

GOVERNING LAND FOR WOMEN AND MEN

GENDER AND VOLUNTARY GUIDELINES ON RESPONSIBLE GOVERNANCE OF TENURE OF LAND AND OTHER NATURAL RESOURCES



Elizabeth Daley (Mokoro Ltd) and Clara Mi-young Park (FAO)
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List of abbreviations

ADB	Asian Development Bank
AfDB	African Development Bank
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CLISS	Comité permanent Inter-Etats de Lutte contre la Sécheresse dans le Sahel
CSO	Civil Society Organization
ECOWAS	Economic Community of West African States
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FIG	International Federation of Surveyors
ICARRD	International Conference on Agrarian Reform and Rural Development
IDLO	International Development Law Organization
IDP	Internally Displaced People
IFAD	International Fund for Agricultural Development
IJM	International Justice Mission
ILC	International Land Coalition
INCRA	National Institute for Colonization and Agrarian Reform (<i>Instituto Nacional de Colonização e Reforma Agraria</i>)
IPC	International Planning Committee for Food Sovereignty
LEMU	Land Equity Movement of Uganda
MDG	Millennium Development Goal
NGO	Non-Governmental Organization
SOFA	State of Food and Agriculture
TAB	Technical Advisory Board for Fisheries Management
UN	United Nations
UNDP	United Nations Development Program
UNECA	United Nations Economic Commission for Africa
VG	Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources
WB	World Bank
WCARRD	World Conference on Agrarian Reform and Rural Development
WLLA	Women's Land Link Africa

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1. Introduction

In setting out principles and internationally agreed standards, the “*Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources*” intend to provide practical guidance to states, civil society and the private sector on responsible governance of tenure. The Voluntary Guidelines (VG) will constitute a framework for policies, legislation and programs, but will not establish legally binding obligations nor replace existing national or international laws, treaties or agreements (FAO 2009c). The VG are intended to be supported by a series of “*Technical Guides*” – practical, up-to-date reference tools for those working on the day-to-day ground level implementation of the VG, and which will represent the link between the VG and the implementation processes and actions required to improve governance of tenure. Among these guides, the Gender Technical Guide – with the proposed title of “*Governing Land for Women and Men*” – will focus on gender-equitable land governance and what this means in practice for all the national and local government officials, civil society groups, and land administrators, technicians and professionals working in the land sector worldwide.

The present paper is written as part of the overall VG consultation and development process and is a contribution to the subsequent preparation of the Gender Technical Guide. The present paper is based both on the outcomes of the VG consultation process to date and on supporting research, consultation and literature review on gender and governance of tenure. It contextualises and defines gender for the VG, discusses what governance of tenure means from a gender perspective, and identifies and analyses key issues and themes. It then summarises the recommendations relevant to gender that emerged during the VG consultations in different regions of the world before drawing some conclusions for the continuing VG development process.

2. Gender, Governance of Tenure and the Voluntary Guidelines

2.1. Key definitions

“Gender” refers to that aspect of social and political identity which is constructed in some way from, and gives meaning to, an individual’s biological sex and physical body. **“Women”** are therefore all those individuals who fall into the category of women as it is socially understood in any particular society or culture, and correspondingly for **“men”**. **“Gender relations”** are the socially constructed (and contestable) relations between people, based on the different social meanings attributed to biological sexes and bodies.¹

“Land tenure” refers to the relationships between and among people with respect to land, whether defined formally (legally, by statute) or informally (customarily) (FAO 2007a, 3). Tenure is therefore an institution:

i.e., rules invented by societies to regulate behaviour. Rules of tenure define how property rights to land are to be allocated within societies. They define how access is granted to rights to use, control, and transfer land, as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions (FAO 2002a, 7).

“Land administration” is

the way in which the rules of land tenure are applied and made operational. It includes land registration, land use planning, land consolidation, land management and property taxation (FAO 2007a, 3).

“Governance” is the “process of governing” through both formal institutions and informal arrangements (Ibid, 5).

Governance is concerned with processes by which citizens participate in decision-making, how government is accountable to its citizens and how society obliges its members to observe its rules and laws. Governance comprises mechanisms and processes for citizens and groups to articulate their interests, mediate their differences, and exercise their legal rights and obligations. It is the rules, institutions, and practices that sets limits and provides incentives for individuals, organizations and firms (FAO 2009c, 6).

In discussing gender and governance of tenure we are then primarily concerned with issues of equitability (fairness) between women and men in matters of land tenure governance, i.e. of equitability by gender in the process of operationalizing relationships between and among people with respect to land through both formal institutions and informal arrangements for land administration and management.

However, it is also important to make clear at the outset that:

Tenure reflects the power structure in a society. Because land and other natural resources are central to social and cultural identity and economic wealth, tenure arrangements in a society develop in a manner that entrenches the power relations between and among individuals and social groups. Tenure thus has enormous political implications and tenure issues are liable to be politicized (FAO 2009c, 5).

¹ These definitions derive from MacKinnon (1987) and Moore (1994).

Historically, the rules of tenure defining the allocation of land rights in any given society have tended to have been made by the powerful within it. As a result, where they redefine relationships, changes in tenure arrangements to improve governance may result in fundamental shifts in the power structures within families, communities or countries.²

2.2. The principle of non-discrimination

The idea of equitability between men and women in governance of tenure is supported by firm internationally-endorsed principles of non-discrimination by gender, as most clearly set out in the “*Convention on the Elimination of all Forms of Discrimination against Women*” (CEDAW 1979; c.f. Grover 2009, 47-48). The CEDAW seeks to end all forms of discrimination against women and guarantee them the exercise and enjoyment of their full human rights and fundamental freedoms on an equal basis with men (article 3). It obliges State Parties to take measures to modify social and cultural patterns to eliminate both prejudices and customary practices based on gender inequalities and on the subordination of women (article 5) and to ensure that there is no discrimination by gender in economic life (article 13), whether *de jure* or *de facto* (CEDAW 1979).

Relevant provisions in the CEDAW to issues of gender and governance of tenure include:

- Women to have equal rights with men to conclude contracts and in the administration of property, including equal access to mortgages and equality in procedures before courts and tribunals, with restrictions to the legal capacity of women deemed to be null and void (articles 13 to 15).
- Women to receive equal treatment in land and agrarian reform and in land resettlement schemes and housing (article 14).
- Women to have the same rights in marriage as their spouses with respect to ownership, management, enjoyment and disposal of property, including on divorce (article 16).

In addition, the CEDAW particularly urges State Parties to take all appropriate measures to ensure the application of the provisions of the Convention to women in rural areas and to eliminate discrimination against them in order to ensure that they participate in and benefit equally from rural development (article 14).

As well as the CEDAW, there are also a number of other important international instruments which uphold principles of non-discrimination by gender that are relevant to issues of gender and governance of tenure (Grover 2009; see Box 1 overleaf).

2.3. Right to food and the Voluntary Guidelines context

The most relevant international instrument, however, is the “*Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*” (henceforth the VG Right to Food), which was adopted by the 127th Session of the FAO Council in November 2004 (FAO 2005). The VG Right to Food sets out the conditions for the realization of the right to adequate food that is mandated in article 11 of the “*International Covenant on Economic, Social and Cultural Rights*” (1966). It takes a

² Pers. comm. David Palmer, FAO Senior Land Tenure Officer, Rome, 1 February 2011; Pers. comm. Paolo Groppo, FAO Technical Officer, Rome, 1 February 2011.

human rights-based approach, resting, among others, on the principles of non-discrimination and of good governance as essential factors in enabling sustained economic growth and the eradication of poverty and hunger; Guidelines 2.5, 3.5, 3.8, 3.9, 7.4, 8.3, 8.6 and 8.10 specifically relate to the promotion of inclusive, fair and non-discriminatory policies of special relevance to gender and governance of tenure (c.f. Grover 2009, 22).

