reportedly been expelled from their homes and disinherited.\textsuperscript{46} Evidence from previous conflicts and epidemics suggests that women will be further disenfranchised of their rights to housing, land, and property as a result of the COVID-19 crisis, due to the absence of legal protection and cultural and socio-economic barriers to the enforcement of women’s rights.\textsuperscript{47}

**Decreased remittances and rising microfinance debt.** The COVID-19 crisis has been reported to have disrupted remittance flows globally.\textsuperscript{48} As many migrant workers lost their employment in urban centers, the flow of vital remittance lifelines to rural families is expected to drop suddenly and dramatically. With remittance flows in low- and middle-income countries estimated to have been larger than foreign direct investment pre-pandemic,\textsuperscript{49} a sharp contraction in remittance volumes may have significant reverberations. For rural populations, the predicted loss of remittance income would coincide with the return of newly unemployed family members and increasing debt burdens. Many who had lost jobs or seen their incomes fall were reported to be selling assets to pay for food\textsuperscript{50} or taking out microfinance loans to meet basic subsistence needs. In Cambodia, for instance, decreased remittance transfers were reported to be affecting the ability of rural families to service microfinance debt,\textsuperscript{51} thus increasing the risk of losing land since many microfinance loans are collateralized by land titles. In some reported instances, predatory lending practices led to coerced land scales, child labor, debt-driven migration, and other human rights abuses.\textsuperscript{52}

With mobility dynamics expected to become more localized and regional for the immediate future,\textsuperscript{53} and increased discussions around pandemic-accelerated automation emerging,\textsuperscript{54} pandemic-driven rural resource pressures could be longer-term than some previous crisis events.\textsuperscript{55} Such prolonged pressures have the potential to significantly shape land governance responses. In Cambodia\textsuperscript{56} and China,\textsuperscript{57} for example, returning migrant workers are reportedly being encouraged and supported by the government to engage in farming activities. Microfinance,\textsuperscript{58} land title formalization,\textsuperscript{59} and land system digitization are also receiving attention within COVID-19 responses and recovery debates. How these issues converge may have longer-term implications for rural land governance and practices.

**Investments for a “green” economic recovery?**

Multiple international agencies have promoted post-COVID-19 recovery as an opportunity to fundamentally restructure critical sectors to support the transition to low-emission, climate-resilient, and resource-efficient economies. The United Nations,\textsuperscript{60} OECD,\textsuperscript{61} World Bank,\textsuperscript{62} IMF,\textsuperscript{63} and World Economic Forum,\textsuperscript{64} for example, have all made statements in support of leveraging pandemic economic recovery to achieve sustainable climate and environmental outcomes.

In practice, however, investments induced by stimulus efforts have generally not been channeled into “clean” or environmentally friendly sectors.\textsuperscript{65} Rather, within the context of COVID-19 economic recovery, significant amounts of money have been directed to sectors with high environmental impacts.\textsuperscript{66} This undermines climate change commitments and creates missed opportunities to pursue more sustainable recovery and long-term growth trajectories.

Nevertheless, two forms of land-based investments receiving notable attention within “green recovery” discussions also appear to be accelerating in practice. The first is renewables; the second is carbon reduction schemes linked to land. Both types of investments are critical and could have significant implications for land use and land governance in Sub-Saharan Africa, Southeast Asia, and elsewhere.

**Renewables.** Global renewable energy capacity expanded in 2020, and there are indications that this trend will continue.\textsuperscript{67} In Africa and Southeast Asia, this is reflected in the statements of various entities and political actors that have issued or endorsed statements supporting a green economic recovery that includes a focus on a clean energy transition.

In Africa, for example, investing in “people-centered renewable energy” is a key pillar of Africa’s Green Stimulus
Program, an initiative endorsed by 54 Ministers of Environment. This continent-wide ambition is somewhat reflected at the national level, although the picture is mixed. For example, Nigeria’s government has signaled its intention to invest in renewable energy and has removed fossil fuel subsidies. South Africa also includes renewables in its recovery plans, and, in the second half of 2020, Senegal put in place measures to incentivize investment in renewables. Additionally, the African Union Commission and the International Renewables Agency have announced a partnership to deploy renewables across the continent.

