



Policies against Hunger 2013

Land ahead!

Applying the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

10. - 12. June 2013

CONFERENCE RECOMMENDATIONS

At the invitation of Federal Minister of Food, Agriculture and Consumer Protection, Ilse Aigner, farmers representatives, policymakers from national governments, regional organizations such as the EU, the United Nations, private sector and civil society organizations representatives, human rights defenders and scientists from 44 countries came together to exchange experiences, ideas and action plans on the question of how to increase secure and equitable access to natural resources - a central prerequisite for the realization of the right food of many people around the world. Special emphasis was placed on the question of how the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security* can contribute to this objective and how their implementation can be supported. In four working groups, participants discussed issues such as:

- **Governing Land Responsibly – Institutions and Actors**
- **Conflicts over Land –Dispute Resolution and De-escalation**
- **Investments in Land – Taking on Responsibility. Now!**
- **Monitoring Progress towards Decisions and Recommendations**

As the outcome of the conference, participants have drawn a number of conclusions and recommendations which shall guide the implementation of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*.



Working Group 1: “Governing Land Responsibly – Institutions and Actors

Key messages

1. Land relations are deeply embedded in power relations. The implementation of the VGGT cannot be only a technical process but it is in essence a social and political question. Consequence: Importance of supporting inclusive, participatory multi-stakeholder dialogues.
2. Governments should acknowledge and support civil society and women’s movements in land policy design and implementation. And civil society should acknowledge the diversity within the state apparatus and continue to struggle for visibility of people and their rights. There is a need to explicate the discriminatory nature of the actually existing land governance systems.
3. Support exchange of information in an accessible and transparent way (information/knowledge = power)

Recommendations

1. Build on the existing experiences in implementing pro-poor policies and other responsible land governance processes (defined acc. to the VGGT).
2. International community to support at least five countries in which national Governments & civil society have agreed to set up a national VGGT implementation processes (multi-stakeholder platforms) that acknowledge the claims by different groups and prioritize according to the VGGT
3. Exchange information in an accessible and transparent way (tapping into and acknowledging traditional knowledge)
4. Include the necessary safeguard processes so that the process will not be taken over by those not interested in responsible land governance (defined acc. to the VGGT)



5. Acknowledge that VGGT is not only a technical process but in essence a social and political question.
6. When receiving support requests by national governments or when encouraging national governments for implementing the VGGT at country level, states and international institutions should ensure that the first step is the establishment of inclusive, participatory multi-stakeholder platforms that should oversee support activities. They should assist the national governments in setting up these platforms.
7. Acknowledge the linkages between land and the wider societal context. Land relations are deeply embedded in power relations. This applies in particular to women's land rights. Need for state authorities to aim for establishing "level playing field".
8. Civil society: Acknowledge the diversity within the state apparatus and continue to struggle for visibility of people and their rights
9. Different organizations of the Government structure should work together at the local level. There is the need for a "host" organization in this (mapping of which institution is best equipped for this according to the VGGT explicating the discriminatory nature of the actually existing land governance system).
10. Governments acknowledge and support civil society and women's movements in land policy design and implementation (in particular, in community building "numbers bring power").
11. Ensure coherence in national & international processes and policies (e.g., trade and investment policies or RAI and VGGT) and include responsible land governance targets in the post-2015 development agenda. The ultimate criterion to guide these processes is putting the last first.
12. Build up complaint and dispute resolution mechanisms (e.g land tribunals, India).
13. Learn from successful cross-compliance mechanisms (e.g. Brazil)



Working Group 2: Conflicts over Land – Dispute Resolution and De-escalation

Key observations and recommendations

Disputes over land and productive resources (such as fisheries, forests and water resources) are endemic to human society. Secure tenure of land, fisheries, forests and water resources is the foundation of local and global food security.

There is a complex cyclical relationship between disputes regarding land, fisheries, forests and water resources (especially insofar as they impact food security) and overt conflict. Tenure disputes can easily escalate into conflict. It is also critical to deal with tenure issues in post-conflict situations (especially concerning restitution, returning refugees/IDPs etc) in order to build a sustainable peace.

1. States should take maximum advantage of the opportunities that the VGGT provide for addressing these issues in a comprehensive, evidence-based (through mapping existing tenure rights, formal and informal) and participatory fashion, in order to promote social justice and political stability and to break cycles of conflict.
2. States should incorporate the VGGT in national law and policy, and in development cooperation policy and practice.
3. States should recognize and strengthen customary tenure, and avoid measures that strengthen the strong, and weaken the weak.

Legitimacy (downward accountability), low-cost, and timeliness of adjudication of tenure disputes are central to effectiveness.