Secure access to land is a key condition to improving food security and thus for the realization of the right to food (FAO 2009c, 3). The VG Right to Food therefore includes a number of guidelines that have direct implications for land and natural resource tenure, and, particularly in areas where poverty and hunger are rural, the VG Right to Food requires policies to focus on access to land and water for agricultural production (Grover 2009, 23). Specifically on gender and governance of tenure, Guideline 8.10 calls for protection of the tenure security of women, while Guideline 8.6 calls for states to promote women's right to inherit, to possess land and other property and to secure access to and control of land and water (Ibid; see Box 2 next page). Thus, overall, the VG Right to Food lends support to the promotion of women's equal rights to property (Grover 2009, 24).

Box 1: Gender, Governance of Tenure and International Instruments

The Universal Declaration of Human Rights (1948)

- Article 2 upholds the entitlement of every human being to enjoy human rights and fundamental freedoms without discrimination.
- Article 7 entitles every human being to equal protection under law.
- Article 16 entitles men and women to equal rights during marriage and at its dissolution.

The International Covenant on Civil and Political Rights (1966)

- Articles 2, 3 and 27 provide for rights to be enjoyed without discrimination according to gender.
- Article 23.4 specifies that the property rights of women in marriage and at its dissolution should be protected as well as those of men.

The International Covenant on Economic, Social and Cultural Rights (1966)

- Article 3 provides for men and women to have equal rights and equal enjoyment of their rights.

The Convention on the Rights of the Child (1989)

- Article 2 protects children against the effects of discrimination against their parents and thereby effectively protects their mothers from gender-based discrimination.

The Beijing Declaration (1995)

- Article 35 restates the determination of governments to ensure women's equal access to economic resources, including land and credit.

The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)

- Article 6 provides for a woman to have the right to acquire and manage her own property during marriage.
- Article 7 provides for the rights of women to have an equitable share of joint property in marriage in the case of divorce, separation or annulment.
- Article 21 provides for the rights of widows to an equitable share in inheritance on the death of their husbands, including the right to remain in the matrimonial home, and for the rights of men and women to inherit equitable shares of their parents' property.
- Article 16 provides for women to have the right to equal access to housing.
- Article 19 promotes women's access to and control over productive resources and guarantees their right to property as part of their right to sustainable development.

The Pinheiro Principles (2005)

- Principles 11 to 14 on land restitution policy specify that these must be non-discriminatory and recognise the claims of men and women and boys and girls.
- Principle 18 entitles subsidiary claimants including spouses to make restitution claims on the same basis as the primary claimant.

Agenda 21 (1992)

- Paragraph 3.8 calls for governments to strengthen legal frameworks for land management, access to land and land ownership, particularly for women.
- Paragraph 32.6 requires governments to protect and formalize women's tenure and use of land and their rights to land.

The United Nations Declaration on Cities and Other Human Settlements in the New Millennium (2001)

- Paragraph 48 pledges governments to continue to promote reforms giving women full and equal access to economic resources including land ownership, tenure security, access to credit and natural resources, inheritance rights and rights to enter into contracts.

The Habitat Agenda Goals and Global Plan of Action (1996)

- Provides for adequate shelter for all including equal access to land and housing finance without discrimination, and for policies and practices to promote equal participation of women in human settlement planning and decision-making.

The World Food Summit Action Plan (1996)

- Objective 1.3 requires governments to ensure gender equality and women's empowerment through introducing and enforcing gender-sensitive legislation providing women with secure and equal access to and control over land and other productive resources.

Box 2: Gender and Governance of Tenure in the VG Right to Food

Guideline 8.6

States should promote women's full and equal participation in the economy and, for this purpose, introduce, where it does not exist, and implement gender-sensitive legislation providing women with the right to inherit and possess land and other property. States should also provide women with secure and equal access to, control over, and benefits from productive resources, including credit, land, water and appropriate technologies.

Guideline 8.10

States should take measures to promote and protect the security of land tenure, especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit. As appropriate, States should consider establishing legal and other policy mechanisms, consistent with their international human rights obligations and in accordance with the rule of law, that advance land reform to enhance access for the poor and women.

The VG Right to Food has been steered by the Committee on Food Security of the FAO which then subsequently encouraged the preparation of the “*Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources*” as a further elaboration of the VG Right to Food, as well as to follow up on the recommendations of the International Conference on Agrarian Reform and Rural Development (ICARRD) meeting in

2006.³ The VG on Responsible Governance of Tenure also builds on FAO's longstanding work in improving secure access to land and other natural resources, including through convening the 1966 World Conference on Land Reform, the 1979 World Conference on Agrarian Reform and Rural Development (WCARRD) and the 2006 ICARRD, while the idea of developing Technical Guides in support of the VG on Responsible Governance of Tenure follows from the successful development of practical guidance on the national level implementation of the VG Right to Food (FAO 2006a; 2009c, 13).

2.4. Gender and economic growth

“Tenure initiatives that support gender equity can serve to increase women's power in agricultural production as well as in social and political relationships” and thus addressing gender and governance of tenure is clearly essential to the achievement of MDG3 (promoting gender equality and empowering women) (FAO 2009c, 7). Two further contextual dimensions to the present paper, however, are the relevance of women's access to land and natural resources in ameliorating agricultural performance and the overall achievement of MDG1 (eradicating extreme poverty and hunger), and the links between land and labour.⁴

Despite the now widely-recognized role that women play in agricultural production and the livelihood and food security of rural households, women farmers worldwide generally remain with fewer and weaker rights to land than male farmers, receive less agricultural extension training and credit, and are generally less well-represented in farmers' organizations than men. FAO's flagship publication, “*The State of Food and Agriculture 2010–11*” (the SOFA), launched on 7 March 2011, has as its main message that gender inequalities are behind the underperformance of the agricultural sector:

In order to improve productivity and ability to produce, it is important to address gender inequality, especially in access and use of land. The reduction of poverty and hunger cannot be achieved without addressing inequality in land.⁵

In providing comprehensive data and analysis documenting and assessing the costs of the gender gap faced by rural women in agricultural input use, including access to land, this year's SOFA provides empirical estimates of the production and food security gains that could be achieved simply by closing this gender gap. These gains represent just the first round of the economic and social benefits that would flow from closing the gender gap (FAO 2010j). Responsible governance of tenure is an essential pre-condition for this.

Furthermore, there is a crucial link between land and labor that is also relevant to responsible governance of tenure.⁶ Although they are usually analyzed separately, land tenure and labor arrangements are in practice frequently intertwined, and thus attention needs to be paid to the connections between land interests and control over other resources, particularly labor, in support of an integrated governance policy (Tsikata 2009). This is even more critical in the

³ Pers. comm. Barbara Ekwald, FAO Senior Officer, Right to Food Coordinator, Rome, 23 November 2010; Pers. comm. Paolo Groppo, FAO Technical Officer, Rome, 30 September 2010; Pers. comm. David Palmer, FAO Senior Land Tenure Officer, Rome, 23 November 2010.

⁴ Pers. comm. Marcela Villarreal, FAO Gender, Equity and Rural Employment Division Director, Rome, 28 September 2010; Pers. comm. Eve Crowley, FAO Gender, Equity and Rural Employment Division Principal Officer, 29 September 2010; Pers. comm. Martha Osorio, FAO Gender and Rural Development Officer, Rome, 1 October 2010.