The picture is similar in parts of Southeast Asia. In Malaysia, for instance, the government’s Large Scale Solar program is expected to play a significant role in the country’s pandemic recovery. Vietnam has put renewables front-and-center of its power investment plans that were proposed in the latter half of 2020, although the country had accelerated investment in the sector well before the pandemic.

The expansion of renewable energy is essential to decarbonize energy systems and increase access to affordable and clean energy. At the same time, land-based renewable energies may have significant implications for land use and land rights: increased demand for critical minerals required for clean energy technologies and land-intensive renewable projects—that can be 15-500 times more land-intensive than fossil fuels—are set to increase pressures on land. This may result in significant impacts on communities living on or around land that may be mined for critical minerals or host renewable energy projects.

**Carbon emissions and net-zero economy.** Amid the calls to “build back better,” a notable trend within the context of COVID-19 recovery is an increased push towards carbon emissions reductions, net-zero economy promotion, and strengthening of the carbon markets that underpin carbon offset incentives. Currently, the primary generators of carbon offset capacity are “nature-based solutions.” These include avoided nature loss, the protection of natural habitats as carbon sinks, and nature-based carbon sequestration (through forestry and afforestation), which are seen as key to the realization of net-zero economy ambitions. Alongside such solutions, technology-based carbon capture and storage remains an additional, though sometimes controversial, mechanism for carbon offset needs.

These nature-based solutions, as well as technology-based carbon capture and storage ambitions, require vast amounts of land. It has already been noted that there is simply not enough available land on the planet to accommodate all of the combined government and corporate “net zero” plans for offsets. The immense geographical storage capacity needed to accommodate both nature-based and technology-based carbon capture solutions will place significant pressures on rural land, water, and other natural resources, particularly in the Global South. This pressure will increase the risk that Indigenous peoples, rural dwellers, and small-scale farmers will be pushed off their land or otherwise will have their livelihoods significantly restricted.

Yet, land intensive carbon offset markets and net-zero economy related ambitions are featured prominently within COVID-19 “green” economic recovery strategies. A projected ability to generate billions of dollars of capital, which in theory would flow from those making net-zero commitments to those, mostly in the Global South, with the ability to reduce and remove carbon is a key consideration. The Economic Commission for Africa, the IMF, and countries such as China, the United Kingdom, and EU member states are exploring and implementing various trade- and market-linked carbon reduction mechanisms. The private sector too, apparently driven by the pandemic’s vivid demonstration of the potential cascading risks associated with climate change and a realization that “green investing is profitable,” is increasing industry pressure for enhanced corporate carbon offset commitments and transitions to net-zero emissions.

This increased focus on carbon offsets within the context of COVID-19 economic recovery, and the associated commodification of nature, will most likely affect rural land governance practices, whether through exclusionary conservation approaches that restrict livelihoods or through increased individual land titling to monetize benefits derived from nature. But for many rural populations in low-income countries, the benefits enjoyed from nature and relied upon for survival come from assets they do not own and that hold value beyond the carbon value of the trees. These different approaches towards land governance and benefit utilization have the potential to
increase resource conflicts, undermine communal land management approaches, and disrupt tenure allocation practices.

**The COVID-19 crisis may affect governance strategies for land-based investment in the long term.**

States are responding to the multi-faceted impacts of COVID-19 by crafting a set of governance responses and adapting land governance systems, land investment regimes, laws, and regulations. The observed changes in governance systems to date are either reactive, as they result from immediate pandemic restrictions, or proactive, as States develop recovery strategies driven by the need to attract land-based investments and boost competitiveness. While this first set of reactive responses are manifest in the temporary absence of the State (through administrative shutdowns, for example), the latter set of governance and regulatory changes allow governments to consolidate power by extending control over investment processes, often at the cost of social and environmental safeguards, transparency, and accountability. Often, such pandemic responses are an opportunity to advance pre-existing political and economic agendas. The following emerging changes in systems, laws, and regulations have been identified. Table 1 in the Annex provides a typology of some of the main regulatory changes with specific country examples.

