



## “Governing Land Responsibly – Institutions and Actors”

Working Group 1

### Background

In many parts of the world, smallholders, women and indigenous communities do not hold secure property, use and access rights in land. This poses serious threats to their livelihoods and food security. Often, this occurs despite of pro-poor land policies. Prevailing power relations and vested interests contribute to this outcome. The “Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” (VG) describe internationally agreed upon principles, which put land rights of marginalized groups and the right to food in the center. Developing criteria for responsible land governance, the VG encompass “principles of implementation”:

*Food and Agriculture Organization of the United Nations (FAO) (2012): Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, Part 2 General Matters, 3B Principles of implementation. Rome: FAO, p. 4-5.*

### 3B Principles of implementation

These principles of implementation are essential to contribute to responsible governance of tenure of land, fisheries and forests.

1. **Human dignity:** recognizing the inherent dignity and the equal and inalienable human rights of all individuals.
2. **Non-discrimination:** no one should be subject to discrimination under law and policies as well as in practice.
3. **Equity and justice:** recognizing that equality between individuals may require acknowledging differences between individuals, and taking positive action, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests, for all, women and men, youth and vulnerable and traditionally marginalized people, within the national context.
4. **Gender equality:** Ensure the equal right of women and men to the enjoyment of all human rights, while acknowledging differences between women and men and taking specific measures aimed at accelerating de facto equality when necessary. States should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status.
5. **Holistic and sustainable approach:** recognizing that natural resources and their uses are interconnected, and adopting an integrated and sustainable approach to their administration.
6. **Consultation and participation:** engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.
7. **Rule of law:** adopting a rules-based approach through laws that are widely publicized in applicable languages, applicable to all, equally enforced and independently adjudicated, and that



are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.

8. **Transparency:** clearly defining and widely publicizing policies, laws and procedures in applicable languages, and widely publicizing decisions in applicable languages and in formats accessible to all.
9. **Accountability:** holding individuals, public agencies and nonstate actors responsible for their actions and decisions according to the principles of the rule of law.
10. **Continuous improvement:** States should improve mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and secure on-going improvements.

In many contexts, moving from the status quo of land governance to the principles laid out in the VG would often require fundamental societal change.

Against this backdrop, this working group addresses three questions: (i) What can be learned from the challenges to land tenure reforms regarding their implementation? (ii) Which institutions (formal or informal rules of society), organizations and actors can trigger a transition towards responsible land governance systems in practice? (iii) What recommendations can be made for the implementation of the principles of the VG?

### **(i) Challenges in the implementation of land tenure reforms – Lessons learned**

Land tenure reforms attempt reordering social relations governing land to the favor of vulnerable groups. Successful reforms must alter prevailing institutional contexts and power structures that sustain the status quo. In other words, land reforms must overcome the very same social structures that gave rise to them in the first place. Based on case studies from Brazil and Indonesia, the workshop sets out by identifying and discussing challenges to the implementation of land tenure reforms. The lessons learned inform the debate on how to move from responsible land governance principles to practice.

### **(ii) Triggers for change towards responsible land governance**

The second part of the workshop explores triggers for change towards responsible land governance. Drawing on experiences with land governance reforms, the panelists will provide inputs on rules, organizations, and actors that have proven to be pivotal to make responsible land governance happen. Inputs will address which institutions (formal or informal rules), organizations and actors contribute to:

#### *1 Incorporating the right into law:*

- Advocacy for rights is essential to change a land governance system. What are workable advocacy strategies? What are minimum requirements in terms of institutional context for civil society to fulfill its role?
- What about countries which are not characterized by a vivid civil society?

#### *2 Assuring enjoyment of a right:*

- What are proven low-cost practices of holding the state accountable? What role for para-legals?
- Conflict resolution plays a pivotal role in assuring rights. What are workable mechanisms? Are there actors that have a track record in facilitating conflict resolution?



- Multi-stakeholder platforms are often portrayed as having an important role in giving marginalized groups a voice in decision-making. The working group will address the question of how to balance power (in-)balances within the group and how to contribute to equal participation.
- To what extent can policies outside the land sector contribute to responsible land governance? We will address how environmental and agricultural policies can lead to more responsible land governance.

3 *Achieving acceptance of a right:*

- Assuring enjoyment of a right by means of enforcement is pivotal. However, the need for enforcement decreases with the degree a right becomes accepted by all members of society. Which communication and awareness raising strategies were successful in altering public opinion on land rights allocations?

**(iii) Recommendations**

During the final part of the workshop, we would like to merge the findings into recommendations for various stakeholders. The actual work will be done during the workshop, but here is an initial set to kick-start the debate:

- **Global level:** Responsible land governance requires action at local, national and international level. The post-2015 development agenda assumes a pivotal role in this regard. The reworked set of development goals must therefore include indicators on responsible land governance.
- **National level & local level:** Reforming land governance means changing power relations. It is a political not only a technical task. Organizations supporting reform must, hence, support intended beneficiaries actively in the political realm.
- **National level & local level:** Land governance is not a level playing field. Empowerment of vulnerable groups can therefore not be restricted to capacity-building; important as it may be. It must include actions to actively enhance vulnerable groups' scope of action.
- **National level & local level:** Land tenure reforms are long-term processes.
- **Research:** "How change happens" in land tenure reform is an essential area of research. This research must be designed and conducted jointly with decision takers to ensure its relevance.