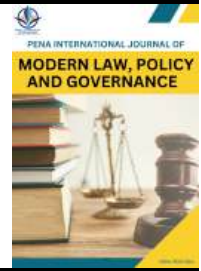




## Pena International Journal of Modern Law, Policy and Governance

Journal homepage:  
<https://penacendekia.com.my/index.php/pijmlpg/index>  
ISSN: 3120-3124



# Public Participation in FDI-Driven Land Governance: A Comparative Institutional Analysis for Malaysia

Sivarnia Mogan<sup>1</sup>, Ainur Zaireen Zainudin<sup>1,\*</sup>, Rohaya Abdul Jalil<sup>2</sup>

<sup>1</sup> Department of Real Estate Studies, Faculty Built Environment and Surveying, Universiti Teknologi Malaysia, Skudai, Johor Bahru, Johor, Malaysia

<sup>2</sup> Centre for Real Estate Studies, Universiti Teknologi Malaysia, Skudai, Johor Bahru, Johor, Malaysia

### ARTICLE INFO

#### Article history:

Received 22 January 2026

Received in revised form 23 February 2026

Accepted 25 April 2026

Available online 7 June 2026

#### Keywords:

Public participation; Foreign Direct Investment; land governance; local communities; land policy

### ABSTRACT

Public participation is widely recognized as a foundational principle of equitable and accountable land governance, particularly in large-scale development projects driven by Foreign Direct Investment (FDI). In Malaysia however, participatory mechanisms in FDI-related land development remain largely procedural, and weakly institutionalized, raising concerns regarding transparency, legal enforceability, and community influence over land-use decisions. This study aims to examine how public participation is structured within Malaysia's land governance framework and to derive institutional lessons from comparative international models. The research adopts a comparative, and conceptual analytical design, integrating Ostrom's Institutional Analysis and Development (IAD) Framework, Arnstein's Ladder of Citizen Participation, and the World Bank's Land Governance Assessment Framework (LGAF). Using five evaluative dimensions legal basis, institutional mechanisms, access to information, decision-making influence, and participation quality the study compares Malaysia with the Philippines, Tanzania, and Germany. The findings reveal that Malaysia's participatory framework remains largely symbolic and concentrated at the operational level, with limited influence over substantive land allocation decisions. In contrast, the Philippines institutionalizes consent-based participation through Free, Prior and Informed Consent (FPIC), Tanzania embeds grassroots authority through decentralized village land governance, and Germany ensures procedural transparency through legally mandated early-stage consultation. The study concludes that strengthening Malaysia's land governance requires legally enforceable participatory rights, decentralization of decision-making authority, early-stage transparency, and institutional accountability mechanisms. By integrating institutional and normative participation frameworks, this study contributes a structured comparative lens for evaluating and reforming participatory land governance in FDI-driven development contexts.

\* Corresponding author.

E-mail address: [sivarnia@graduate.utm.my](mailto:sivarnia@graduate.utm.my)

## 1. Introduction

Investments are widely acknowledged as a cornerstone of national economic progress [5], and among the various forms of investment, Foreign Direct Investment (FDI) plays a significant role. FDI contributes to economic growth by attracting foreign capital and expanding production networks across borders [9]. In essence, FDI occurs when a firm from one country acquires ownership or a substantial interest in a company located in another country. Such investments frequently require access to land for operational establishment. Land has therefore become a strategic asset in attracting FDI [5]. In Malaysia, which positions itself as a major investment destination within Southeast Asia, numerous development corridors and mega-projects have been introduced to attract foreign investors. As emerging economies compete to attract FDI for infrastructure, real estate, and industrial expansion, large-scale land acquisitions have become increasingly common. These processes often involve the conversion of agricultural or customary land, sometimes resulting in displacement, loss of traditional livelihoods, and weakened access to natural resources for local communities [5,6]. This development trajectory raises critical concerns regarding the nature and effectiveness of public participation (PP) in land-related decision-making.

Public participation is widely regarded as a normative pillar of good land governance and a necessary condition for achieving inclusive development [31]. However, in many FDI-related land transactions, participatory processes remain weak and limited. Although Malaysia has formal legal provisions under the National Land Code 1965, the Environmental Quality Act 1974, and the Town and Country Planning Act 1976, these mechanisms are often inadequately institutionalized in practice [25]. Many affected communities report that meaningful consultation did not occur prior to land alienation, leading to conflicts over land rights [5,13]. Empirical cases illustrate this pattern. In the Pengerang Integrated Petroleum Complex (PIPC), land allocation was largely executed through a top-down approach, with decisions made at federal and state levels without adequate consultation of local communities [5,27]. Similarly, in Forest City, large-scale land reclamation proceeded before substantial engagement with affected residents [5,22]. In Bandar Sri Sendayan, land acquisition occurred with limited notice and minimal negotiation over compensation valuation [13,25]. These examples demonstrate that community participation is often confined to later stages of planning, limiting meaningful influence over decision-making outcomes [26].

Although participation has been widely examined in urban transformation [2,5], tenure reform [14], and Malaysian planning practice [27,42], much of this scholarship remains sector-specific and does not systematically interrogate how institutional rule's structure participation in FDI-driven land allocation. Environmental governance studies [15,16] similarly emphasize deliberative processes, yet rarely analyse power asymmetries embedded within investment-led development contexts. Other studies have explored participatory indicators in public space design and collaborative planning mechanisms [28,29]. Critical scholarship has also highlighted the challenges of tokenism and institutional constraints that undermine meaningful participation [12,13]. In the Malaysian context, previous research has assessed Local Agenda 21 initiatives and public involvement in Environmental Impact Assessment processes. Nevertheless, limited attention has been devoted specifically to the institutional configuration of participation in FDI-driven land development, particularly where economic imperatives intersect with land allocation decisions [35].

Despite the growing body of scholarship on public participation in planning and environmental governance, limited attention has been directed toward the institutional configuration of participation within FDI-driven land development, particularly in emerging economies where investment imperatives often dominate land allocation decisions. Existing studies tend to examine participation either normatively or procedurally, without systematically analyzing how institutional

rules, power distribution, and legal enforceability shape the quality and influence of participation in large-scale investment contexts. Furthermore, comparative institutional evaluations that benchmark Malaysia's participatory framework against international governance models remain scarce. Addressing this gap, this study investigates how public participation is structured and operationalized within Malaysia's FDI-related land governance system and assesses its institutional strengths and limitations through comparative analysis. Specifically, the study compares Malaysia with the Philippines, Tanzania, and Germany using an integrated analytical framework that combines Ostrom's Institutional Analysis and Development (IAD) framework, Arnstein's Ladder of Participation, and the World Bank's Land Governance Assessment Framework (LGAF). By doing so, the paper contributes both conceptually and policy-relevantly: conceptually, by synthesizing institutional and normative participation frameworks into a structured evaluative model; and practically, by identifying reform pathways for strengthening legally enforceable, inclusive, and accountable participation in Malaysia's land governance regime.

## **2. Literature Review**

This study adopts an institutionalist approach to examine public participation in Foreign Direct Investment (FDI)-driven land governance. Participation in land-related decision-making is not merely a procedural exercise; rather, it is shaped by institutional configurations, legal mandates, and power relations that determine who participates, how decisions are made, and with what consequences. Existing literature on land governance emphasizes both the normative importance of public participation and the need to critically assess its form and substance [13,15]. In contexts of rapid FDI-driven development, participatory mechanisms frequently become symbolic or extractive, exerting limited influence over substantive land-use decisions [9,13]. To address these institutional dynamics, this study integrates three complementary conceptual frameworks: Ostrom's Institutional Analysis and Development (IAD) Framework, Arnstein's Ladder of Participation, and the World Bank's Land Governance Assessment Framework (LGAF). These frameworks are employed to analyse the institutional structures and participatory configurations in Malaysia, the Philippines, Tanzania, and Germany.

### *2.1 Public Participation in Land Governance*

Public participation (PP) is widely recognized as a central component of democratic governance, particularly in sectors such as land development, environmental planning, and infrastructure expansion, where decisions generate long-term social and ecological consequences [28,29]. PP has been conceptualized as a process through which citizens, communities, and interest groups influence public decision-making and policy outcomes [21]. This process encompasses access to information, involvement in planning procedures, participation in environmental assessments, and engagement in land allocation decisions [30]. Participation, however, is not a uniform phenomenon. Scholars have identified varying degrees of engagement, ranging from passive information dissemination to active co-decision-making, depending on the level of influence granted to stakeholders [13,14]. When implemented substantively, public participation enhances transparency, legitimacy, and institutional accountability in governance systems [17,20]. It may also function as a co-creative and deliberative mechanism in which decision-making power is more equitably distributed between state authorities and affected communities [9]. Nevertheless, critical perspectives caution that participatory processes can be reduced to symbolic exercises, constrained by elite capture, bureaucratic dominance, or procedural tokenism conditions often described as the "tyranny of participation" [12,13].