**Regulatory rollbacks: environmental and social deregulation.** A rollback in legislation denotes the action to repeal, dismantle, or otherwise diminish the effect of a law or regulation. In South and South East Asia, evidence has been recorded of countries easing environmental impact assessment (EIA) requirements, loosening environmental compliance monitoring while also limiting participatory processes, and reducing public consultation requirements to fast-track projects. This comes as some countries appear to accelerate the rollout of an agenda that favors business interests over social or environmental considerations. In many situations, these initiatives appear to have taken advantage of the limited possibilities for public mobilization in order to weaken existing social and environmental safeguards in the hope of attracting land-based investments.92

**Increased discretionary State powers.** New prerogatives complement regulatory rollbacks by extending the reach of State powers to new areas of economic governance. Some investment facilitation measures aimed at improving the ease of doing business have increased the concentration of power in the hands of the executive through efforts to centralize land and investment governance decisions. In Indonesia,93 Sri Lanka,94 and the Philippines,95 for example, governments are reportedly gaining more discretion in managing and permitting forests. Where countries are rolling back social and environmental safeguards in parallel, such discretion may create risks of deforestation and of encroachment on Indigenous peoples’ customary forest uses. Furthermore, increased State involvement in business interests, as in the case of Zambia’s announced plan to acquire majority stakes in mines,96 may also weaken institutional and regulatory checks and balances, as the State takes on both development and regulatory roles.

**Reduced administrative capacity and access to justice.** COVID-19 lockdowns have led to months-long administrative closures that have seriously disrupted the delivery of land governance services to citizens. The difficulty of processing the backlog of cases upon reopening undermines efforts to secure land claims and may leave some communities with heightened tenure insecurity risks.97 It may also prevent the effective resolution of disputes and provide space for opportunistic land grabbing. This is likely to exacerbate risks for particularly vulnerable groups such as women, Indigenous peoples, and other minorities, although potential long-term impacts remain unknown.

**Digital transformation of land systems.** Previous efforts to transition in-person paper-based procedures to digital ones were underway before the pandemic and are expected to intensify in the wake of COVID-19. ICT-based land systems have been identified as best practice for more effective recording of land rights98 and calls to implement a “digital recovery” appear to be gaining momentum.99 Additionally, the digital transition also has the potential to shape the way civil society actors mobilize and build local to global alliances. Such alliances will benefit from and reinforce the growing number of open-data and transparency initiatives that have emerged in the land sector in recent years.100
Restrictions on civic space weaken the position of communities and rights defenders.

Trends towards shrinking political space are not specific to the COVID-19 pandemic, but the scale of the unfolding crisis, and the exceptional measures put in place to respond to its impacts, have compounded problems to a new magnitude. For countries that were already pushing back on human rights before the pandemic, domestic restrictions to curb the coronavirus outbreak have provided additional opportunities to curtail rights and freedoms and reduce State accountability. At the same time, the economic fallout from the crisis is providing a justification for States to push through with land-based investment projects that affect local communities and Indigenous peoples’ rights and territories, while also providing opportunities to crack down on critics with impunity. At least 604 attacks on defenders working on business-related human rights issues were recorded in 2020, the majority of which related to mining and agribusiness projects.\(^{101}\)

Militarization and emergency State powers. At least seven sub-Saharan African countries\(^{102}\) and eight Asian countries\(^{103}\) reportedly enacted emergency measures granting expanded powers to military and security forces during the pandemic. In Kenya and Nigeria, the militarized enforcement of lockdowns has led to police brutality, with dozens of civilians killed by the police in the early stages of the lockdown in spring 2020.\(^{104}\) The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ms. Fionnuala Ní Aoláin, has noted that emergency powers appeal to states and security sector institutions as they “offer shortcuts” and as a result risk “persisting and becoming permanent.”\(^{105}\) In Papua New Guinea, the National Pandemic Act adopted in June 2020 contained provisions restricting certain freedoms and constitutional rights that would not expire with the end of the COVID-19 emergency.\(^{106}\) It was met with significant opposition and was eventually repealed. Nonetheless, there is concern that practices that undermine fundamental democratic rights may become entrenched in the wake of the pandemic.\(^{107}\)