⁵ Pers. comm. Marcela Villarreal, op. cit.

⁶ Pers. comm. Martha Osorio, op.cit.

context of current trends towards large-scale land-based investments which alter existing household land use and livelihood dynamics.

2.5. What does governance of tenure mean from a gender perspective?

Although in our discussion of gender and governance of tenure we focus primarily on the issue of equitability (fairness) between women and men, and in so doing define gendered land relations as the socially constructed (and contestable) relations between and among women and men with respect to land, it is important to also highlight that the notion of gender can be further unpacked to include a more differentiated range of gendered groups. There are other social dimensions, such as marital status, and disaggregations, for instance by age, which correspondingly identify different gendered groups – such as older women, widows, married women living with HIV/AIDS, young disabled men, orphaned girls, etc. – and in theory these should also be taken into consideration when addressing issues of gender-equitable governance of tenure.⁷ However, in the present paper, and for the purposes of the subsequent preparation of the Gender Technical Guide, such detailed differentiated analysis is not systematically possible. Relevant examples and anecdotal evidence will draw attention to the need to differentiate between a wider range of different gendered groups in particular situations and contexts in practice. However, the objective of preparing a broadly applicable and relevant Gender Technical Guide to assist all the national and local government officials, civil society groups, and land administrators, technicians and professionals working in the land sector worldwide requires a clear focus on the basic issue of equitability in the governance of tenure between the two broad groups of women and men, leaving scope for more specialized Technical Guides to address specific issues in detail for specific gendered groups later on.⁸

⁷ Pers. comm. Libor Stloukal, FAO Population Policy Officer, Rome, 01 October 2010.

⁸ Pers. comm. Paul Munro-Faure, FAO Principal Officer, Rome, 27 September 2010.

3. Key Analytical Issues and Themes

Broadly speaking, the issues in gender and governance of tenure that we have identified in our research as being the most relevant for the Gender Technical Guide to focus on can be grouped under two core themes – ‘Participation in Land Governance’ and ‘Awareness and Communication’ (see Box 3 below). These issues are elaborated in the sections that follow.

Box 3: Core Themes for the Gender Technical Guide

Participation in Land Governance

- Participation in land administration and processes of governance
- Institutional issues
- Legal framework, including secondary and tertiary legislation to implement the law
- Policy-making
- Customary rights, customary institutions and traditional authorities
- Inheritance of land

Awareness and Communication

- Legal empowerment
- Gender sensitization, awareness raising and diffusion of information

3.1. Participation in land governance

3.1.1. Participation in land administration and processes of governance

- *Women and other vulnerable groups are often excluded from day-to-day land administration and governance at all levels, local through national.*
- *Technical aspects of land administration are highly relevant to gender-equitable governance of tenure, including the need for gender-sensitive technology and the specific constraints that women land administrators often face in the field.*
- *Equitable representation and participation of all women and men in local land administration and management committees is a key issue.*

As noted above, land administration concerns the “way in which the rules of land tenure are applied and made operational”, and it comprises an extensive range of formal and informal administrative systems and processes (FAO 2002a, 12). Land administration activities include:

- **land rights:** the allocation of rights in land; the delimitation of boundaries of parcels for which the rights are allocated; the transfer from one party to another through sale, lease, loan, gift or inheritance; and the adjudication of doubts and disputes regarding rights and parcel boundaries.
- **land-use regulation:** land-use planning and enforcement and the adjudication of land use conflicts.
- **land valuation and taxation:** the gathering of revenues through forms of land valuation and taxation, and the adjudication of land valuation and taxation disputes (Ibid, 12)

Equitable representation and participation in land administration is required for it to accommodate the interests of all segments of the population and women should thus be explicitly recognized as stakeholders in land administration (FIG 2001, 15). However, land

administration has traditionally been male-dominated and this has contributed to a lack of understanding on the part of the land administration profession in general about the gendered complexity and diversity of land tenure practices, to a belief that addressing gender issues is confined to titling initiatives, and to thinking that it is sufficient to ensure that women are simply hired somewhere within land administrations rather than mainstreaming equal opportunities for all employees in all types of activities (World Bank 2005, 18). As a result, in Albania, for example, more than 50 per cent of employees in local and central registration offices are women, yet there appear to be no private female surveyors and no private surveying companies run by women.⁹ In general, the majority of all staff in registry offices around the world are women, whom, for the most part, tend to shy away from the field where the majority of surveying work takes place.¹⁰

The World Bank (2005) has begun to mainstream a more gender-sensitive approach to land administration in its recent land projects. However, it remains difficult for women to get involved in land administration due to economic, socio-cultural and also very practical issues that affect their participation. Specific constraints include the generally lower levels of technical education of women worldwide compared to men and the existence of barriers to accessing and using technology, often seen as “boy’s toys”.¹¹ The International Federation of Surveyors (FIG) has therefore called for specific support for women in land administration organizations and for providing women with education and training opportunities in land projects (FIG 2001). FIG notes that, although women employees in formal land institutions do not generally have the same access to opportunities on projects, they may actually be able to help foreign project members and their own national colleagues to better understand the issues relating to women’s access to land locally, and may also be able to act as a communication bridge to women in the project area more broadly (Ibid). Some donor projects now also require that women and men participate equally in land administration training and education – a strategy that has been very successful in enhancing the sustainability of gender-inclusive policies (FAO 2002b, 33).

The overall challenge for land administration is thus to push gender issues beyond lip service and strategize further on ways to involve more women in land administration. For example, it is important to try to develop the technologies used in land administration activities in women-friendly ways, as well as to revise the qualifications needed for certain technical jobs. “Setting standards that are too high creates a barrier to accessing these professions, especially by women, given bias in education”.¹² Useful lessons can be drawn by looking at examples of women who already participate in land administration, both formally and informally, for instance in land courts, in adjudication and in survey:

What has happened that has allowed it, that is, what are the conditions for this participation? What were the outcomes? Is participation sufficient or are other factors needed? Is it replicable?¹³

It is also important try to simplify land survey and measurement techniques so that they can be managed in the field by lower-qualified and often less-educated parasurveyors. This latter is something that is becoming easier all the time as participatory and low-cost methods of

⁹ Pers. comm. Sonila Jazo, former Albanian Deputy Chief Registrar, Rome, 18 November 2010.

¹⁰ Pers. comm. Peter Rabley, President of International Land Systems, Rome, 19 November 2010; Pers. comm. Neil Pullar, FAO Land Administration Officer, Rome, 28 September 2010.

¹¹ Pers. comm. Neil Pullar op. cit.

¹² Pers. comm. Neil Pullar, op. cit.

¹³ Pers. comm. Eve Crowley, op. cit.

land registration are increasingly being field-tested and put into practice, with a significant positive impact on gender-equity in land tenure governance, as in the case of Rwanda (Daley, Dore-Weeks & Umuhoza 2010).

Equally important, however, is the sustained participation of women in local land management and administration committees that are responsible for deciding who uses land and how at the local level. Such institutions should be composed of people who are knowledgeable of women's land rights and sensitive to the constraints that women face (Lastarria & Manji 2010, 54). Similarly, the value of having more women in formal and statutory land dispute management institutions has been widely acknowledged as a factor facilitating women's recourse to dispute resolution mechanisms and boosting the possibility of them having their rights recognized (WB/FAO/IFAD 2009a, 24). Furthermore, facilitating women's participation in local land committees has the two-fold effect of diminishing male dominance of community-level decision-making processes and of building up women's organizational skills, social networks and social capital (World Bank 2005, 5). The Rwanda case is again instructive, whereby

the overall level of government commitment to gender equality, particularly through the constitutional “30 per cent” rule in relation to decision-making posts...ensures that two out of the five members of literally thousands of local land committees across the country are women, as well as on local government (umudugudu and cell) management committees and among the Abunzi [grassroots mediators]. With this number of women in positions of authority, there is scope for women to advocate for their fellow women; they are not merely token women leaders but members of the community who have a solid understanding of the circumstances facing their mothers, sisters and daughters (Daley, Dore-Weeks & Umuhoza 2010, 146).