1. With regard to symmetric community disputes on tenure issues, States should give priority to support for and recognition of horizontal mechanisms (village committees, local conventions), and empowerment of marginalized communities.
2. Especially for asymmetric tenure disputes (including those involving TNCs) States should establish and support specialist tribunals/complaint mechanisms (where possible integrating traditional authorities) empowered to adjudicate land conflicts. (Mini-



imum standards: independence, binding decisions, preliminary injunctive relief, accessible - also to groups, consultation, alleviation/reversal of burden of proof.)

3. Civil society groups/NGOS should utilize the VGGT as a 'soft law' resource in negotiations and especially litigation (e.g. re "land grabbing").
4. Donor community, FAO and other appropriate institutions should provide technical and material support for implementation of above recommendations at the national level.

Different government departments and authorities – in both donor and other countries – must pursue their respective roles in support of implementation of the VGGT according to a coherent whole-of-government strategy.

In conflict situations, the rule of law and the authority of formal institutions have often broken down. But traditional/customary systems of authority generally persist, and may provide the only remaining social/community authority. Especially with conflict-risk, conflict and post-conflict situations in mind, the VGGT offer a salutary opportunity to integrate informal/customary/traditional systems with formal/legal systems, for greater legitimacy and effectiveness – including in conflict situations. But community consultation is key to achieving such integration. Top-down approaches are generally unsuccessful, and to be avoided.

1. In the process of follow-up to the VGGT, CFS should play a lead role as the international forum for exchange of best practice in achieving effective integration of formal and customary systems for resolving tenure disputes, as well as for general monitoring of implementation of the VGGT.

But customary systems are not universally positive. There is a need to address their shortcomings from a rights-based perspective. We need to proceed carefully, so as not to jeopardize legitimacy.

1. There may be a role for an appropriate UN human rights expert study on integrating customary systems and principles with human rights law – possibly by HRC Expert Advisory Committee.



Working Group 3: “Investments in Land – Taking on responsibility. Now!”

Recommendations

1. **Governments:** initiate national multi-stakeholder platforms and approaches, conduct – in a participatory manner - de jure and de facto checks and prepare adjustment plans, support investments by male and female small holders, invest into public goods (infrastructure, education, extension, research etc.) to create a conducive investment environment for small scale producers, promote collaborative business models that ensure that control of the land remains with the local tenure rights holders, focus on recording legitimate tenure rights, support capacity building (information on national laws, rights, awareness raising on VGGT), include VG principles into CAADP investment compacts; harmonize policies of different ministries, set up complaint mechanisms at national level
2. **Governments acting at international level:** use the VG as standard when entering into cooperation with other countries, when setting up new policies and treaties and make the application of the VG standards a prerequisite when cooperating with partner countries and private investors,
3. **Governments of countries of investors’ origin:**
 - set up monitoring and complaint mechanism in recipient countries involving their embassies. This initiative could be launched by G8 or G20 or a similar body.
 - further investigate the link between investment agreements, extraterritorial obligations and safeguards regarding human and tenure rights,
4. **EU countries:** Include VG standards into national action plans to implement the guiding principles on business and human rights (Ruggie framework).
5. **World Bank:** In the process of reviewing the World Bank social and environmental safeguards use the VG as standard to develop a separate safeguard on land.



6. **CSO:** Disseminate the VG message, monitor investments using the VG as yardstick and report to governments and CFS, get into negotiation mode to ensure that governments react to their demands.
7. **Financial Investors:** Apply the VG standards in their operations.
8. **CFS:** rai principles should build on VG and not reopen discussion on land issues. They should also recognize that smallholders are the biggest group of investors whose role should be strengthened by public investment.
9. **FAO with the support of CSO:** Produce easy to read/understand version of the VG and make it available in local languages



Working Group 4: “Monitoring progress towards decisions and recommendations”

Recommendations

1. CFS has an important role to play in assessing progress towards the implementation of the Guidelines and their relevance, effectiveness and impact. Land tenure is very complex. Therefore the approach should be short-, medium- and long-term and include case studies from different stakeholders and contexts in order to foster learning by doing.
2. Multi-stakeholder and multi-sectoral platforms should be established at all levels. These platforms should reflect the plurality of civil society, including particularly those most affected by food insecurity.
3. We recommend linking with existing national and regional processes and platforms in order to build partnerships for the monitoring and evaluation of land tenure.
4. We recommend the development and use of indicators, which are quantitative and qualitative and reflect the five principles in the Global Strategic Framework (para. 92 and 93), e.g. human rights based and gender sensitive.
5. Where it does not exist it is important to support capacity building in the field of monitoring and evaluation in order to enhance accountability at all levels.
6. Dissemination of the VGGT is crucial and should use the existing multi-stakeholder networks. A special focus should be on bridging the gap “between Rome and the local communities”.