Reduced space for dissent in the context of restrictions. Threats against environmental defenders and rights activists have been exacerbated in many countries, in the context of restrictions on movement and assembly that limit people’s ability to mobilize and stage protests. Across Southeast Asia, for example, communities living in areas affected by development projects were reported to have denounced the double standards of governments that allow companies to go forward with operations while limiting the movement of people for health reasons.\(^{108}\) Reports also indicated that, in Indonesia and the Philippines, farmers had been targeted and “red-tagged” (a practice whereby individuals are arbitrarily labelled as communists or terrorists) while opposing development projects such as dams, agribusiness, or mining.

III. Conclusion

Land-based investments are likely to remain prominent in multiple countries’ pandemic recovery plans. This is particularly the case where countries have limited alternative options to rebuild economies, and even more so in countries faced with debt crises either induced or exacerbated by the pandemic. At the same time, evidence suggests that governments are changing how land-based investments are governed in ways that undermine prospects for sustainable development in the name of investment facilitation. Policy and regulatory rollbacks, together with increased pressure on civic space, have been reported in the focus regions of this report. In addition, pandemic-accelerated concerns around food security, climate change responses, and longer-term employment opportunities are converging, prompting discourse from different stakeholders regarding how to leverage opportunities and implement new approaches.

While it remains uncertain how the issues presented in this report will unfold due to the uncertain course of the pandemic, and concomitant political and economic reverberations, the challenge for governments is clear: to develop an agenda that redoubles efforts to attract responsible investors and avoid apparent “shortcuts” that prioritize investment quantity over quality.
Annex

Table 1: Selection of patterns of change in land governance systems and regulatory frameworks

<table>
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<th>Phenomenon</th>
<th>Examples</th>
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<tr>
<td><strong>Regulatory rollbacks: Environmental and social deregulation</strong></td>
<td>In India, the Ministry of Environment, Forest and Climate Change published a draft EIA notification in March 2020 with the intention of replacing the existing 2006 requirement. The new draft waives the need for an EIA Report for ‘B2 Category’ projects, which include oil, gas and shale exploration among other activities. It also allows for post-facto clearance of projects executed without prior environmental clearance, a point which has caused concern that industries may go forward with committing environmental violations. Indonesia’s ‘omnibus’ bill on job creation, which was passed in October 2020 is understood to, amongst many other actions, remove limitations on minimum forest cover for river basins and islands and to reduce environmental penalties. In South Africa, on March 27, 2020, the Minister of Environment, Forestry, and Fisheries gazetted air pollution standards for sulphur dioxide ($SO_2$) that permit facilities with coal boilers to only meet the revised minimum emission standards of 1000 mg/Nm$^3$. This new requirement weakens the previously more ambitious target that was due to come into effect on 1 April 2020. In Sri Lanka, in July 2020, the Government reportedly announced the revocation of circular 5/2001 that regulated the status of Other State Forests. This change would potentially remove hundreds of thousands of forest acres from the control of the Department of Forest Conversation. The move will reportedly unlock forest land for agriculture or development purposes.</td>
</tr>
<tr>
<td>Easing of environmental safeguards e.g., Easing Environmental Impact Assessment (EIA) requirements, looser environmental compliance monitoring</td>
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<tr>
<td>Limiting participatory processes/ reducing consultation requirements</td>
<td>In Indonesia, the omnibus law on job creation is reported to limit public participation in Environmental Impact Assessment processes by restricting it to the inclusion of only those directly impacted. It is understood to replace previous environmental laws that guaranteed broad-based consultations. In India, a draft EIA bill introduced in March 2020 reduced the notice period for public hearings on extractive projects from 30 to 20 days and exempted certain projects from consultation requirements (those classified as B2 category projects based on estimated social and environmental impacts).</td>
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## Increased discretionary State powers

| Simplification of land acquisition procedures | In India, the state government of Tamil Nadu allegedly proposed in June 2020 to simplify land acquisition procedures by granting more powers to land administrators. The state government of Uttar Pradesh also reportedly took a significant step to simplify the land acquisition process by amending its Revenue Code.