However, as this case also indicates – reinforcing the point made at the start of the present paper about the important connection between tenure arrangements and power structures – sustained high-level political support is likely to be needed to combat often deeply-held perceptions in many cultures and societies that land matters are a male sphere. This is well illustrated by an old Nepalese proverb which “specifically excludes women from any decision-making process” and which remains relevant to Nepalese practices” (Daley 2011, 35, citing Roshana Poudyal).

3.1.2. Institutional issues

- *Linked to the issue of participation in governance processes is that of institutions - governmental/state institutions, but also interest groups such as water committees, environmental committees, rural organizations, farmers' organizations and credit groups.*
- *Women's participation in such institutions is generally limited and so, therefore, is their capacity to influence decision-making.*
- *Efforts should be made to support women's participation in institutions that can voice their specific concerns and needs and build the capacity of such institutions.*

Institutions are crucial in determining how resources are allocated, utilized and managed. According to Alden Wily, the effectiveness of institutions *vis à vis* governance of tenure can be measured by the extent to which

real empowerment of landholders over their landholding and related land use is being provided, and through which manner of institutions, traditional or modern, elected or administrative, and with what degree of autonomy from the State (2003, 4).

Gender relations affect the extent to which women can fully participate or take advantage of their participation in land-related institutions and thus in governance of tenure (Lastarria-Cornhiel 2000, 18). The increased presence of women within land-related institutions is also crucial to increasing the number of women beneficiaries in land-related programs, yet, as just discussed in relation to land administration, women's participation is still very limited (WB/FAO/IFAD 2009a, 131). At the same time, the increasing trend towards democratization of land tenure and management also demands the participation of a wide variety of interest groups to collect and access information on land governance, which in turn they can use to support their participation (ILC 2009, 3). Formal systems and processes of land tenure administration may be blind to the situations of land dependent groups who are not individual land owners, and to the access and relative security that some non-formal tenure arrangements may provide (Ibid).

Beyond local land administration and management institutions and committees, other local institutions, such as water committees, environmental committees, rural organizations, farmers' organizations and credit groups, can also play a relevant role in supporting women's participation in tenure governance and in voicing their concerns (WB/FAO/IFAD 2009b, 63). There is evidence to suggest that representation of active female leaders in decision-making bodies that allow them to participate in planning processes has consistently led to different (and more gender-equitable) outcomes than those obtained when women are excluded (Ibid, 69). An example of this is the Sunamganji community-based resource management project in Bangladesh, in which 50 per cent of community organizations were planned from the start to have trained women managers, and 50 per cent of the land made available to the poor was allocated to women-headed households (Seeley, Batra & Sarin 2000).

Although, the formation of women-managed organizations for women producers has become increasingly popular, notably in West Africa, these organizations do not always have the capacity to address the interests of all women, especially the least advantaged (WB/FAO/IFAD 2009b, 69). However, producers' and farmers' organizations can also act as an interface between local communities and national and global policy-making bodies and engage in useful land-related advocacy and information dissemination activities at various levels. Supporting women's representation in rural organizations and building the capacity of such organizations is therefore key to engaging women members in the management and decision-making processes of their organizations and thus in wider consultations and tenure governance processes, even while acknowledging that they may not necessarily be representing or speaking for all women (Ibid, 70). In particular, rural organizations can apply pressure on governments to implement gender-sensitive legislative provisions where there might otherwise be a lack of political will. In Brazil, for example, it took 12 years for the National Institute for Colonization and Agrarian Reform (*Instituto Nacional de Colonização e Reforma Agraria*, INCRA) to revise its regulations, which had consistently disregarded statutory provisions enabling adjudication and titling of land to couples under agrarian reform, and this only happened when organized rural women began to demand land rights and systematically confront INCRA on this issue (Deere 2003).

Given the multi-faceted and central role of land-related institutions in tenure governance processes as a whole, it is imperative that pro-active measures are taken to promote and support women's effective participation in these institutions so that their specific concerns

and needs can be voiced, as well as to consistently develop and strengthen the capacity of such institutions to address gender issues in a nuanced and differentiated way. In addition, the role of institutions in communication and awareness is explored further below.

3.1.3. Legal framework, including secondary and tertiary legislation to implement the law

- *Dual legal systems and multiple tenure arrangements make for a complex legal framework in many countries, with negative implications for gender-equitable governance when different laws and customary norms and practices conflict.*
- *Good laws themselves often remain unapplied due to the lack of secondary and tertiary legislation and lack of enforcement.*
- *There is a need to ensure that law enforcement is improved and implementation regulations and strategies are developed.*

A country's national legal framework can provide a basis for gender-equitable access to land to the extent that it recognizes and protects women's equal rights to property. Where constitutional provisions uphold the principle of gender equality and statutory provisions translate this principle into equal property rights, including within marriage and on inheritance, the law then gives women a framework within which to claim their rights.¹⁴ Even if the law alone is not sufficient to ensure gender-equitable land relations, it nevertheless forms an important foundation and enabling environment on which to build (Englert & Daley 2008, 9-11).

Most countries of the world have already integrated specific provisions on gender equality in their constitutions in line with their international obligations under the various instruments described in Box 2 above. They generally stipulate equality of rights for all citizens before the law and some explicitly prohibit discrimination on the basis of sex and take a stand towards revising discriminatory customary practices. The Constitution of Malawi, for example, states that

any law that discriminates against women...shall be invalid and legislation shall be passed to eliminate customs and practices that discriminate against women such as... deprivation of property, including property obtained by inheritance.¹⁵

However, it is mostly within the realm of personal law – the separate dispositions about marriage, inheritance and succession contained within national civil and family codes – that the patrimonial rights of men and women are distinguished and gender-differentiated rights and roles are evidenced.

The legal framework is not a problem in most countries, except when there is a fracture between the civil code and family law, and there should be more focus on implementation aspects.¹⁶

Within the Family Code of Algeria (article 39), for example, wives are expected to obey their husbands, while in the Family Code of the Democratic Republic of Congo (article 448), they

¹⁴ Pers. comm. Margret Vidar, FAO Legal Officer, Rome, 4 October 2010.

¹⁵ 1994 Constitution of the Republic of Malawi, available at <http://www.sdn.org.mw/constitut/intro.html>

¹⁶ Pers. comm. Sabine Pallas, Resource Mobilization and Women's Access to Land, International Land Coalition, Rome, 4 October 2010.

need their husband's approval to carry out all commercial transactions (FAO no date (a)). In some countries, exceptions to gender-equitable constitutional provisions are specifically allowed, such as in Zambia, where statutory laws coexist with customary norms that are given legal precedence in matters of personal law and property rights; statutory law provides for the sharing of property between husband and wife on divorce, but customary norms may deny divorced women any rights to family property in practice (UN-HABITAT 2005, 41, 55). Similarly, section 23 of the Constitution of Zimbabwe prohibits discrimination, but recognizes exceptions to this principle in issues relating to marriage, divorce, inheritance and other matters of personal law, which are to be settled by "the application of African customary law...where such persons have consented to the application of African customary law in the case" (UN-HABITAT 2006, 27).