Consequently, evaluating public participation in land governance requires examining not only its formal existence but also its institutional design, legal enforceability, and actual influence on decision-making outcomes.

## *2.2 FDI and Public Participation Tension in Land Development*

Foreign Direct Investment (FDI) in land development is frequently promoted as a catalyst for economic growth, employment generation, and infrastructural expansion. Countries such as Malaysia actively encourage FDI to achieve national development objectives. However, this investor-centric development model often conflicts with principles of public participation (PP), particularly in cases involving land acquisition, displacement, or significant land-use transformations affecting local and indigenous communities. These tensions are rooted in unequal power relations among state authorities, private investors, and affected populations. FDI-driven projects are commonly implemented through centralized, top-down decision-making processes, with limited or no meaningful engagement of impacted communities [6,30]. Such practices generate procedural injustices by excluding communities from decisions that directly affect their rights, livelihoods, and cultural identities.

In many cases, public participation is reduced to symbolic exercises, including post-approval hearings or consultations conducted primarily to satisfy Environmental Impact Assessment (EIA) requirements. These mechanisms often fulfil administrative obligations without substantively incorporating community perspectives into decision-making processes. Arnstein's Ladder of Citizen Participation categorizes such engagement at the lower rungs of participation namely "manipulation" and "informing" where meaningful power-sharing is absent [4]. Furthermore, legal and institutional frameworks governing FDI-driven land development frequently lack binding provisions or enforcement mechanisms to ensure inclusive and accountable participatory planning.

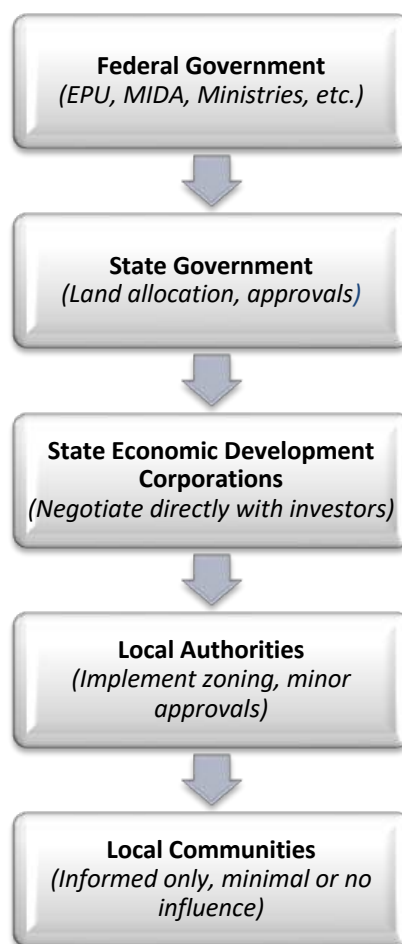
In developing country contexts, the marginalization of local communities is compounded by fragmented land tenure systems, limited recognition of customary land rights, and weak transparency within bureaucratic procedures [30,33]. These structural weaknesses often result in land disputes, forced evictions, livelihood disruptions, and environmental degradation. At the core of these dynamics lies a structural tension between economic development imperatives and democratic governance principles. While governments pursue foreign investment to accelerate growth, insufficient public participation undermines the legitimacy, fairness, and long-term sustainability of land governance systems.

Empirical evidence from multiple jurisdictions illustrates these concerns. In Southeast Asia, agricultural land concessions have been granted without securing free, prior, and informed consent from affected communities [17]. In India, the implementation of Special Economic Zones (SEZs) facilitated compulsory land acquisition for private investors, triggering widespread protests and social resistance [24]. Similarly, infrastructure and large-scale development projects in other emerging economies have demonstrated limited avenues for public opposition or influence [33]. Comparable patterns are observable in Malaysia, where formal participatory provisions exist but are frequently overshadowed by pro-investment agendas. Consequently, community voices are often marginalized during land allocation and approval processes [25]. Addressing these structural imbalances requires institutional reforms that reconcile FDI objectives with legally enforceable and substantively meaningful public participation, thereby promoting inclusive, equitable, and sustainable land development outcomes.

### *2.3 Public Participation in Malaysia 's Land Governance*

Land governance in Malaysia operates within a federal structure in which land matters fall under the exclusive jurisdiction of State Governments, as stipulated under Article 74 and the Ninth Schedule of the Federal Constitution. Although the National Land Code 1965 (NLC) provides a unified legal framework for Peninsular Malaysia, it primarily functions as an administrative instrument that grants substantial discretion to State Authorities. Section 76 of the NLC empowers State Executive Councils to alienate state land at their discretion, often without binding requirements for transparency or community consultation [22,36]. This provision, frequently invoked in FDI-driven land development projects, has institutionalized a centralized land governance model that privileges state-centric and investor-oriented decision-making over inclusive democratic engagement [26,36].

Malaysia's land governance system is further characterized by a deeply entrenched top-down administrative approach, as illustrated in Figure 1, where key decisions are made by political elites and senior state officials with limited public input. This hierarchical structure, reinforced by discretionary powers under the National Land Code and the Local Government Act 1976, constrains opportunities for grassroots participation. In practice, local authorities often maintain close political alignment with state governments, limiting their institutional autonomy and responsiveness to community concerns [23,42]. Planning approvals and land allocation processes for FDI projects are frequently expedited through closed-door negotiations between state officials, federal investment agencies such as MIDA and ECERDC, and private developers, with consultation occurring only at later or superficial stages [25]. The absence of institutionalized mechanisms for early and meaningful bottom-up engagement generates a structural participation deficit, marginalizing community voices in land allocation decisions. Consequently, land governance remains predominantly elite-driven, reinforcing a development paradigm that prioritizes economic growth and investor confidence over procedural fairness, distributive justice, and local empowerment [10,27].



**Fig. 1.** The top-down approach in Malaysia

Despite the existence of statutory provisions for public participation under the Town and Country Planning Act 1976 (TCPA), their practical impact remains limited. Sections 12 and 13 of the TCPA mandate public consultation during the formulation of Local Plans (LPs); however, implementation is frequently tokenistic and procedural rather than substantively deliberative. Empirical studies indicate that public objections are rarely incorporated into final decisions and that consultation processes often exclude marginalized communities due to barriers related to accessibility, language, and awareness [24,40]. Rather than facilitating meaningful engagement, the system appears oriented toward fulfilling administrative requirements. Malaysia's participatory planning framework has been characterized as functioning more as a legitimizing instrument than as a mechanism for shared decision-making, particularly in fast-tracked FDI projects [23].

Environmental legislation, particularly the Environmental Quality Act 1974, provides an additional formal avenue for stakeholder engagement through the Environmental Impact Assessment (EIA) process. In principle, EIAs offer opportunities for public feedback on environmentally significant developments. In practice, however, they often operate as technical compliance exercises rather than participatory instruments. Although public input is formally invited, it remains non-binding, and documentation is frequently highly technical, inaccessible, and published only in English [20]. In many FDI-led developments, EIA procedures are expedited or conducted superficially, undermining both environmental governance standards and public rights [13,27,33]. These patterns reflect a systemic bias toward development expediency over environmental justice and participatory accountability.

Furthermore, customary and local land rights remain inadequately protected within Malaysia's land governance framework. The National Land Code does not formally recognize communal land

ownership by Malay smallholders, and while the Aboriginal Peoples Act 1954 provides limited safeguards for Orang Asli communities, it permits land dispossession under broadly defined “public interest” justifications with minimal procedural protection [28,30]. This legal lacuna has facilitated displacement in FDI-driven mega-projects, including developments in Pengerang, Bandar Sri Sendayan, and Forest City, where affected communities have reported inadequate consultation, insufficient compensation, and exclusion from planning processes [6].

At the international level, Malaysia has expressed commitment to global governance frameworks such as the Sustainable Development Goals (SDGs), particularly Goals 11 (inclusive cities), 16 (accountable institutions), and 17 (partnerships). However, these commitments have not been translated into binding domestic legal standards. Malaysia is not a signatory to key international instruments that mandate participatory rights in environmental and land governance, including ILO Convention 169 and the Aarhus Convention [29]. The absence of such international legal obligations has enabled the continuation of a developmental state model that prioritizes investment imperatives over participatory inclusion and institutional accountability [10].

In sum, this institutional analysis reveals a significant research gap. Although formal mechanisms such as EIAs and local planning consultations exist, public participation in FDI-related land development remains largely symbolic and procedurally confined. Previous scholarship has examined participation in environmental governance and planning contexts, yet limited research has systematically analysed the institutional conditions shaping participation within large-scale FDI land transactions. Moreover, comparative evaluations benchmarking Malaysia’s participatory framework against international models featuring legally enforceable or decentralized participatory structures remain underdeveloped. This study addresses these gaps by analysing the institutional design of participation across three comparative governance contexts the Philippines, Tanzania, and Germany through an integrated conceptual framework.

