Stakeholder Workshop

Awareness-raising on the Voluntary Guidelines on the Responsible Governance of Land Tenure

June 24-26, 2014
Khartoum, Sudan

Organized by

Food and Agriculture Organization of the United Nations (FAO)

In collaboration with

United Nations-African Union Mission in Darfur (UNAMID)
and

The Ministry of Agriculture & Irrigation

Workshop Proceedings and Report

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Background:

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT) in the Context of National Food Security represents an unprecedented international agreement on the governance of tenure, which places secure access to land, fisheries and forests firmly in the context of food security.

The Guidelines provide the first global consensus on what it means to improve tenure and its governance. The Guidelines were negotiated in the forum provided by the Committee on World Food Security (CFS) in order to improve tenure security and thereby contribute to improved food security.

Tenure rights to land and other natural resources are fundamental to food and shelter; they are elements of social, cultural and religious practices; and they underpin economic growth. And so, in addition to food security, the Guidelines are also intended to contribute to improvements in poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection, and sustainable social and economic development.

The Guidelines were officially endorsed by CFS at its Thirty-eighth (Special) Session on 11 May, 2012. Since then, its implementation has been encouraged by the UN General Assembly, Rio +20 declaration, G8, G20, l’Assemblée parlementaire de la Francophonie, and the Berlin Summits of Agricultural Ministers.

On February 2014, his Excellency Ibrahim Mahmoud Hamid, Minister of Agriculture and Irrigation met with Mr. José Graziano da Silva, FAO Director-General and discussed the development and sustainability of investments in the agricultural sector in the Sudan. The Director-General underlined the value of the Voluntary Guidelines on the Responsible Governance of Tenure when dealing with foreign investments and offered FAO’s full support in advising the country on this matter. As a result, FAO Sudan in collaboration with UNAMID and the Ministry of Agriculture and Irrigation, proposed and develop this workshop to further raise awareness on VGGT in the Sudan.

Goals of the Workshop:

• To create a critical mass of informed stakeholders, discuss ways in which they might be implemented and initiate the development of a multi-stakeholder platform.

• To identifying country-specific priorities and prospects for the establishment of a sustainable multi-stakeholder national forum.

• To discuss and identify actions to implement the VGGT and to improve governance of tenure of land, fisheries and forests
Specific Objectives of the Workshop:

- Present the VGGT and relevant case studies and national initiatives and their synergies;
- Discuss and analyze challenges and opportunities for improved tenure governance in the country;
- Discuss, identify and propose actions and ways forward to mainstream the VGGT and to improve governance of tenure of land, fisheries and forests in the country;
- Link with existing initiatives and create networks of actors across disciplines and stakeholder groups to share information, experiences and knowledge, to improve governance of tenure of land, fisheries and forests in the country.

Workshop Participants:

There were approximately 96 participants at the workshop (Annex 1), reflecting a wide range of representation from government institutions, parliamentarians, Darfur Parliamentarian caucus, International organizations, local leaders, Farmer Unions and Pastoralist Union, NGOs and civil society representatives, researchers and academia and development partners.

The Workshop Proceedings:

Proceedings of Day One:

The Opening Session:

The workshop was opened by speeches from Rosanne Marchesich, Acting FAO Representative, Mr. Ahmed Awad, Civil Affairs Team Leader, UNAMID, Mr. Hamid Abdala, Darfur Parliamentarian Caucus Representative and his Excellency Ibrahim Mohamoud Hamed, Federal Minister of Agriculture and Irrigation.
Key Messages from the Opening Session:

- The importance and the appropriate time of the workshop
- Security of land is a key factor to food security and sustainable development
- Land issue is a central factor for conflict in Sudan
- The major obstacle facing agricultural investment in Sudan is land tenure problems
- Participation of all partners is essential to achieving workshop objectives
- Raising awareness is vital to improving land problems
- The commitments of the Federal Minister of Agriculture and Irrigation to the outcomes and recommendations of the workshop

Following the opening session, the facilitator explained the objectives of the workshop and the expected outcome as stated above.

Two presentations were presented on the first day including the following:


Main Points:

VGGET:

- Set out principles
- Provides a benchmark
- Contributes to the improvement and development of policy, legal and organizational frameworks
- Is voluntary
- Do not replace laws or treaties

FAO is acting as:

- A facilitator to implement the Guidelines
- Awareness raising
- Capacity development
- Support to countries
- Strengthening of partnerships
- Monitoring and evaluation

VGGET is needed as there are:

- Problems of tenure and weak governance
- Increasing competition for natural resources
- Governing institutions have not adapted to growing intensity of competition
Contents of the Voluntary Guidelines:

General Principles

- Recognize and respect legitimate holders of tenure rights, and their rights.
- Safeguard legitimate tenure rights against threats.
- Promote and facilitate the enjoyment of legitimate tenure rights.
- Provide access to justice to deal with infringements.
- Prevent tenure disputes, conflicts, and opportunities for corruption.