Yet even when legal frameworks are consistently gender-equitable, laws often remain unapplied if they are not supported by secondary and tertiary legislation and regulations required for implementation: "to what extent statutory law must include details in order to make the implementation of the law effective is a key issue".¹⁷ This is particularly the case with land laws, where broad primary legislation may lack the detailed specificity required for effectively functioning land administration and land management institutions and services, especially in countries following civil rather than common law traditions. Legislation itself then needs to be followed up with gender-specific guidelines on implementing the gender provisions, or else women's rights may tend to be overlooked or only sporadically enforced.

For example, in Bolivia, the 1996 agrarian reform law states that equity criteria will be applied in the distribution, administration, tenure, and use of land in favor of women, independent of their civil status, but neither the law nor its associated regulations specify how this is to be implemented. As a result, in the first few years of its implementation, very few women were receiving land titles, either as individuals or co-owners, and the titling agency did not take any measures to guarantee the uptake of the equity provisions of the law (Lastarria-Cornhiel & Manji 2010, 39). In Indonesia, although formal law as well as customary practices recognize both husband and wife as co-owners of property acquired during their marriage, few titles have been issued in the names of both spouses under the country's program of systematic land registration, with interviews conducted during a program appraisal showing that one factor in this was that the registration application form did not state that land could be registered in more than one name (Ibid, 42). This is where secondary and tertiary legislation, and particularly land administration regulations and operational and procedural manuals for land registration, become critical to the implementation of gender-equitable provisions in statutory law. Designing and disseminating such regulations and manuals is thus a key aspect in the governance of tenure that must not be neglected if gender-equitable outcomes are to be assured

Implementation is clearly a necessary condition to make law operational. However, conflictive legislation, institutional weakness, and gender biases often undermine law enforcement efforts (WB/FAO/IFAD 2009a, 127; Ik Dahl 2008). At the local level, implementation is also always more difficult where there is general resistance to change, which may result from local power structures feeling threatened by it. In Tajikistan, for example, it was not until gender was integrated systematically into planning and budgeting, awareness was raised with local officials, and legal advice was provided, that more women started claiming their rights to land (Lastarria & Manji 2010, 51). These latter two points are developed further in our discussion of communication and awareness below; here we simply

¹⁷ Pers. comm. Margret Vidar op. cit.

conclude by emphasising that gender-equitable governance of tenure requires women's participation in both legislative drafting and law implementation on an equal footing to men.

3.1.4. Policy-making

- *Although the Technical Guides are intended to be practical reference tools for those working on the ground, they will need to be contextualized within the existing policy framework and thus the policy-making level should be addressed as well.*
- *Key policy actions relevant to gender-equitable governance of tenure include:*
 - *making sure that women can register their land rights under the same conditions as men;*
 - *applying the international conventions on women's rights;*
 - *recognizing women's customary rights to land and natural resources;*
 - *harmonizing legislation and sectoral policies; and*
 - *introducing relevant positive discrimination measures.*

“Responsible governance is a mechanism for the realization of the rule of law because tenure is embedded in laws, whether statutory or customary” (FAO 2009c, 8). Addressing this at the policy level is then necessary to realize responsible and equitable governance of land. Basic gender policy should promote

secure access to land and other natural resources for women, independent of men relatives and independent of their civil status. Such a policy stance is the basis for identifying and establishing instruments that eliminate, or at least decrease, gender bias with regard to natural resource tenure in land administration programs, including titling and registration, privatization and resource management” (WB/FAO/IFAD 2009a, 126).

However, the key to ensuring gender-equitable governance of tenure is to start with a gender-equitable policy-making process by ensuring that men and women are both included in the process from the outset. It is necessary here to make a distinction between what can be identified as the governance part of land policy-making, which entails gender-equitable participation in the policy-making process, and the actual content of the land policies themselves.

In relation to land policy-making around law reform, for example, although much progress has been made with respect to equal rights in constitutions and civil codes, as indicated above, the gender-equitability of the policy-making process itself has proven to be more problematic (Lastarria-Cornhiel 2000). The case of Uganda is particularly instructive.

Uganda's Constitution of 1995 provides for equality between men and women, including in respect to the acquisition and holding of land (articles 31-33), and for affirmative action to remedy the historical discrimination faced by marginalized groups, including women, and to redress the social imbalances that they face (articles 21, 32-33) (WLLA 2010, 2). However, Uganda is also well-known for its 1998 Land Act debate on the inclusion of a clause on co-ownership which was never realized and was technically omitted during the final stage of the legislative process, allegedly due to mistakes on the part of women MPs and clever outmanoeuvring by their male counterparts (McAuslan 2003; 2010). Although an amendment to the Land Act in 2004 gave some minimal protection to women by requiring spousal consent to transactions of family land, the law on distribution, management and accessibility

of land still inadequately provides for women's access, control and ownership of land (WLLA 2010). At the time of writing, Uganda's new Land Policy was with Cabinet for approval, and women's groups, under the umbrella of the *Uganda Land Alliance*, were involved in reviewing some 16 land-related sectoral laws to make sure that gender is mainstreamed in all aspects of land access, use and management.¹⁸ The Ugandan experience thus illustrates that the pursuit of gender equity in land tenure governance should not be an afterthought, but will be more effective as a joint effort between government and civil society from the very beginning of the legislative process, including the stages of policy development, drafting of gender guidelines on policy implementation and subsequent program design.

3.1.5. Customary rights, customary institutions and traditional authorities

- *Concerns are common about different aspects of customary practices and institutions and the way in which they affect gendered rights to own, access and use land and natural resources.*
- *The preservation of those rights which have been safeguarded under customary law, such as women's land access rights (usufruct rights), is a specific issue, along with traditional authorities' role in the allocation of land, dispute resolution and, more recently, large-scale land-based investments.*
- *Gender-equitable governance of tenure requires context-specific understanding of and constructive engagement with the role of customary institutions and of the most effective strategies to boost women's participation within them.*

Customary land tenure arrangements are very diverse, include a wide variety of property rights and relations, and are influenced by local socio-cultural, political, economic and/or religious institutions, as well as by market forces. Land ownership may be vested in communities or lineages or clans, and community members have may different rights to access and use land depending on their gender, marital status, lineage, ethnicity and position within the community as autochtones or allochtones (those who first cleared the land vs those who subsequently migrated into the local area).¹⁹ In Tanzania's Mufindi District, for example, the central factor in local land relations is *uenyeji* (lit. localness), with a person's status as *mwenyeji* (local) or *mgeni* (outsider) trumping both gender and market forces in determining land prices (Daley 2005a; 2005b). Custom itself is also constantly subject to negotiation and change, not least through processes of commoditization themselves, and is a very contested field (Berry 1993; Peters 2004; Ranger 1983; Woodhouse 2003).

In relation to gender, women in many societies acquire rights to land – often secondary usufruct rights – by means of their relationship with men (fathers, husbands, brothers, sons). Particularly in Africa, women often lose land on widowhood and become vulnerable to eviction from their matrimonial homes, while in Pakistan widows lose their inheritance rights if they remarry outside their husband's family (Daley 2011, 6). In Ghana, in Madagascar, within the ethnic groups in the southern part of the country, as well as in Mauritania, within the Haalpulaar ethnic group, women generally cannot access land if not through their spouse (FAO no date (a)). In the Volta Region, in Ghana, women in patrilineal communities gain secondary access to their husbands' land through marriage but lose access to their own lineage land at the same time (FAO 2004, 21). Similarly, some indigenous groups in Bolivia

¹⁸ Pers. comm. Esther Obaikol, Executive Director, Uganda Land Alliance, Rome, 25 November 2010.