#### 2.4 Summary of Key Literature on Public Participation

Building upon the reviewed literature, it is evident that public participation in land governance is theorized and practiced in diverse ways across contexts. To capture these nuances, Table 1 synthesizes key contributions from prominent theoretical and empirical sources. It compares how scholars conceptualize five core dimensions of participatory governance: legal basis, institutional mechanisms, access to information, influence on decision-making, and the nature of participation based on Arnstein’s typology.

**Table 1**  
 Key features of participatory land governance by past researchers

Author(s)	Legal Basis	Institutional Mechanisms	Access to Information	Decision-Making Influence	Participation Type (Arnstein)
Arnstein (1969)	Not legalistic — normative ladder	Depends on government willingness Deliberative forums,	Often limited or symbolic	Low in tokenism, high in delegated power	Ladder of Participation (8 rungs)
Fung (2006, 2015)	Varies by context	stakeholder engagement Community meetings,	Moderately open	Moderate to high with -governance	Empowered participatory governance
Cornwall (2008)	Often informal or assumed	consultation sessions	Information asymmetry common	Often advisory, not binding	Tokenism and invited spaces

Borras <i>et al.</i> , (2011)	Weak in FDI-related cases	State-led processes dominate	Minimal in large-scale land deals	Low investor interest prioritized	Symbolic or extractive
Colchester & Ferrari (2007)	Strong under FPIC (Philippines)	FPIC procedures via NCIP	Legally required, multiple formats	High community veto possible	Delegated power
Reimer <i>et al.</i> , (2014)	Codified in planning law (Germany)	Mandatory public hearings in zoning	Public notices and formal disclosures	Medium — input considered but not decisive	Consultation/placation
Nicholas (2000), Musa & Alias (2020)	Weak legal protections in Malaysia	Procedural tools like EIAs, Local Plans	Often inaccessible or English-only	Very limited — late-stage input	Tokenism/ / informing
UN-Habitat (2021)	Supports rights-based approaches	Participatory planning frameworks	Multilingual inclusive communication	Depends on enabling laws	Varies by case
Deininger <i>et al.</i> , (2011)	LGAF as a global benchmark	Assessment criteria for participation	Early-stage and public-friendly	Indicator-based, not binding	Benchmarking framework
Alden Wily (2003, 2011)	Statutory recognition of customary rights	Village assemblies and legal planning instruments	Through village-level planning	High at grassroots level	Delegated power partnership

A substantial body of literature underscores the central role of public participation (PP) in promoting inclusive, equitable, and accountable land governance. Participation has been examined from both normative and empirical perspectives, with scholars identifying institutional, legal, and procedural dimensions that shape its effectiveness. Foundational models such as Arnstein’s Ladder of Participation and deliberative governance frameworks conceptualize participation as a continuum, ranging from tokenistic forms such as informing and consultation to more empowering arrangements including delegated power and citizen control [19]. These perspectives emphasize that meaningful participation depends on early-stage engagement, legal enforceability, and the redistribution of decision-making authority.

However, empirical evidence indicates that participation in many FDI-related land governance contexts remains limited in substance and impact. Studies demonstrate that public engagement is frequently symbolic or extractive, functioning to legitimize predetermined outcomes rather than to empower affected communities [8,15]. Environmental Impact Assessments (EIAs), for example, are often presented as participatory instruments; yet in practice, they commonly occur at late stages of planning, lack transparency, and exert minimal influence over final decisions [13,25]. Such patterns correspond to the lower rungs of Arnstein’s typology, including placation and informing, where stakeholders possess limited decision-making power [4].

The literature further identifies five recurring dimensions that underpin effective participation in land governance. First, the legal basis of participation determines whether engagement is mandated through enforceable legislation or remains discretionary. Second, institutional mechanisms refer to the formal structures such as planning committees, public hearings, or village assemblies through which participation is organized. Third, access to information concerns the disclosure of relevant documents and decisions in accessible and comprehensible formats. Fourth, decision-making influence evaluates the extent to which public input shapes policy or project outcomes. Fifth, participation type and quality often assessed through Arnstein’s framework distinguish between symbolic consultation and substantive empowerment.

These dimensions are grounded in diverse empirical contexts. In Tanzania, statutory recognition of customary land rights has strengthened village-level planning authority and enabled more inclusive land governance arrangements [1]. In Germany, participatory planning procedures are legally mandated; however, public influence typically remains consultative rather than decisive [29]. In the Philippines, the Indigenous Peoples' Rights Act institutionalizes Free, Prior, and Informed Consent (FPIC), granting indigenous communities' legal authority to approve or reject land-related development proposals [39]. Together, these examples illustrate how institutional design conditions the depth and effectiveness of participatory governance.

This synthesis establishes the analytical foundation for the conceptual framework adopted in this study. By organizing participation around five dimensions legal basis, institutional mechanisms, access to information, decision-making influence, and participation quality the study develops an integrated model that combines Ostrom's Institutional Analysis and Development (IAD) Framework, Arnstein's Ladder of Participation, and the World Bank's Land Governance Assessment Framework (LGAF). The following section elaborates on how these frameworks are systematically integrated to evaluate Malaysia's participatory land governance system in comparative perspective.

### **3. Theoretical Framework**

This study draws upon three complementary frameworks to investigate the institutional quality, structure, and effectiveness of public participation in foreign direct investment (FDI) land governance: (i) Ostrom's Institutional Analysis and Development (IAD) Framework, (ii) Arnstein's Ladder of Citizen Participation, and (iii) the World Bank's Land Governance Assessment Framework (LGAF). Together, these frameworks offer a multidimensional lens to analyse how participation is designed, experienced, and benchmarked in Malaysia compared to the Philippines, Tanzania, and Germany.

#### *3.1 Ostrom's Institutional Analysis and Development (IAD) Framework*

Elinor Ostrom's IAD Framework provides a systematic approach to understanding how rules and institutional arrangements shape collective action and decision-making outcomes [33]. It emphasizes that institutions are not neutral; rather, they are embedded in "rules-in-use" that include both formal legal frameworks and informal norms governing stakeholder interactions. The IAD framework is particularly suited for this study because it allows for a multi-actor, rule-sensitive analysis of participation practices embedded within institutional arrangements. The IAD framework centres on the action arena, where actors' participants engage in decision-making processes. This area is influenced by three exogenous factors which is biophysical such as land type, attributes of the community for an example, trust, local knowledge, participation capacity and lastly is rules-in-use e.g., legal mandates, bureaucratic discretion, traditional practices.

In addition, the framework distinguishes three levels of rulemaking:

- i. Constitutional level: Determines who is authorized to make rules and policies.
- ii. Collective-choice level: Concerns the development of governance arrangements (e.g., public hearings, community forums).
- iii. Operational level: Involves the day-to-day decisions of planners, developers, and local communities.

In land governance, public participation often takes place at the collective-choice and operational levels, where planning decisions, land allocations, and compensation processes are negotiated. This study applies the IAD framework to identify how institutional rules-in-use shape the participatory space in Malaysia and the comparator countries. Using this approach, the study evaluates not just the presence of participatory procedures but also how institutional power asymmetries shape their design, timing, and effectiveness. For instance, in Malaysia, the predominance of state-level discretion often relegates participation to the operational level, with limited influence on upstream policy design [1]. In contrast, the Philippines and Tanzania integrate participation earlier in the decision-making process, through constitutional protections or decentralized planning systems.

### *3.2 Arnstein's Ladder of Participation*

Sherry Arnstein's seminal model of citizen participation provides a normative typology for evaluating the authenticity and effectiveness of public engagement. Conceptualized as an eight-rung ladder, the model categorizes participation along a continuum from non-participation (manipulation and therapy), through tokenism (informing, consultation, and placation), to citizen power (partnership, delegated power, and citizen control) [4]. The framework is widely recognized for distinguishing between procedural participation, which is often symbolic, and substantive participation, in which communities exercise meaningful influence over decision-making outcomes [4]. It is particularly relevant to this study because it provides a normative benchmark for assessing whether participatory mechanisms genuinely empower affected communities or merely perform symbolic inclusion.