| Expansion and fast-tracking of mining permits | In Indonesia, the government is reported to have amended the 2009 Coal and Mining Law to allow for an extension of mining permits. Notable revisions would include quadrupling the maximum size of traditional mining zones to 100 hectares and permitting mining activity in rivers and the sea. Rwanda is reported to have expedited mining license applications through establishing a centralized system, in an apparent attempt to revive the mining sector affected by COVID-19. In the Philippines, an executive order lifting a nine-year ban on mining has reportedly been issued. The move is expected to facilitate the entry of at least 291 mining applications. The move is reported to be in response to COVID-19 economic concerns.

| Increased State control in land use and ownership | In the Philippines, the Department of Agriculture is reported to be attempting the conversion of parts of Indigenous peoples’ "idle" ancestral lands into vegetable and high-value crop farms as part of the government’s 608 USD million Plant, Plant, Plant Program to boost the country’s food supply. Indigenous leaders have reportedly pushed back on the suggestion that Indigenous ancestral lands were idle and feared that such land would be seized under the cover of the program and the pandemic.

| Increased State control in mining | In Indonesia, the omnibus law on job creation has reportedly asserted state ownership over untitled lands, which could allegedly facilitate changes in land use from forest areas to agricultural land. The law is also reported to grant the government greater discretion in managing forest permits.

President Edgar Lungu of Zambia reportedly announced in December 2020 that the state will acquire majority stakes in selected copper mines, while also allowing private investors to participate. While details remain limited the move to assert control over the country’s main generator of hard currency comes as the country grapples with a debt crisis.
<table>
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<th>Limited State presence: Reduced administrative capacity and access to justice</th>
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<td>Administration closures during lockdowns</td>
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<td>Digital transformation of land systems</td>
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<td>Electronic procedures for land registration/creation of digital land records</td>
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Endnotes


3 Cotula, above note 1; Szoke-Burke, above note 1.


5 We use the term “Global South” to refer to low- and middle-income countries located in the southern hemisphere.


7 Ibid.


COVID-19 and Land-based Investment: Changing Landscapes


42 Daniel Hayward, Chansovy Ngorn, Micah Ingalls, U Htet Kyu, Pornpana Kuaycharoen, Chau My Duyen and Philip Hirsch, Mekong Land Research Forum, Annual Country Reviews 2020-21 (Mekong Land Research Forum, February


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Ibid.


Taskforce on Scaling Voluntary Carbon Markets, see above note 76.

uptake of nature-based solutions, with leveraging of the continent’s carbon offset potential, as well as debt for nature swaps featured as central components.

The IMF has identified carbon pricing and taxes as a key policy measure to facilitate recovery leveraged transitions to green economies. See for example, Ian Parry, “A New Vision for the US Climate Agenda,” IMF Blog (blog), IMF, March 10, 2021, https://bit.ly/3eJAAmR.


Chad, Liberia, Madagascar, Malawi, Nigeria, Sierra Leone, Zimbabwe.

Cambodia, Indonesia, Kazakhstan, Laos, Nepal, Pakistan, Papua New Guinea, the Philippines.


Ibid.

Ibid.


This table is an illustration of the types of regulatory changes that are occurring in the context of the pandemic. It captures some of the reported and/or announced amendments at the time of writing. Further research to assess
the effective implementation of such changes will need to be carried out.

112 UNCTAD, above note 93.
116 Ministry of Environment, Forest and Climate Change, Government of India, above note 110.
122 Cagula, above note 95.
124 UNCTAD, above note 93.
125 Chris Mfula, above note 96.
127 Community Land Protection Programme Advisor, above note 97.
ALIGN (Advancing Land-based Investment Governance) supports governments, civil society, local communities and other relevant actors in strengthening the governance of land-based investments. The project is implemented by a consortium led by the International Institute for Environment and Development (IIED), the Columbia Center on Sustainable Investment (CCSI) and Namati, and is funded with UK aid from the UK government.

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