¹⁹ Pers. comm. David Palmer, FAO Senior Land Tenure Officer, Rome, 31 January 2011, on West Africa.

and Chile promote marriage between people of different communities, but this requires that women move to the husband's community, losing in most cases the right to land in their natal community (FAO no date (a)). The implication, however, is that as women lose their rights to land in their natal communities, they also lose any legitimate claims to participate in the governance of tenure in those communities. Similarly, where women's usufruct customary land rights are dependent on marriage, the legitimacy of their claims to take part in the governance of tenure in their marital homes can be challenged on the grounds that their marriages may dissolve and they can thus not be considered as permanent community members. These same arguments have commonly been used to justify the denial of land ownership rights to women, but they apply equally to the issue of their participation in tenure governance. They also apply to men who are not part of land-controlling lineages in communities where land tenure is directly linked to lineage, including for men in communities with matrilineal land tenure arrangements (Peters 2010).

Customary norms can also prevent women from claiming their rights or force women to surrender them. In Bangladesh, for example, it is customary for a woman not to ask for her share of the family property unless it is given willingly (Hatcher, Meggiolaro & Santonico-Ferrer 2005, 19). In Pakistan, forfeiture of their legal inheritance share by women in favour of their brothers or sons, often through force, is a widespread practice because women fear putting their family ties at stake, as they generally rely on the parental home and their brothers in times of need (Mumtaz & Noshirwani 2007). All such customary practices and enmeshed perceptions of appropriate gendered behaviours and relations serve to constrain women's ability to take part in the governance of tenure.

On the other hand, in some cases, customary practices have protected women's access to land to some extent. In Lao PDR, while bilateral inheritance practices are common among ethnic Lao communities (thus sons and daughters inheriting equally), it is customary to give the family land and house to the youngest daughter who takes care of the aging parents (ADB 2004). Among the matriarchal communities of the districts of Kuala Pilah, Rembau, Jelebu and Tampin of Negeri Sembilan, in Malaysia, property vests in female community members and all ancestral property is strictly entailed in the woman (Ariff 2009). However, this does not mean that women are then automatically more proactive participants in tenure governance. In the Lao case, for example, the allocation of land to the youngest daughter is closely tied to her responsibility for taking care of the parents, and it may therefore be in the gift of those who would inherit should she fail in her duties. This is important particularly at times of increasing land commoditization when the growth of land markets can put pressures on customary norms that would have facilitated more gender-equitable access to land. Research from Tanzania, for example, records brothers and sisters contesting claims to lineage land according to their fulfilment of their social responsibilities but with brothers' claims always stronger in the presence of land scarcity, while similarly in densely-populated Rwanda, women's ability to assert their equal inheritance rights under statutory law are constrained in practice by customary norms that sanction girls who are deemed to be "greedy" (Daley, Dore-Weeks & Umuhiza 2010, 140; Odgaard 1998; Yngstrom 1999). The implications of all this for responsible governance of tenure are that attention to gender-equity must go beyond policies, laws and participation issues to also address underlying perceptions of gendered relations and power structures, which will require a very long-term perspective and much patience to deal with, and solid attention to issues around communication and awareness as we discuss further below.

Moreover, and as indicated above, customary practices and institutions are not immutable but evolve according to the legal environment, changing social and economic conditions and

external factors such as climatic, demographic and financial shocks. Customary institutions themselves therefore have a potentially important role to play in influencing changes in customary practice in a more gender-equitable direction during these processes of change. In Sub-Saharan Africa, for example, women are often confronted with discriminatory practices and biases on the part of local customary authorities responsible for decentralized land administration who tend to not recognize women as full community members (Whitehead & Tsikata 2003). However, the World Bank (2005) recognizes that customary authorities – such as councils of elders, mahallia or neighborhood committees, tribal councils, clan leaders, religious leaders and so on - have potentially more power to change customary norms than legislative bodies. Women may find it easier to approach respected local leaders than formal institutions, and thus these institutions should be addressed in overt efforts to support equitable governance of land. The *Land Equity Movement of Uganda* (LEMU) has specifically taken this approach in seeking to work constructively with local customary authorities in northern Uganda in support of women's land rights by appealing to longstanding customary practices that protected women's rights to access and use land (LEMU 2008). Although LEMU's approach has been criticized and the jury is still out on the most effective strategies to boost women's participation within customary institutions and constructively engage with them, it is clear that pragmatism is essential (Daley & Englert 2010; c.f. Daley & Englert et al 2008).

3.1.6. Inheritance of land

- *The issue of inheritance of land within statutory law and customary law should be given special attention, as it often the means through which gender inequalities are transmitted down the generations.*

A final specific issue of relevance to the fore-going discussion of legal frameworks and customary laws and institutions is that of land inheritance. As the late Okoth-Ogendo has observed, “it doesn't matter what other laws govern the determination of land rights in general” so long as inheritance is governed by customary law (2000, 128). In patrilineal societies, such as across most of Sub-Saharan Africa, land is generally passed from father to son. In matrilineal societies, which are present worldwide in small and limited geographical areas, inheritance patterns are much more diverse. For example, in matrilineal communities in Malaysia (Stivens 1985) and India (Agarwal 1988), lineage is traced along the mother's line and land is passed from mother to daughter. In matrilineal communities in Sub-Saharan Africa, land is usually passed from maternal uncle to nephew, but women can also inherit and acquire land in their own right within their matriliney and community (Manji & Lastarria-Corhniel 2010; Peters 2010). Regardless of the particular forms of inheritance, however, it is impossible to carry out any effective long-term tenure reforms without consideration of inheritance because when inheritance remains within the ambit of custom, policies which neglect inheritance, such as those which aim to increase women's land rights by focusing on rights within marriage, can only have a limited impact (Guyer 1987, 2-8).

The implication of this for responsible gender-equitable governance of tenure is that consideration should be given to reforming land governance and personal laws (including marriage, inheritance and succession laws) in tandem. One of the reasons, for example, why the current land tenure reform process in Rwanda is so successful in terms of its gender outcomes, with women actively involved in governance through participation in local committees and actively registering their land, is that it followed a transformational reform of

the country's inheritance laws (Daley, Dore-Weeks & Umuhoza 2010). Once the inheritance reform had taken place, equalizing men and women's rights to inherit from both their parents and their spouses and equalizing their land rights within the majority of marriages, it became possible for women to have an equal claim to men to take part in the governance of the resource. This follows from the argument made above that denying women rights to both land ownership and to participation in land matters often rests on a lack of underlying gender equality; where this is then rectified by means of inheritance and personal law reforms that will ensure gender-equity in land ownership down the generations, it becomes much harder to deny the legitimacy of women henceforth becoming involved in land matters and land governance on an equal footing with men. Furthermore, it also follows from the point we made earlier about the important connection between tenure and power structures – for tenure reforms that require a fundamental redefining of relationships between and among people to take hold, they also require a fundamental restructuring of customary tenure arrangements that may result in fundamental shifts in the power structures within families, communities or countries.²⁰

3.2. Awareness and communication

3.2.1. Legal empowerment

- *Legal empowerment, including legal literacy and legal support, is a pivotal issue to equitable participation in land governance.*

Various definitions of legal empowerment have been provided in different development fora, but a general consensus has emerged on framing legal empowerment as “the use of law specifically to strengthen the disadvantaged” (Golub 2010, 6). Legal empowerment of the poor is seen as a necessary condition to create “an enabling environment for providing sustainable livelihoods and eradicating poverty” and it has received a lot of attention internationally over the past five years (UN 2009, 3; c.f. UNDP no date). With specific regards to gender, the UN Secretary General has observed that

discrimination and inequalities in women's access to land, property, the labour [sic] market and inheritance persist, often resulting from statutory and customary property systems that disenfranchise women (UN 2009, 6).