In the Malaysian context, instruments such as Environmental Impact Assessments (EIAs) and Local Plan hearings frequently correspond to the tokenism category, where public feedback is formally solicited but rarely integrated into final decisions [28,33]. In contrast, the Philippines' Free, Prior, and Informed Consent (FPIC) mechanism grants indigenous communities the legal authority to approve or reject FDI-related land development proposals, reflecting higher rungs of participation such as delegated power or partnership [39]. Applying Arnstein's framework enables a systematic assessment of where each country's participatory model is situated on the ladder and how that positioning reflects underlying institutional structures and political intent. This analytical lens facilitates a deeper evaluation of whether communities function as empowered actors or passive subjects within FDI-driven land governance processes

### *3.3 Benchmarking with the Land Governance Assessment Framework (LGAF).*

In order to understand how Malaysia's land governance compares globally, this study turns to the Land Governance Assessment Framework (LGAF) as a guide for evaluating the quality and inclusiveness of public participation. The LGAF, developed by the World Bank, serves as a practical tool that looks at how land systems operate across five main areas: land tenure, land use planning, land valuation, dispute resolution, and public involvement. It has already been applied in more than 40 countries and is widely seen as a useful benchmark for judging how fair, transparent, and responsive a country's land governance really is. For this study, the dimension of public participation is especially relevant, as it outlines key indicators that help assess:

- i. Whether participation is legally mandated,
- ii. Whether consultations occur early in the decision-making process,
- iii. Whether citizen input meaningfully influence outcomes

- iv. Whether marginalized or vulnerable groups are included in the process.

Rather than applying LGAF as a scoring mechanism, this study uses it as a comparative lens to assess how public participation is institutionalized within the land governance structures of four country contexts. For example, Germany mandates early-stage public consultation and offers legal recourse, Tanzania promotes bottom-up planning through decentralized village land use systems, and the Philippines safeguards indigenous rights through free, prior, and informed consent (FPIC) laws. In contrast, Malaysia exhibits weaknesses in legal enforceability, transparency, and institutional responsiveness [25,26]. This benchmarking facilitates the identification of institutional gaps and highlights policy-relevant pathways for Malaysia to align its public participation framework with international best practices.

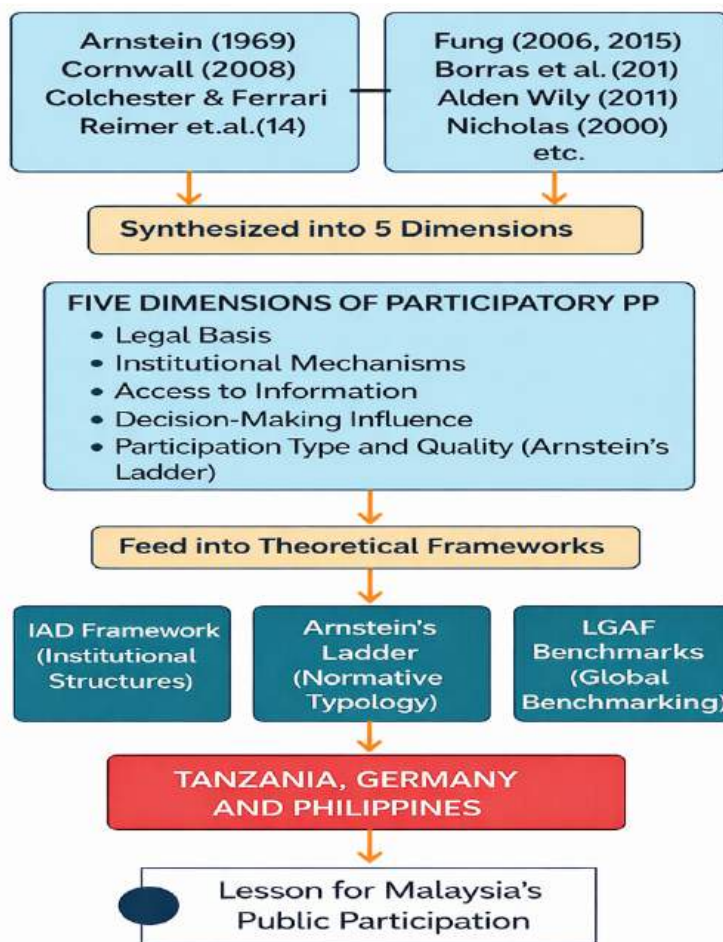
### *3.4 Integrative Conceptual Approach*

To develop a coherent and multi-dimensional analytical strategy for assessing public participation in land governance, this study integrates three complementary theoretical frameworks: Ostrom's Institutional Analysis and Development (IAD) Framework, Arnstein's Ladder of Citizen Participation, and the World Bank's Land Governance Assessment Framework (LGAF). These frameworks are synthesized into a unified conceptual model that enables a structured and comparative examination of how participation is institutionally designed, operationalized, and experienced across different national contexts, including Malaysia, the Philippines, Tanzania, and Germany.

Each framework contributes a distinct analytical perspective. Ostrom's IAD Framework is employed to examine the institutional structures and "rules-in-use" that shape participatory processes within FDI-driven land development. It differentiates among constitutional, collective-choice, and operational levels of decision-making, thereby facilitating analysis of how authority is distributed and how interactions among state actors, investors, and communities are structured. This framework is particularly useful for identifying how formal legal mandates and informal governance practices either constrain or enable meaningful participation within Malaysia's land governance system.

Arnstein's Ladder of Citizen Participation provides a normative typology for evaluating the depth and authenticity of public engagement. By distinguishing between non-participation, tokenism, and citizen power, the framework clarifies whether participatory mechanisms merely solicit feedback or genuinely redistribute decision-making authority. This typology allows the study to assess whether instruments such as Malaysia's Environmental Impact Assessments (EIAs) or the Philippines' Free, Prior, and Informed Consent (FPIC) mechanism function as substantive empowerment tools or as procedural legitimization devices. The ladder therefore serves as a benchmark for locating each country's participatory approach along a spectrum of empowerment.

The Land Governance Assessment Framework (LGAF) complements these perspectives by offering an internationally recognized benchmarking tool for evaluating land governance systems. It assesses critical dimensions of participation, including the legal mandate for public involvement, the timing and accessibility of consultations, the inclusion of marginalized groups, and the extent to which public input influences final decisions. Through LGAF, Malaysia's participatory land governance can be situated within a broader comparative context, enabling the identification of institutional strengths, weaknesses, and reform opportunities relative to international standards.



**Fig. 2.** Integrative conceptual model

The integration of these three frameworks is operationalized through five synthesized dimensions of participatory governance drawn from the literature:

- i. Legal basis- Whether participation is anchored in enforceable laws or discretionary policies.
- ii. Institutional mechanisms – the structures and platforms that enable participation (e.g., village councils, hearings, FPIC processes)
- iii. Access to information—the availability and transparency of relevant data, documents, and decision processes.
- iv. Influence on decision-making—the degree to which public input shapes actual outcomes.
- v. Participation type and quality – the level of empowerment as assessed through Arnstein’s ladder.

This integrative model is applied to three comparative case countries: the Philippines, Tanzania, and Germany, each selected for its distinct participatory governance architecture. The Philippines represents a rights-based, decentralized planning model anchored in Free, Prior, and Informed Consent (FPIC) provisions for indigenous communities. Tanzania exemplifies a customary village-level land governance system formally embedded within statutory law, granting local assemblies’ substantive authority over land allocation decisions. Germany demonstrates a legal-rational statutory planning regime characterized by institutional transparency, procedural consistency, and early-stage public consultation. These cases are systematically assessed using the five core analytical dimensions and corresponding theoretical lenses derived from the integrated framework.

The model is subsequently applied to evaluate Malaysia's participatory land governance system, which remains predominantly procedural and concentrated at the operational level, with limited influence on higher-level policy or land allocation decisions. Although Malaysia maintains formal participation requirements—such as Environmental Impact Assessment (EIA) procedures—these mechanisms often function symbolically and lack legal enforceability or substantive decision-making impact. In contrast, the comparative cases provide instructive institutional insights. Tanzania demonstrates how decentralized local assemblies can operate as authoritative participatory platforms; the Philippines illustrates the transformative potential of legally mandated community consent; and Germany highlights how early-stage transparency and structured consultation enhance procedural legitimacy and institutional accountability.

Collectively, this layered and integrative framework structures the comparative analysis while enabling the extraction of context-specific policy lessons for Malaysia. It identifies structural deficiencies in legal design and institutional practice, evaluates the depth of citizen empowerment, and benchmarks Malaysia's participatory mechanisms against established international models. Figure 2 presents a visual representation of this conceptual model and its application within the study.

#### **4. Methodology**

This study adopts a comparative conceptual analysis to examine how public participation is institutionally structured within Foreign Direct Investment (FDI)-driven land governance frameworks. Guided by a constructivist ontology and interpretivist epistemology, the research is premised on the understanding that institutions, legal frameworks, and participatory practices are socially constructed and differently interpreted across national contexts. Rather than generating primary empirical data, the study relies on secondary documentary sources and established theoretical frameworks to analyse governance mechanisms in four selected countries. The approach is diagnostic and interpretive, aiming to identify institutional patterns, legal structures, and policy gaps that shape the quality and effectiveness of public participation.