Principles of Implementation

- Human dignity
- Non-discrimination
- Equity and justice
- Gender equality
- Holistic and sustainable approach
- Consultation and participation
- Rule of law
- Transparency
- Accountability
- Continuous improvement

- The guidelines and questions of investment
- Agricultural investment in developing countries
- Principles for Responsible Agricultural Investment

The second presentation was conducted by Dr. Moheyldean Eltohami, entitled “Land Governance, Issues of Today, and the Challenges of Tomorrow”. The paper covered land governance in Sudan and related issues with special focus on the Darfur State. It highlighted the following topics:

- Rules and Laws of land use in Sudan from 1918 until the Doha Agreement
- Customary Land Tenure system in Darfur
- Important land issues and challenges
- Institutional framework of land in Darfur
- SWOT analysis of the Institutional framework of land in Darfur

Participant Feedback to the Two Papers (Day One):

- Is voluntary a good (suitable) word as there are mandates inside the text?
- Land issue as one causal of the Darfur conflict leads to tension in the relationship between government and international community.
• Water harvesting program to settle nomads is a key factor to sustainable development in Sudan/ Darfur.
• Establishment of a Ministry of Land
• Local communities are a focal point in solving land issue problems
• Investment projects should consider community involvement and rights
• Absence of land use plan in Sudan
• There is no responsible of land in Sudan
• There is a clear deterioration on agricultural policy in Sudan
• Strong commitments for all partners
• What is the role of FAO and the Agricultural Research Centre in agricultural development in Sudan?
• Community land rights and investment
• Absence of land use map in Sudan
• Lack of trust between farmers and government concerning law implementation
• Where are the pastoralists in the Ministry of Agriculture?
• Pastoralists settlement is a key factor to security
• Lack of Livestock census
• Institutional and human capacity building
• Comprehensive planning

**Working Groups on Day One:**

Three working groups were formed to familiarize the participants with the VGGT and discuss the situation in Sudan regarding these guidelines.

**Group One:** Land tenure governance of agriculture and livestock in Sudan/ Darfur

**Group Two:** Land tenure governance of forestry in Sudan/ Darfur

**Group Three:** Land tenure governance of fisheries in Sudan/ Darfur

**Group Four:** Legal Policy Issues
Findings of Group One: Land Tenure Governance of Agriculture and Livestock

- The VGGT recognized the importance of land ownership collectively under customary tenure system, which covers mostly the entire land in Darfur, though women tenure rights are not yet properly handled. This issue is a focal area regarding principle of responsible tenure governance.
- The guidelines are suggesting set-up of multi-stakeholders platforms at different levels to collaborate in the implementation of the guidelines to monitor and evaluate the impact on improved governance on tenure of land

Relevant Guidelines to Sudan:

a. Responses to climate change and emergencies:

- Provisions of alternative land for displaced persons like in many cases for example during the 1984 famine and the recent returnees from South Sudan (to Sennar state) after proving their rights and then reallocate their parcels (difficult to retain to their place of origin).
- From an environmental perspective, the links between tenure insecurity and land degradation are clear. In Darfur, because of inconsistency of tenure rights, environmental degradation is either created or worsened.

Similarities and Differences to Sudan:

(i) Administration of tenure:
- Record of tenure rights to increase individual and collective tenure rights of the functioning of societies practicing agriculture as well as livestock raising under customary tenure systems, is essential.
- Steps are to be taken to prevent registration of competing rights and replace shifting agriculture with spatial planning unit.
- Evaluation of tenure systems is advised to take in account non-market values such as society cultural, religious and environmental values.

(ii) Regulated spatial planning
- It is needed because it facilitates balance and sustainable development and it helps achieving objectives of both farmers and herders
- Resolutions of dispute over tenure rights could be done through adoption of alternative forms of dispute resolution including customary forms, which are widely practiced in Darfur.
- Trans-boundary migratory movement, specially the seasonal migration routes of pastoralists whether cross-national territories or across international borders, should be considered by national and regional authorities to respect tenure rights and livelihoods.
(iii) **Delivery of services**

- Staff of different organizational levels should receive continuous training.
- Ensure gender and social equality.
- Provide prompt accessible and non-discriminatory services to protect tenure rights and resolve disputes.
- Explanatory materials on the guidelines should be widely publicized in applicable languages and inform users of their rights and responsibilities.