The Secretary-General has also highlighted that

the link between women's empowerment and poverty eradication encompasses in particular the following aspects: (a) women's de jure equality and the elimination of discrimination against women, which covers the persistence of overtly discriminatory legal provisions in both statutory law and customary legal systems; (b) women's knowledge of their rights and capacity to claim them, including legal literacy; and (c) means of redress and access to justice and remedies, including international means of redress (Ibid, 6).

In order for governance of tenure to be gender-equitable, women (and men) must be aware of what is legally possible, possess information on how to record land rights and engage in land transactions, and be empowered to assert their claims and secure their rights to land (WB/FAO/IFAD 2009a, 20). Women (and men) must also understand the complexity of land issues, the relationships between different laws and practices, the various options and

²⁰ Pers. comm. David Palmer, FAO Senior Land Tenure Officer, Rome, 31 January 2011.

different legal spheres that may be available in the pursuit of their land claims, and the limitations of both the legislation and the implementing and administrative bodies, with knowledge of both formal and informal mechanisms for exercising land rights crucial in most countries, as the legal situation can be very complex as we have already seen (Ibid, 20; c.f. Mackenzie 1989; 1990; 1993; Merry 1982).

In many countries, a major impediment to women's participation in land reform programs is lack of knowledge among women of their rights because of both widespread illiteracy and lack of dissemination of information on legislation at the local level (Lastarria-Corhniel & Manji 2010, 58). There are thus many accounts of programs failing to make notable achievements in increasing women's participation in land distribution and titling due to the beneficiaries' lack of awareness of their rights, for example in Honduras, Indonesia, Vietnam and Laos (Ibid).

However, the provision of legal information – and thus awareness raising about land reforms – is not sufficient by itself. A recently concluded *International Development Law Organization* (IDLO) research project, “*Using Statutory Rights to Improve Women's Land Tenure Security*”, has demonstrated the value of NGO efforts to provide paralegal education, advice and legal assistance services in promoting the observance of statutory land law in a number of villages in Mozambique and Tanzania (IDLO 2010). For example, the provision of legal assistance has been crucial to the ability of divorced and widowed women to challenge dispossession, since there is no culture of women claiming rights as individuals. However, the research also suggests that levels of knowledge of statutory law and formal justice mechanisms are correlated with a preference for using formal courts, which have been seen to grant and restore rights when customary practices are discriminatory. The research thus demonstrates that, although legal education and improved legal literacy in rural communities is vital, it cannot be assumed to enable women to exercise their legal rights by itself; without legal and material assistance in taking cases to court, progressive legislation may well remain an abstract concept with little impact on the lives of those in need of legal protection (Ibid).

Legal empowerment can also be supported by equitable participation in governance of tenure, as, for example, through the FAO-supported participatory land delimitation approach. This approach is an innovative method for securing land rights acquired through customary and other forms of land occupation and it has been successfully used in areas of communal land tenure in Mozambique. FAO has also supported the drafting and implementation of Mozambique's progressive Land Law and contributed to the capacity development of judges, district officials and NGOs in promoting the access to land of the poor (FAO 2009d; 2009e). A new component of this project (starting at the time of writing) has a stronger gender focus and will provide training for paralegals and community leaders (both men and women) in women's land rights over the next three years to boost levels of legal literacy.²¹

The project is not suggesting that women should break out of the community by asking for individual title to their plots, but rather that they should participate in the decision-making processes within their communities and have a say in them. The aim is to strengthen their customary rights within the existing customary environment.²²

²¹ Pers. comm. Margret Vidar, op. cit.; Pers. comm. Paolo Groppo, FAO Technical Officer, Rome, 30 September 2010; Pers. comm. Eve Crowley, op. cit.

²² Pers. comm. Margret Vidar, op. cit.

The NGO *Forum of Mulher* supports this project in the field by helping women claim their land in both formal and customary courts – these latter being the first layer of the formal legal system in Mozambique.

Many people may not know the land law which was drafted in 1997 and there is a perception that it will allow people to continue as before. So the project is trying to protect the customary rights of ordinary women (e.g. married women) but also those of vulnerable women to participate in community land issues.²³

In a similar vein, staff lawyers working for the NGO *International Justice Mission* (IJM) provide practical legal support to victims of illegal dispossession and property grabbing, especially widows and orphans, to help them obtain legal redress in its programs in Rwanda, Zambia, Uganda and Kenya, as well as working to sensitize local leaders and members of local dispute resolution committees, both men and women, on the issues (IJM no date).

3.2.2. Gender sensitization, awareness raising and diffusion of information

- *Gender sensitization, awareness raising and diffusion of information need to be included among strategies supporting women's participation in land and natural resource governance.*
- *Voice and choice cannot be exercised if there is no awareness of issues and rights, thus awareness and communication are key to gender equitable land governance.*

The extent to which dissemination efforts are crucial to carrying out and achieving gender-sensitive policies and objectives is probably best exemplified in land reforms, which risk being gender-insignificant if not sustained by adequate sensitization and awareness raising activities (Lastarria-Cornhiel 2000, 10). As already observed above, legal reform alone is not a sufficient condition for change, even though it is a necessary prerequisite for it. In many Latin American countries, for example, such as Nicaragua, Peru and Bolivia, and in Lao PDR in Asia, land titling and registration programs have failed to issue titles to women in their first attempts to legalize women's land rights, in spite of existing joint titling and registration provisions in the law. In all these cases, the number of women holding land titles did not change significantly until issues such as lack of information, cultural practices and biases, and non-enforcement of the rules were specifically addressed through sensitization and training of local titling officials and awareness raising among all beneficiaries of the programs – women and men (WB/FAO/IFAD 2009a; Lastarria-Cornhiel & Manji 2010, 36-42). It is therefore evident that

legal solutions must be part of a larger effort to provide education, training, and other means of raising awareness about women's lack of land rights and the consequent impact on the larger economy, well-being of the family, and position and viability of women's livelihood (WB/FAO/IFAD 2009a, 19).

It is likely to always be difficult to change people's attitudes towards gender-equitable governance of tenure as these attitudes are enmeshed in deep-rooted socio-political and cultural perceptions of gender relations and local power structures, as we have already observed. However, family-oriented information and awareness raising can help to encourage people to change their attitudes towards family obligations, the value of women's

²³ Pers. comm. Margret Vidar, op. cit.

contribution to household production, and the recognition of their land ownership rights (Ibid, 41).

Sensitization, awareness raising and diffusion of information programs can vary from those which are strictly educational or informational programs that inform women about their rights to land and other natural resources, to action-oriented programs that support women's groups to protect their tenure rights, to broader gender sensitization programs that seek to raise community consciousness about women's tenure rights, and to programs that encourage the active participation of women and women's groups in governance and management of resources (c.f. Lastarria-Cornhiel 2000, 10). However, the most effective programs are usually those which address their messages to both men and women.²⁴ Sensitization, awareness raising and diffusion of information can also be effectively integrated as part of broader land reform programs rather than necessarily kept as standalone programs, while the two approaches can also be complementary. In Rwanda, for example, a local farmer's NGO, *Imbaraga*, produced an illustrated local language public information booklet for national distribution on the content of a new land law, but this was done in active partnership and cooperation with the government during its own process of rolling-out and starting to implement the new law (Daley, Dore-Weeks & Umuhoza 2010, 136).