The analysis is anchored in an integrated conceptual framework comprising three complementary models. First, Ostrom's Institutional Analysis and Development (IAD) Framework is employed to examine how rules-in-use structure interactions among actors across three governance levels: constitutional, collective-choice, and operational [33]. Second, Arnstein's Ladder of Citizen Participation provides a normative typology for assessing the depth and authenticity of public engagement, distinguishing between non-participation, tokenism, and citizen power [4]. Third, the World Bank's Land Governance Assessment Framework (LGAF) functions as a benchmarking instrument for evaluating land governance systems based on indicators such as legal mandates, access to information, consultation timing, and inclusion of marginalized groups. Together, these frameworks enable a multidimensional analysis of participatory arrangements in FDI-driven land development.

For comparative purposes, four countries were purposively selected to reflect diverse institutional configurations and to generate policy-relevant insights for Malaysia. Malaysia serves as the primary case, characterized by a predominantly centralized and procedural participatory structure. In contrast, the Philippines represents a rights-based model anchored in legally mandated Free, Prior, and Informed Consent (FPIC). Tanzania exemplifies decentralized village-level land governance embedded within statutory law, while Germany demonstrates a legal-rational planning system in which public participation is institutionalized through formal procedural requirements.

These cases were selected to capture variation in legal enforceability, decentralization, and participatory empowerment.

Data were obtained exclusively through documentary and desk-based research. Sources included national legislation (e.g., Malaysia's National Land Code 1965, the Philippines' Indigenous Peoples' Rights Act 1997, Tanzania's Village Land Act 1999, and Germany's Baugesetzbuch), planning and environmental statutes, policy documents, institutional reports (including LGAF assessments and UN-Habitat publications), academic scholarship, and relevant NGO analyses. Where appropriate, judicial decisions and investigative reports were consulted to contextualize contested land development projects and participation deficits. These materials were thematically organized using five analytical dimensions derived from the conceptual framework: (i) legal basis, (ii) institutional mechanisms, (iii) decision-making influence, (iv) access to information, and (v) participation quality.

The analytical procedure involved a structured synthesis of governance arrangements across the selected jurisdictions using these five dimensions. The study does not rank or score cases; instead, it interprets how participatory mechanisms are conceptualized, institutionalized, and operationalized within each national setting. The analysis remains non-empirical in scope and emphasizes institutional design, normative evaluation, and policy-oriented comparison. Its purpose is to provide a theoretically grounded reassessment of Malaysia's participatory land governance in light of internationally recognized frameworks and comparative institutional practices.

The study acknowledges its limitations. As a conceptual and documentary analysis, it does not incorporate primary fieldwork or stakeholder interviews. Nevertheless, it offers a theory-informed and policy-relevant examination grounded in authoritative sources and comparative institutional analysis. By synthesizing institutional theory with normative participation frameworks, the study contributes to scholarly debates on participatory land governance while identifying reform pathways without advancing empirical claims.

## **5. Institutional Review of Participatory Land Governance Models**

This section presents a comparative institutional review of public participation frameworks in the Philippines, Tanzania, and Germany. Using the five evaluative dimensions derived from the integrated conceptual framework, legal basis, institutional mechanisms influence decision-making, access to information, participation, and quality, each country is assessed to understand how participation in land governance is operationalized within different political and legal systems. A visual summary of these models is provided in Figure 1 below.

- i. Tanzania adopts a Bottom-Up Customary Governance Model, emphasizing village assemblies, land use planning, and direct community authority, supported by statutory decentralization.
- ii. The Philippines follows a Hybrid Rights-Based Decentralized Planning Model, grounded in FPIC rights and local government mechanisms (e.g., barangay consultations and CLUP processes).
- iii. Germany exemplifies a Legal-Rational Statutory Planning Model, featuring early citizen involvement and legally mandated municipal-level participation with formal channels for objections and feedback.

These differences underscore the diversity of institutional pathways for embedding participation into land governance and serve as the basis for the comparative analysis presented in the following sections.

### 5.1 The Philippines: Rights-Based Participation through FPIC

The Philippines employs a hybrid participatory model that merges indigenous rights-based approaches with decentralized local governance structures. At the core is the Indigenous Peoples' Rights Act (IPRA) 1997, which institutionalizes the principle of free, prior and informed consent (FPIC) for any land-related development in indigenous ancestral domains [10,39]. FPIC processes are coordinated by the National Commission on Indigenous Peoples (NCIP) and involve culturally appropriate consultations, community assemblies, and participatory impact assessments. These processes are conducted in indigenous languages and reflect local governance traditions, positioning indigenous communities near the top of Arnstein's (1969) Ladder of Citizen Participation, particularly at the "delegated power" and "partnership" levels. Simultaneously, the Local Government Code of 1991 mandates that local government units (LGUs) engage the public through barangay-level consultations and the preparation of comprehensive land use plans (CLUPs), with institutionalized public hearings and council approvals. While FPIC provides indigenous groups with legal authority to approve or reject development proposals, broader public engagement through CLUPs tends to be more consultative than empowering [13,39]. Nevertheless, access to information is a legal requirement for both systems and must be provided in accessible formats [30]. For Malaysia, the Philippine model offers a compelling template for integrating rights-based participation into existing planning laws. Malaysia could adopt FPIC-like mechanisms, particularly for the Orang Asli and native landholders in Sabah and Sarawak, by recognizing customary rights and embedding statutory consultation procedures. Moreover, by strengthening the Town and Country Planning Act 1976 with early-stage community consultation and culturally inclusive planning tools, Malaysia could address power imbalances between state agencies, investors, and local communities in FDI-driven land allocation and bureaucratic effectiveness [13].



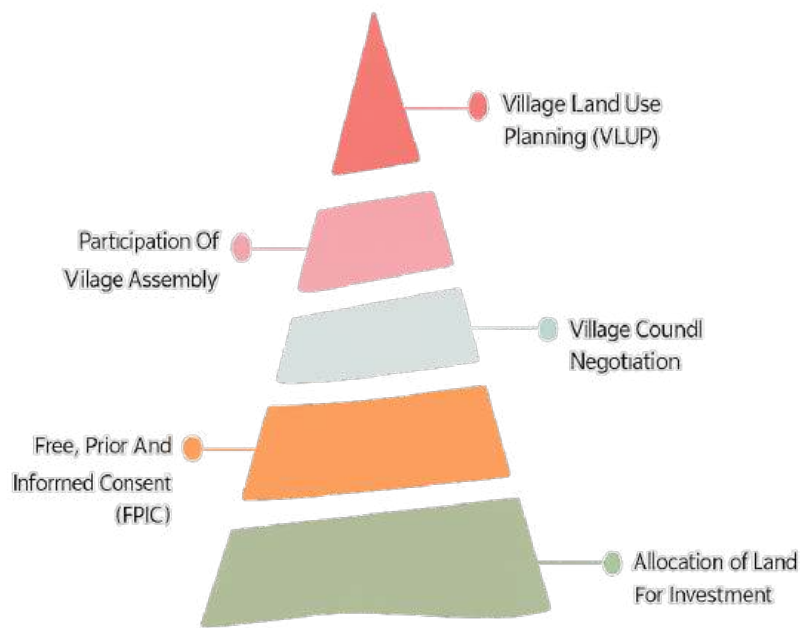
**Fig. 3.** Concentric model of participatory land governance in the Philippines Padilla (2008), Bugnoson (2002), and Ortolano *et al.*, (2000)

## *5.2 Tanzania: Bottom-Up Customary Governance Model*

Tanzania presents a bottom-up governance model that integrates customary tenure systems within formal statutory planning structures. The Village Land Act 1999 classifies approximately 70% of land as “village land,” which is legally administered by village councils and village assemblies [1]. These local institutions are authorized to prepare Village Land Use Plans (VLUPs) through participatory rural appraisal, community mapping, and inclusive planning processes. Village assemblies, composed of adult community members, possess the authority to approve or reject land allocation decisions, including those involving foreign investment [16]. This governance arrangement closely aligns with the “delegated power” rung of Arnstein’s Ladder of Citizen Participation, reflecting a legally mandated form of grassroots authority over land management [4].

Participatory mechanisms in Tanzania include customary adjudication procedures, dispute resolution committees, and local land tribunals. Access to information is facilitated through community meetings, public notices, and visual spatial tools such as participatory mapping [4]. The integration of statutory recognition with customary governance practices strengthens institutional legitimacy, enhances local trust, and supports collective decision-making in rural areas, particularly where formal legal literacy and land titling systems remain limited.

From a comparative institutional perspective, Tanzania’s model offers policy-relevant insights for strengthening sub-national land governance in Malaysia’s semi-rural and peri-urban contexts. Institutionalizing community mapping initiatives, localized land tribunals, and participatory village development plans could enhance transparency, procedural clarity, and legal certainty in land allocation processes. In regions characterized by indigenous or customary tenure systems, formal statutory recognition analogous to Tanzania’s Village Land Act framework may help address persistent issues of exclusion and dispossession associated with FDI-driven land development.