**Findings of Group Two: Land Tenure Governance of Forestry**

- All the guidelines are relevant and applicable to forestry land tenure as well as useful and important to Darfur.
- The forest registration in Sudan is practiced according to the forestry law and rights.
- It is achieved by partnership involving all levels starting from the local community (Sheikh, Omda, Nazer), local government and the state Ministry of Agriculture, Land Survey Department (which produced 6 copies of the forest map) and Ministry of Justice to complete the registration process.
- The process of forest registration is applicable to all types of forest land tenure including:
  - Government forest
  - Community forest
  - Institutional forest
  - Private forest

**Findings of Group Three: Land Tenure Governance of Fisheries**

- Sudan has a big stock of fish, estimated at about 72 Million tons. The fish production in Sudan is still traditional, with a small percentage using modern techniques like aquaculture.
- The fishermen organized themselves in producer groups
- There is a fish protection law
- There is no fish tenure law
- The government and other organizations help in aquaculture and other fish production inputs
- To protect fish production, the government has advised the use of nets with small size holes to save smaller fish
- There is a fish research centre in Elshagra to increase and improve fish production
- The government conducted many missions to benefit from other country experience in fish production
- The government has an ambitious plan for aquaculture in Marawi and Elroseeries Dam Lake
Findings of Group Four: Legal Policy Issues

1. The guidelines serve as a good basis for an international treaty on land tenure and rights, to lobby UN for its ratification adoption.
2. There are too many laws, policies and directives in Sudan on land. However, not many of these are either people sensitive or observing the rights proposed by the guidelines. A serious revolution on streamlining of these tools to serve the people of the Sudan and Darfur need to be embarked upon- by state or other non-state actors. UN agencies to facilitate and support this process.
3. Experience: Baja Land in White Nile, where a State Minster decree forbade the use of Baja grazing land for agriculture activities especially mechanized agriculture. The minister eventually lost his position because of powerful syndicates and power circles were causality of his decree and decisions. This denotes issues of corruption, bribery and influencing of land policies by certain cronies for more resource squandering and graft corruption.
4. Guidelines talk more about the right to land and other associated resources but less on how to sustain these resources.
5. Recommendations and next steps:
   - Increase awareness raising about these guidelines
   - Ensure that state endorses the guidelines and enforces them
   - Increase training on land rights and tenure system
   - Establish a national mechanism to manage the guidelines and make them housed by state and relevant institutions.
Proceedings of Day Two:

- Synthesis of the first day and the program for the second day was done by the facilitator.
- Three papers were presented on the second day. They provided in depth analysis of the current situation of land tenure, investment and causes of conflict in Darfur.
- In addition, suggestions and recommendations were made to overcome the obstacles facing relevant issues.

Brief contents of the paper are as follows:

1. ‘Use of the Guidelines in the Country: Country Case Study on Land Tenure’ with reference to a recent study by FAO prepared by Mr. Hashim Elhassan, National Consultant (FAO) and presented by Mr. Salah Elobead.

The Paper Covered the Following Topics:

- Type of tenure system in Sudan
- Issues for future addressing
- Recommendations
- Reflections on the Land Question

2. ‘Causes and Context of the Land Conflict in Darfur’, presented by Dr. Amin Mohamoud

The paper content is as follows:

- Background of conflict in Darfur
- Value of land
- Land in legitimacy of intentions and how to protect it
- Land situation in Elfur sultanate
- History of land dispute in Darfur
- Reasons of conflicts in Darfur
- Way forward


The paper covered the following issues:

- Definition of land tenure
- Land tenure and investment
- Benefits of land tenure
- Types of land tenures
- Characteristics of ownership rights
- Methods of land acquisition
- Tenure security
- Governance of land tenure system
- Principles of land and resources governance
- Land and investment law
- Investment problems and land tenure in Sudan
- Recommendations

Participant Feedback for the above three papers (Day Two):

- Where is the value added of foreign investors?
- Question of sustainable use of resources
- Availability of a clear investment map taking into account the rights of community is essential
- Encouragement of local investors to invest in Sudan
- Increasing the productivity of the livestock sector in the states
- Establishment of cooperatives between investor and local community
- There is a gap between the Ministry of Investment and investment departments in other ministries
- Lack of coordination between different stakeholders

Working Groups on Day Two:

Two groups were formed mainly to analyse how the VGGT can benefit the existing initiatives:

Group one: Land use Planning, Mapping and Investment Environment With Regard to Land Tenure governance
Group two: Land Tenure and Conflict- Darfur Case

Findings of Group one: Land Use Mapping and Investment

- The total area of Sudan extends over 1,882 million square kilometres
- Generally, the climate is hot with temperature ranging from 30°c to 40°c in summer and 10°c to 25°c in winter.
- Almost 40% of the land area fall in the desert zone (with no vegetation cover except scattered shrubs) almost 36.6% of the land falls in the semi-desert zone with rainfall ranging from 100 to 300 mm and the remaining 23.4% falls in the savannah zone with rainfall from less than 300 to 700 mm
- Country soil fall in three categories:
  - Sandy soil in western Sudan
  - Clay soil in the centre and east
  - Alluvial soil along the lower reaches of White Nile and Blue Nile and along the Atbara Nile and the Deltas of Gash and Baraka.

The challenges and opportunities can be classified as follows:

- To address the poor performance of agricultural sector in its three sub-sectors:
  - Rainfall (traditional semi-mechanized)
  - Irrigated (large and small schemes)
  - Livestock raising (traditional)
- Characteristics of tenure systems differ from one farming system to another and with the locations of the plots of land used.
- The prevailing tenure system stem from different origin like the prevalence of freehold rights in the far North along the Nile.
- The share of Sudan from Nile water is 18.8 million cubic meter with the 1959 Agreement between Egypt and the independent Sudan.
- Moreover, Sudan has a potential of renewable ground water of 4 million cubic meter mainly from the Nubian sandstone aquifer
- The annual precipitation in Sudan is around 500 million c.m annually.
- Pastoralists and livestock are significant in Sudan’s history as well as its present. There is plenty of forage and water to be used by animals and they receive appreciable care form the government.
- One factor that cause drawback to the sector is the occurrence of conflicts in the livestock rich areas of Darfur.
- Pastoralists, agro-pastoralists and sedentary farmers own and manage about 90% of Sudan’s livestock (103 million heads). The remaining 10% raised in intensive production system in central Sudan and near Khartoum.
- Climate change poses serious challenges to Sudan overriding development in agriculture and livestock raising, forestry and water resource management. The climate change is manifested mainly in decreasing amount of rainfall and increasing temperature affecting the ecosystems. The recent intervention is based on the efforts under the National Adaptation Programme of Action addressing the urgent adaptation needs and come with more comprehensive plan relevant to climate change.
- The staff of the different organizational levels entrusted with the preparation of the land use should receive continuous training to take on toward both improvement of both tenure system and the management of ecosystem.

- Each organization is to have a role in ensuring a favourable climate for investors (local and foreign) in order to benefit the investors as well as the communities and the economy at large.

- Empowering small scale local investors like in South Africa and Namibia to ensure social equality.

- Before expanding the land for investment it is crucial is provide accessible and non-discriminatory services to protect tenure rights and resolve disputes

- To dwell on social responsibility of investors to have positive impact on infrastructure and social aspect and share in achieving food security and poverty reduction

- The government is to revisit the polices to extend the investment by creating a comprehensive body like the Egyptian style that offered for a national centre that will have full responsibility to facilitate the government role on land.

- The national centre will grantee complete coordination between the state authorities to achieve the possible exploitation of state lands with encouraging policies that will help in putting the rights mechanisms.

- The demarcation of the land use plan is based on natural resources survey in each locality and various crop choices, forestry as well as the classification of tenure system where the farming systems are located.

- Successes of local investment should be broad forward to the foreign investors and the possible opportunities of partnership to be added as an annex to land tenure plan.
Findings of Group Two: Land Tenure and Conflict- Darfur case

An analysis:
There is a complex relationship between natural resources and conflict in Darfur context. The historical policies of closed areas (South Sudan, Darfur, Nuba Mountains and Blue Nile) explain much of the reasons behind protracted conflicts in these regions. This is linked to the regional unbalanced development policies, creating a sense of marginalization and exclusion among the people of these regions throughout the post independence national governments. The policies of expansion of commercial mechanized farming and granting land for investors without being utilized and by outsiders. There is linkage between inequitable access to land and natural resources and conflict. However, there are political, economic and cultural factors contributing to the conflict. Resource scarcity, degradation and poor management of natural resources played a significant role in Darfur conflict. The tense relationship between pastoralists and local sedentary farming communities tend to violent actions and denial of access to the livelihood means. Population dynamics linked with droughts and consequences on natural resources put huge pressure on Southern Darfur areas from the pastoralists (Rizeigat and Zaghawa from the north in search of pasture, water resources etc. Historically the Hakura land was established on basis of ethnic groupings who claim control, access and distribution/use of land by certain indigenous tribes and their leaders. The situation was aggravated by the multiple factors of dismantling of traditional administration system, political manipulation of native administration leaders by national governments and the other geopolitical factors at regional and international levels. The local governance instability and the related poor natural resource governance out secured access to land at risk for many of Darfurians who rebel against the threat of losing the resource.