**Fig. 4.** Bottom-Up Model)  
(Santita Ganjanapan, 2004)

### 5.3 Germany: Legal-Rational Statutory Planning Model

Germany exemplifies a legal-rational model of public participation grounded in procedural planning legislation and strong municipal autonomy. The Federal Building Code (*Baugesetzbuch*) mandates public participation during the preparation of both the *Flächennutzungsplan* (FNP), a strategic land-use plan, and the *Bebauungsplan* (B-Plan), a legally binding development plan [12,13]. Participation mechanisms include public notices, formal hearings, written submissions, and the online publication of draft plans. Citizens are entitled to submit objections, and planning authorities are legally required to review and formally respond to these submissions. Nevertheless, final decision-making authority remains vested in municipal councils, situating Germany's model between the "consultation" and "placation" rungs of Arnstein's Ladder of Citizen Participation [4].

Germany's planning framework also places strong emphasis on transparency and public access to information, supported by digital platforms and institutionalized planning departments [18]. While this system promotes procedural openness and legal predictability, it has been critiqued for its technocratic orientation and the limited substantive influence afforded to citizens in final decisions. The principal strengths of the German model lie in its consistency, legal clarity, and standardized application across jurisdictions. From a comparative perspective, Germany's approach illustrates how statutory design can institutionalize participatory procedures while maintaining administrative coherence. Embedding mandatory consultation periods, digital transparency requirements, and formal response obligations within planning legislation could enhance procedural accountability in Malaysia's land governance framework. Additionally, assigning clear statutory responsibilities to local planning authorities for conducting and documenting public engagement would promote greater uniformity across states and reduce discretionary inconsistencies in participatory practice.



**Fig. 5.** Germany’s PP model in land allocation  
 (Reimer et al., 2014)

## 6. Comparative Analysis

This section offers a comparative analysis of public participation practices in the Philippines, Tanzania, and Germany, guided by five core dimensions: legal foundation, institutional arrangements, decision-making influence, information accessibility, and the nature and quality of participation. These dimensions are informed by an integrated conceptual framework that blends Ostrom’s Institutional Analysis and Development (IAD) model, Arnstein’s Ladder of Citizen Participation and the World Bank’s Land Governance Assessment Framework. Together, these tools provide both a structured and normative lens through which to assess how each country approaches participatory land governance [4,29,37,41].

**Table 2**

Comparison of public participation models in the Philippines, Tanzania, and Germany using five analytical dimensions

Dimensions	Philippines	Tanzania	Germany
Model	Hybrid Rights-Based Decentralized Planning Model	Bottom-Up Customary Governance Model	Legal-Rational Statutory Planning Model
Legal Basic	IPRA 1997 (FPIC), Local Government Code	Village Land Act 1999	Baugesetzbuch (Federal Building Code)

Institutional Mechanisms	FPIC via NCIP, LGU-led CLUP, and barangay consultations	Village Land Use Planning (VLUP), Village Assemblies	Flächennutzungsplan and Bebauungsplan, public feedback
Decision-Making Influence	High for Indigenous communities, moderate for the public	High at the village level through assemblies	Moderate; formal feedback considered but not binding
Access to Information	Required by law, including in local languages	Participatory mapping, village meetings	Legal publication and public notice
Participation Quality	Delegated power (Indigenous), consultation (general)	Delegated power/ partnership	Consultation/placation

The comparative findings reveal three distinct approaches to institutionalizing public participation in FDI-related land governance. Tanzania demonstrates the highest level of grassroots empowerment through a deeply decentralized system anchored in the Village Land Act of 1999 [1,29]. Land use decisions are made directly by village assemblies, allowing communities to actively shape development outcomes. Participation is embedded in both statutory and customary governance institutions. This model exemplifies how the legal devolution of authorities, supported by participatory tools such as village land use plans (VLUPs) and participatory mapping, can empower local actors to make binding land-use decisions [1,2]. The Philippines presents a hybrid participatory model. The Indigenous Peoples’ Rights Act (IPRA) 1997 mandates Free, Prior and Informed Consent (FPIC) as a legal right for indigenous communities, allowing them to approve or reject projects on ancestral lands [17,39]. In addition to indigenous territories, participation is facilitated through local government units (LGUs) via comprehensive land use (CLUPs) and barangay-level consultations. This dual-track system offers strong protection for indigenous rights but yields more symbolic participation in broader planning exercises, creating uneven participatory experiences [18].

Germany exemplifies a legal-rational, procedure-oriented model of participation. Planning processes are structured through the Federal Building Code (Baugesetzbuch), which mandates early-stage consultation for both preparatory (Flächennutzungsplan) and legally binding (Bebauungsplan) land-use plans [29,32]. Although public feedback is formally integrated into planning procedures, final decisions remain at the discretion of local authorities. Although participation is institutionalized and transparent, it is often more procedural aligned with the lower rungs of Arnstein’s Ladder, such as consultation or placation. This comparative analysis illustrates the trade-offs between participatory empowerment and procedural formalism. Tanzania prioritizes community authority and land ownership, Germany emphasizes legal certainty and administrative order, and the Philippines combines rights-based empowerment for indigenous people with broader, state-led planning processes. These models reflect distinct institutional logics shaped by each country’s legal traditions, decentralization frameworks, and social movements. For Malaysia, these findings highlight the importance of going beyond symbolic or procedural forms of consultation. Institutional reforms must aim to embed participation as a legal right, supported by operational mechanisms that grant real influence over land governance decisions. Drawing lessons from Tanzania’s embedded decentralization and the Philippines’ FPIC regime offers a strategic starting point for policy reform. These insights are further elaborated in the next section, which outlines specific implications for Malaysia’s evolving land governance framework.

## **7. Policy Implications for Malaysia**

The comparative findings reveal three distinct approaches to institutionalizing public participation in FDI-related land governance. Tanzania represents the most decentralized and empowerment-oriented model, anchored in the Village Land Act 1999 [1]. Under this framework, land-use decisions are made directly by village assemblies, enabling communities to exercise binding authority over land allocation and development approvals. Participation is embedded within both statutory and customary governance institutions. The legal devolution of authority, reinforced through instruments such as Village Land Use Plans (VLUPs) and participatory mapping, enables grassroots actors to influence development outcomes in substantive ways [2]. This model illustrates how institutionalized decentralization can translate participatory principles into legally enforceable decision-making power. The Philippines presents a hybrid participatory architecture. The Indigenous Peoples' Rights Act (IPRA) 1997 mandates Free, Prior, and Informed Consent (FPIC) as a legally protected right, granting indigenous communities the authority to approve or reject projects affecting ancestral domains [17].

Beyond indigenous territories, participatory mechanisms operate through local government units (LGUs), including Comprehensive Land Use Plans (CLUPs) and barangay-level consultations [18]. While this dual-track system provides strong safeguards for indigenous communities, broader planning processes often remain consultative in nature, resulting in uneven participatory experiences across governance contexts. Germany exemplifies a legal-rational and procedure-oriented participation model. Planning processes are structured under the Federal Building Code (Baugesetzbuch), which mandates early-stage consultation for both preparatory (Flächennutzungsplan) and legally binding (Bebauungsplan) plans [29,32]. Public feedback is formally incorporated into the planning process, and authorities are required to review and respond to objections. Nevertheless, final decision-making authority remains with municipal councils. Participation is therefore institutionalized and transparent, yet predominantly procedural, corresponding to the "consultation" or "placation" levels of Arnstein's Ladder of Citizen Participation [4].

Taken together, the comparative analysis highlights fundamental trade-offs between participatory empowerment and procedural formalism. Tanzania prioritizes community authority and localized land governance; Germany emphasizes legal certainty, administrative coherence, and transparency; and the Philippines combines rights-based empowerment for indigenous communities with broader state-led planning structures. These institutional models reflect distinct legal traditions, decentralization pathways, and socio-political histories. For Malaysia, the findings underscore the need to move beyond symbolic or procedural consultation toward legally grounded and institutionally embedded participation. Reform efforts should focus on strengthening the legal enforceability of participatory rights and expanding operational mechanisms that grant communities meaningful influence over land governance decisions. Lessons drawn from Tanzania's decentralized village governance and the Philippines' FPIC regime provide strategic reference points for institutional reform. These implications are elaborated further in the subsequent section, which outlines specific policy directions for enhancing Malaysia's participatory land governance framework.

### *7.1 Establish Legally Enforceable Participation Rights*

One of the key institutional gaps in Malaysia is the lack of codified, enforceable rights to participation, particularly in contexts involving land alienation, compulsory acquisition, and FDI-induced displacement. Currently, public engagement processes lack legal state consequences, state

governments are not bound to incorporate public views, and affected communities have no legal standing to challenge opaque or coercive decision-making. Drawing from the Philippines' Indigenous Peoples' Rights Act (IPRA) 1997, which mandates Prior, and informed consent (FPIC), Malaysia can establish statutory rights to participate for both indigenous (Orang Asli) and non-indigenous rural populations [27,28]. A reformed National Land Code (Act 56 of 1965) or the introduction of a Community Land Rights Act could embed FPIC-like provisions, legally requiring state authorities and private developers to secure affirmative, informed, and freely given consent from local communities before any land acquisition or project approval. Such rights should be accompanied by procedural guarantees, timeframes for consultation, access to legal representation, and the right to withhold consent in cases of non-compliance.

### *7.2 Decentralized Land Governance and Empower Local Institutions*

Malaysia's current land governance system is state-centric, with state executive councils holding near-total discretion over land alienation under Section 76 of the National Land Code. This model sidelines local governments and community actors from meaningful involvement in planning decisions. In contrast, Tanzania's Village Land Act 1999 devolves authority to village councils and assemblies, enabling direct community oversight of land use decisions. To align with this model, Malaysia should pursue decentralized land governance through legal and administrative reforms. This could include amending the Local Government Act 1976 to mandate participatory land use planning by municipal and district councils, and institutionalizing village-level spatial plans akin to Tanzania's Village Land Use Plans (VLUPs). These instruments should be formulated through inclusive consultations, supported by technical planning units, and granted statutory authority within state planning hierarchies. Devolution of authority to local institutions would allow for more context-specific decision-making and empower communities to resist unwanted or exploitative land acquisitions.

### *7.3 Ensure Early-Stage and Transparent Information Access*

Effective participation depends on access to relevant, timely, and comprehensible information. In Malaysia, project documents including EIAs and planning proposals are often disclosed only after key decisions have been made and are typically in formats inaccessible to rural or low-literacy populations. In contrast, Germany's planning law (Baugesetzbuch) mandates early-stage public disclosure, including online access to development plans and formal opportunities for written objections. Malaysia should follow Germany's example by adopting mandatory disclosure protocols. These would require government agencies and investors to release planning documents, impact assessments, and land acquisition proposals before approvals are granted. Information must be published in local languages, through non-technical summaries, and multiple channels including online portals, local notice boards, and community briefings. Reforms should also update the Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 2015 to mandate that EIAs be published in full, with a clear public comment period, before final approvals.

### *7.4 Move Participation Upstream in Decision-Making*

Another key weakness in Malaysia's current system is that participation is introduced too late, often only at the operational or implementation stages, after investment deals and land alienation decisions have already been concluded. Drawing from Ostrom's IAD framework, effective

participation should be embedded at the constitutional and collective-choice levels, where policies and institutional rules are first created [33]. Learning from Germany's early-stage planning hearings and Tanzania's village assembly approvals, Malaysia should require public participation to be integrated into:

- i. Strategic Environmental Assessments (SEAs)
- ii. Development corridor planning
- iii. Pre-alienation land suitability assessments

This would ensure communities can influence investment direction, not merely respond to predetermined plans. Such upstream engagement should also be supported by mechanisms for community veto or conditional approvals, especially where land use changes affect customary tenure or public trust land.

### *7.5 Protect Marginalized and Indigenous Communities*

Malaysia's Aboriginal Peoples Act 1954 provides minimal protection for Orang Asli land rights, allowing dispossession under vague "public interest" justifications [35,36]. Smallholder farmers, Malay reserve landowners, and customary land claimants similarly lack legal clarity or participatory avenues when land is acquired for investment purposes [11].

To ensure equity and justice, Malaysia should do the following:

- i. Update legal definitions of customary land to reflect long-standing occupation and use (as in Tanzania's recognition of customary title).
- ii. Mandate FPIC for all indigenous and customary communities, not only Orang Asli.
- iii. Create independent grievance mechanisms such as land tribunals or ombudsman offices with authority to review compensation, resettlement, and procedural fairness.
- iv. Provide legal aid, translation services, and culturally sensitive consultation methods should be provided during the planning and negotiation phases

### *7.6 Create Monitoring and Accountability Mechanisms*

Finally, Malaysia lacks independent oversight bodies to monitor compliance with participatory procedures or to evaluate the effectiveness of public involvement in land governance. Currently, agencies conducting consultations also approve the final plans, creating conflicts of interest and institutional bias. Inspired by the World Bank's LGAF framework, Malaysia should establish an independent land governance monitoring (LGMC) or a public participation ombudsman office, tasked with the following:

- i. Auditing participatory practices in FDI-driven development
- ii. Publishing annual reports on compliance and effectiveness
- iii. Investigating public complaints and recommending enforcement actions
- iv. Advising Parliament on legislative and policy gaps

Such body would not only enhance institutional accountability but also promote transparency and public trust in land-related decision-making. In sum, improving public participation in Malaysia's FDI-driven land governance requires a holistic transformation of legal frameworks, institutional

practices, and administrative mindsets. The international models analyzed in this study, each with their strengths and limitations, offer practical and adaptable lessons. By adopting rights-based participation, decentralized governance, early-stage transparency, and robust oversight, Malaysia can move toward a land governance system that is inclusive, accountable, and resilient in the face of developmental pressures.

## **8. Conclusion**

This study demonstrates that public participation in FDI-driven land governance is shaped less by the mere existence of formal consultation provisions and more by the extent to which participatory rights are institutionally embedded, legally enforceable, and substantively linked to decision-making authority. Through a comparative conceptual analysis of three governance models—the hybrid rights-based decentralized planning system of the Philippines, the bottom-up customary governance structure of Tanzania, and the legal-rational statutory framework of Germany—the findings reveal that meaningful participation emerges from the interaction between legal enforceability, institutional design, and the distribution of power among state, market, and community actors. By integrating Ostrom’s Institutional Analysis and Development (IAD) framework, Arnstein’s Ladder of Participation, and the World Bank’s Land Governance Assessment Framework (LGAF), the study operationalizes participation across five evaluative dimensions: legal basis, institutional mechanisms, decision-making influence, access to information, and participation quality.

The comparative analysis highlights clear variations in participatory outcomes. Tanzania exhibits the most robust form of grassroots empowerment, where statutory recognition of customary governance grants village-level institutions substantive authority over land allocation decisions. The Philippines reflects a dual-track system in which indigenous communities exercise binding decision-making power through Free, Prior, and Informed Consent (FPIC), while broader planning processes remain more consultative in character. Germany emphasizes procedural certainty and institutional transparency through legally mandated early-stage consultation; however, final authority remains concentrated within municipal councils, limiting the depth of participatory influence. These models illustrate inherent trade-offs between procedural formalism, legal certainty, and participatory empowerment across different governance contexts.

With respect to Malaysia, the findings indicate that public participation remains largely procedural and non-binding. Although statutory provisions for consultation exist under the Town and Country Planning Act 1976 and the Environmental Quality Act 1974, participatory processes are typically reactive, introduced at later stages of development, and exert limited influence on substantive land-use decisions. Drawing on comparative institutional insights, the study identifies key reform priorities, including the strengthening of legally enforceable participatory rights, the decentralization of planning mechanisms, earlier integration of communities into decision-making processes, and targeted safeguards for marginalized and affected groups within Malaysia’s land governance framework.

Beyond its policy implications, this research contributes conceptually by demonstrating the analytical value of integrating institutional analysis with normative participation theory. The findings affirm that meaningful public participation is not simply a procedural obligation but an institutional outcome shaped by governance structures, actor relationships, and power asymmetries. Future research should extend this conceptual foundation through empirical fieldwork to examine lived experiences of participation among diverse stakeholders in Malaysia and to assess the transferability of these insights across other Global South and ASEAN contexts. Ultimately, institutionalizing legally

grounded, inclusive, and enforceable participation is essential to ensuring that FDI-driven development in Malaysia advances equity, legitimacy, and long-term social sustainability.

## Acknowledgement

This research was not funded by any grant.