The VGGT:
Its value added will contribute to advocating for:
- Harmonization of customary and statutory laws towards a compromise for different interest groups and reaching a win/win agreement voluntarily
- Local people and women rights in access to land and natural resources
- Also issues of land institutions e.g. DLC and local governance structures accountability to local communities and people interests
- Peace cannot work without solving the question of land and people rights based approaches
- The investment and issues of oil, gold and other mineral should be transparent and socially sensitive to people interests
- The relationship between federal, regional and state/local governance structure in relation to land tenure should be settled on basis of meeting the interests of the different parties
Proceedings of Day Three:

- Synthesis of the second day and the program for the third day was done by the facilitator.

Two papers were presented on the third day:

1. Overview/ insights on the national land tenure policies and jurisdictions; by Prof. Hag Adam Hassan Eltahir, EX- Director of land Commission/ Deputy Chair for the Constitutional Court

The paper covered the following topics:

- Land definition and its importance
- National land commission
- Some of land laws and regulations in Darfur
- Highlights and analysis on some of land laws
- Recommendations

2. Base-line Study on Women in the Tribal Economy and land Tenure of Gadarif and Kassala States in Eastern Sudan; by Mrs Hanadi M. Abdelhalim, Gender Affairs Officer, UN Women.

The paper covered:

- Introduction
- Justification of the research
- Problem statement
- Research questions
- Research objectives
- Some of research findings
- Recommendation

Participant Feedback for the above two papers (Day Three):

- In Darfur one of conflict causes is lack of Hakura registration
- Absence of applicable migratory stock route laws
- Awareness raising for land rights in the states
- Dichotomy between theory and application of law
- Customary law should be considered in law and regulations
- Where is the national land commission?
- Effective role of states in determination of investment land
- Quality of law and rule of law
- Follow up of land degradation law
Concluding Remarks:

1. The Guidelines:

➢ Introducing, consultative and participatory process for land tenure in Sudan.
➢ Commits states-despite their voluntary aspects and ensures a political will necessity
➢ Constitute an adaptive tool for peace

2. All guidelines provisions apply to the case of Sudan and Darfur. However, there are sections and recommendations more suited to our situation than others, for example:
➢ Issues for public land
➢ Issues addressing customary land rights (as most of land is fall under this category)
➢ It recognizes indigenous people rights
➢ Informal tenure-usufructs
➢ Gender and social equality

The Road Map/Way Forward

✔ Establishment of a forum for land tenure of all relevant stakeholders to ensure engagement of different actors.
✔ Establishment of task force consisting of the followings:
  ❖ Mr. Hamid Abdaala: representative of Darfur parliamentarian caucus
  ❖ Dr. Mohamed Ahamed Dengel: freelance Consultant
  ❖ Mr. Yousef Eltaeb: DRA, representing civil society
  ❖ Dr. Abdelmagid Ali Elmobarak ARC, Representing Researchers
  ❖ Mr. Ali Adam Gillani, Farmers Union
  ❖ Mr. Albarri Babikir Ali: Pastoralist Union (Khartoum state)

✔ FAO and UNAMID representatives would work as facilitators for the forum.

✔ The task force should develop a detailed action plan for one year on the following areas:
  ❖ Awareness raising about land issues at different levels
  ❖ Capacity building for staff at all levels is essential
  ❖ Advocacy for VGGT
  ❖ Popularization of VGGT
  ❖ Harmonized laws
  ❖ Ensure a development of land use map
✓ A baseline survey is needed to assess the current situation and link it with VGGT
✓ Darfur participants showed interest to establish an engagement forum around land issues to work closely with DRA, DLC and UNAMIDS
✓ Immediate workshop of VGGT and relevant experiences of DLC
✓ Engagement on land policy, legislation, institution, reviews and debates.
✓ Benefits from regional experience regarding land issue. For example inclusion of land use issue in the constitution as in Kenya.
✓ Sharing the outcome of the workshop with Darfur Regional Authority and with stakeholder at different levels.

Annex (I): Workshop Agenda
Annex (II): List of Participants
Annex (III): Attendance Sheet for the three days
Annex (IV): Workshop Photos