## References

- [1] Alden, W., and A. Liz. "Community-based land tenure management: questions and answers about Tanzania's New Village Land Act." *London: International Institute for Environment and Development. OpenURL* (2003)
- [2] Alden Wily, Liz. "Governance and land relations: A review of decentralisation of land administration and management in Africa." (2003).
- [3] Wily, Liz Alden. "The law is to blame': the vulnerable status of common property rights in sub-Saharan Africa." *Development and change* 42, no. 3 (2011): 733-757. <https://doi.org/10.1111/j.1467-7660.2011.01707.x>
- [4] Arnstein, Sherry R. "A ladder of citizen participation." *Journal of the American Institute of planners* 35, no. 4 (1969): 216-224. <https://doi.org/10.1080/01944366908977225>
- [5] Azlan, Ahmad, and Abdul Rahman Embong. "Mega Development Projects and Community Displacement in Malaysia." *Journal of Urban Affairs* 43, no. 6 (2021): 859-76. <https://doi.org/10.1080/07352166.2020.1762395>
- [6] Borrás Jr, Saturnino M., and Jennifer C. Franco. "Global land grabbing and trajectories of agrarian change: A preliminary analysis." *Journal of agrarian change* 12, no. 1 (2012): 34-59. <https://doi.org/10.1111/j.1471-0366.2011.00339.x>
- [7] Borrás Jr, Saturnino M., Ruth Hall, Ian Scoones, Ben White, and Wendy Wolford. "Towards a better understanding of global land grabbing: an editorial introduction." *The journal of peasant studies* 38, no. 2 (2011): 209-216. <https://doi.org/10.1080/03066150.2011.559005>
- [8] Bradbury, Judith. "Public Participation as Co-Creation in Environmental Governance." *Environmental Policy and Governance* 30, no. 6 (2020): 259-71. <https://doi.org/10.1002/eet.1898>
- [9] Bradbury, Judith. "Public Participation as Co-Creation in Planning: Emerging Lessons." *Planning Theory* 19, no. 4 (2020): 421-38.
- [10] Bunnell, Tim. "Malaysia, Modernity and the Multimedia Super Corridor." *Political Geography* 31, no. 4 (2012): 251-61. <https://doi.org/10.1016/j.polgeo.2012.01.003>
- [11] Colchester, Marcus, and M. Ferrari. "Making FPIC work: challenges and prospects for indigenous peoples." *Forest Peoples Programme*, [http://www.forestpeoples.org/documents/law\\_hr/fpic\\_synthesis\\_jun07\\_eng.pdf](http://www.forestpeoples.org/documents/law_hr/fpic_synthesis_jun07_eng.pdf) (2007). <https://www.forestpeoples.org>
- [12] Cooke, Bill, and Uma Kothari, eds. *Participation: The New Tyranny?* London: Zed Books, 2001.
- [13] Cornwall, Andrea. "Unpacking 'Participation': models, meanings and practices." *Community development journal* 43, no. 3 (2008): 269-283. <https://doi.org/10.1093/cdj/bsn010>
- [14] Daley, Elizabeth, and Birgit Englert. "Securing land rights for women." *Journal of Eastern African Studies* 4, no. 1 (2010): 91-113. <https://doi.org/10.1080/17531050903556675>
- [15] Enserink, Bert, and Joop Koppenjan. "Public participation in China: sustainable urbanization and governance." *Management of Environmental Quality: An International Journal* 18, no. 4 (2007): 459-474. <https://doi.org/10.1108/14777830710753848>
- [16] Fiorino, Daniel J. "Citizen participation and environmental risk: A survey of institutional mechanisms." *Science, Technology, & Human Values* 15, no. 2 (1990): 226-243. <https://doi.org/10.1177/016224399001500204>
- [17] Frewer, Lynn J. "Public Participation Methods." *Science, Technology, & Human Values* 25, no. 1 (2000): 3-29. <https://doi.org/10.1177/016224390002500101>
- [18] Fung, Archon. "Varieties of participation in complex governance." *Public administration review* 66 (2006): 66-75. <https://doi.org/10.1111/j.1540-6210.2006.00667.x>
- [19] Fung, Archon. "Putting the public back into governance: The challenges of citizen participation and its future." *Public administration review* 75, no. 4 (2015): 513-522. <https://doi.org/10.1111/puar.12361>
- [20] Franco, Jennifer C. "Reclaiming Free Prior and Informed Consent in the Context of Global Land Grabbing." *Globalizations* 11, no. 6 (2014): 733-48. <https://doi.org/10.1080/14747731.2014.969321>
- [21] Healey, Patsy. *Collaborative Planning: Shaping Places in Fragmented Societies*. London: Macmillan, 1997. <https://doi.org/10.1007/978-1-349-25538-2>
- [22] Irvin, Renee A., and John Stansbury. "Citizen participation in decision making: is it worth the effort?." *Public administration review* 64, no. 1 (2004): 55-65. <https://doi.org/10.1111/j.1540-6210.2004.00346.x>

- [23] Lee, Norman, and Chan Fong Choy. "Environmental Impact Assessment in Malaysia: A Review of Past Practice and Future Directions." *Impact Assessment and Project Appraisal* 25, no. 2 (2007): 121–30.
- [24] Levien, Michael. "The politics of dispossession: Theorizing India's "land wars"." *Politics & Society* 41, no. 3 (2013): 351-394. <https://doi.org/10.1016/j.geoforum.2012.09.002>
- [25] Lim, Andrew S., and Choy Yee Teo. "Participatory Planning and the Myth of Empowerment in Malaysia." *Planning Malaysia* 17, no. 3 (2019): 221–34.
- [26] Lim, Chin Siong, and Pei Teo. "Political Decentralization and Local Governance in Malaysia." *Asian Journal of Political Science* 27, no. 1 (2019): 1–18. <https://doi.org/10.1080/02185377.2019.1566880>
- [27] Mohamad, Masri, Siti Shamsudin, and Roslan Zainol. "Public Participation in Malaysian Planning System: Issues and Prospects." *Journal of Urban Management* 9, no. 3 (2020): 337–48.
- [28] Musa, Ahmad, and Alias Abdullah. "Land Acquisition, Compensation, and Public Objection in Malaysia." *Land Use Policy* 95 (2020): 104620. <https://doi.org/10.1016/j.landusepol.2020.104620>
- [29] Miller, Michelle, and Tim Bunnell. "Urban Planning, Participation and Governance in Germany." *Planning Theory & Practice* 15, no. 4 (2014): 527–45. <https://doi.org/10.1080/14649357.2014.963653>
- [30] Ng, Mei-Ling, and Lee Poh Choy. "Institutional Constraints on Public Participation in Malaysian Planning Practice." *Planning Practice & Research* 35, no. 2 (2020): 170–86.
- [31] Ng, Mee Kam. "Mega-Projects and Displacement: Forest City and the Politics of Land in Malaysia." *Cities* 108 (2021): 102982. <https://doi.org/10.1016/j.cities.2020.102982>
- [32] Ng, Mee Kam, and L. H. T. Choy. "Developmental State and Land Governance in Malaysia." *Land Use Policy* 94 (2020): 104502. <https://doi.org/10.1016/j.landusepol.2020.104502>
- [33] Ostrom, Elinor. *Understanding Institutional Diversity*. Princeton, NJ: Princeton University Press, 2005. <https://doi.org/10.2307/j.ctt7s7wm>
- [34] Ortolano, Leonard, Angela Jenkins, and Richard Abracosa. "Environmental Impact Assessment: Effectiveness and Practice." *Environmental Impact Assessment Review* 20, no. 2 (2000): 163–78.
- [35] Said, Ismail, Hassan Aksah, and M. Ismail. "Public Participation in Urban Green Space Planning." *Procedia – Social and Behavioral Sciences* 105 (2013): 311–20. <https://doi.org/10.1016/j.sbspro.2013.11.033>
- [36] Rahman, Nooraini Othman, Norashikin Yusoff, and Zurinah Shafii. "Public Participation Deficits in Malaysian Land Governance." *Land* 10, no. 9 (2021): 954. <https://doi.org/10.3390/land10090954>
- [37] Rowe, Gene, and Lynn J. Frewer. "A typology of public engagement mechanisms." *Science, technology, & human values* 30, no. 2 (2005): 251-290. <https://doi.org/10.1177/0162243904271724>
- [38] Reimer, Mario, Panagiotis Getimis, and H. Blotevogel. "Spatial planning systems and practices in Europe." *A comparative perspective on continuity and changes*. New York (2014). <https://doi.org/10.4324/9781315852577>
- [39] Udemba, Ebere C., and Philip Ifeakachukwu. "Land, Investment and Sustainable Development in Emerging Economies." *Resources Policy* 77 (2022): 102745. <https://doi.org/10.1016/j.resourpol.2022.102745>
- [40] UN-Habitat. *International Guidelines on Urban and Territorial Planning*. Nairobi: United Nations Human Settlements Programme, 2021. <https://unhabitat.org/international-guidelines-on-urban-and-territorial-planning>
- [41] World Bank. *Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector*. Washington, DC: World Bank, 2013. <https://doi.org/10.1596/978-0-8213-8758-0>
- [42] Yin, Jun, Jie Wu, and Yu Liu. "Public Participation and Environmental Governance in Developing Countries." *Environmental Impact Assessment Review* 84 (2020): 106435. <https://doi.org/10.1016/j.eiar.2020.106435>
- [43] Zhang, Jun. "The Politics of Forest City." *Geoforum* 114 (2020): 103141. <https://doi.org/10.1016/j.geoforum.2020.103141>
- [44] Zoomers, Annelies. "Globalisation and the foreignisation of space: seven processes driving the current global land grab." *The Journal of Peasant Studies* 37, no. 2 (2010): 429-447. <https://doi.org/10.1080/01436591003711967>