Nonetheless, any form of dissemination strategy needs to take into account the specific constraints that women may face in accessing information. For example, the illiteracy rate is often higher among women than men, particularly among rural populations (FAO 2002, 33). Sensitization, awareness raising and diffusion of information programs targeted at rural women therefore need to be designed specifically to include measures to accommodate illiteracy or include basic literacy training (Lastarria-Cornhiel 2000, 11). Furthermore, resource-poor and less-educated women are likely to have no prior knowledge of their legal rights and to lack resources and opportunities to claim them, especially if customary practices and patriarchal norms do not recognize women's rights to full community membership and therefore to independently claim land (Lastarria-Cornhiel 2005, 29). The successful adoption of training or information may also differ very much according not only to gender and education but also to economic status and to the nature of the issues themselves. However, it is also important in any information dissemination strategy to use a form of media that best reaches the widest number of people. For example, depending on the culture, radio and television may be more effective than public forums and meetings (FAO 2002, 33).

"*Dimitra*", a participatory FAO information and communication project, has successfully used rural radios to inform and empower rural women in several African countries. In Niger, the project has supported the setting up of women's listeners' clubs to which it distributed solar and wind-up radios. Rural journalists and local women have been trained to take a gender-sensitive approach to discussing the issues raised in the broadcasts, including land issues, and programs are aired at times which are compatible with women's work schedules. Members of the women's listeners' clubs have also received solar-battery operated cellular telephones in order to enable them to call the radio stations and share their views in real time, during or after broadcasts. They can then suggest which topics they would like to hear addressed and meet to discuss the issues:

²⁴ Pers. comm. Marianna Bicchieri, Technical Adviser to the "Community level legal education and support to help rural women secure and exercise land and resource rights, and address HIV-AIDS related tenure insecurity" project, Mozambique, 2 February 2011.

The power of this use of radio is that people feel they own the messages because they have requested it and modified it in the feedback they give to the stations.²⁵

Normally rural people, especially women, do not have access to radios and many do not read, and speak only the local language. So, local radios are useful sensitization tools:

If people feel empowered during the process, they will not be stopped. Once people are aware of issues, you can't go back.²⁶

Nevertheless, even good sensitization, awareness raising and diffusion of information may not be sufficient to overcome all constraints to women taking up land titling that is allowed by law. In the second phase of a titling project undertaken with the Andean people in the mountains of Peru, "*Proyecto Especial Titulación de Tierras y Catastro Rural*", and following FAO proposals to include information and awareness campaigns in the project, the NGO *Centro Peruano de Estudios Sociales* used radio campaigns to raise awareness about the importance and implications of land titling (individual, communal and joint), albeit without specifically addressing women in the message. Yet, despite joint titling for married couples being upheld by the law, the project found women were refusing it because they feared that their husbands would think they were trying to steal their land, as most men in that area had migrated away for work while the women stayed behind on the farms.²⁷ In such cases, focusing pro-active gender awareness raising campaigns on men seems to be at least as important as targeting women, as already mentioned.

A number of practical suggestions and strategies for improving sensitization, awareness raising and diffusion of information so as to facilitate more gender-equitable governance of tenure have come from both FAO and FIG (FAO 2002, 27; FIG 2001). These relate to practical measures within land administration and to more general education and sensitization measures that international organizations can play a crucial role in, and are set out in Box 4 (next page).

Overall, the dissemination of messages to all people on the ground should be part of an ongoing process of fostering change, which may take years to show real results. The FAO experience of communal land titling in Mozambique described above is a case in point; it took ten years for FAO's project team there to win the local population's trust and build the credibility needed to be able to push the politicized issue of gender forward.²⁸

Providing information to all those who implement or enforce land laws is also central to making land rights secure and sustainable, and not just to those who might benefit from them. Other household members, local leaders, judges, and land professionals must all understand the law and its implications, and how to use and follow the law, in order to be able to uphold the land claims of those who have been successfully targeted by general information dissemination strategies about land rights, because all actions to alert the public to new laws can do little to change attitudes or actions in the long term unless they are sustained by the efforts of local people who understand and support the legal changes and especially of those who have responsibility for implementing them (WB/FAO/IFAD 2009a, 144).

²⁵ Pers. comm. Eliane Najros, Dimitra Senior Project Manager, Rome, 7 October 2010.

²⁶ Eliane Najros, op. cit.

²⁷ Pers. comm. Adriana Herrera-Garibay, FAO Land Tenure Officer, Rome, 25 November 2010 and 28 January 2011.

²⁸ Pers. comm. Paolo Groppo, FAO Technical Officer, Rome, 30 September 2010 and 1 February 2011; Pers. comm. Margret Vidar, op.cit.

Box 4: Communication and Awareness Strategies to Support Gender-Equitable Governance of Tenure

Measures to remove women's barriers to accessing information in land administration (FIG 2001):

- explaining the rights and obligations associated with holding the title to land;
- discussing the meanings of land administration terms with women;
- consulting those women who will be directly affected by program outcomes;
- ensuring that there is a two-way communication mechanism in place between women and surveyors;
- including women among surveying professionals working with local communities; and
- supporting women's membership in land management bodies at all levels.

Education and sensitization activities for international organizations to promote gender integration (FAO 2002, 27):

- fostering the discussion of gender issues related to land in a neutral forum;
- sensitizing local leaders on gender issues;
- providing equal opportunities for men and women in education and training in land-related programs; and
- supporting the selection of qualified women in key leadership and decision-making roles related to land administration and management.

In sum, there are extensive links between the two issues of legal empowerment (including legal literacy and legal support) and gender sensitization, awareness raising and diffusion of information. Awareness and communication as a whole is therefore a critical issue to address both in the VG itself and in subsequently developing technical guidance on gender and the responsible governance of tenure.

3.3. Other issues

A number of other technical issues have arisen during the research for this paper on which it is relevant to make some brief comments about governance of tenure from a gender perspective. It is envisaged that these issues will be addressed within different technical guides, and the proposed scope of the Gender Technical Guide, "*Governing Land for Women and Men*", will therefore only allow for a limited engagement with these issues, mainly insofar as they relate to the links between land and other natural resources.

3.3.1. Forests

Secure access to and control over forest resources is fundamental to the sustainable livelihoods of rural poor people. However, forest governance to date has largely focused on the physical resource and its status and extent, often underestimating the contribution of forests – and of off-farm natural resources in general – to livelihoods and poverty reduction. FAO has made efforts to address this and is now developing ways of collecting and incorporating data about local people's reliance on forests, and the value of those forests to them, into its future Global Forest Resource Assessments (FAO 2006b; 2010k, 210; forthcoming). Eighty percent of the world's forests are publicly owned, but ownership and management of forests by communities, individuals and private companies is increasing

throughout the world along with their involvement in the management of those forests still publicly-owned (FAO 2010k, 210). In addition, especially in smaller forests, wooded areas and areas of customary tenure practices, there are often important distinctions between tenure of land and tenure of trees.

Responsible forest governance is primarily concerned with maintaining good forest conditions while meeting human needs, thus regulating forest resource use (timber and non-timber) so as to simultaneously preserve forests and promote the livelihoods of forest-dependent populations in ways that are sustainable to both. Secure access to forest resources and participation in management institutions are therefore both crucial elements of forest governance.

In many countries, access to forest resources is determined by gender-based differences in knowledge about natural resources and ways of using them. Women and men differ in the nature and extent of their dependence on and use of local forests, due both to gendered divisions of labor and in some cases gendered customary norms that regulate men and women's access to and use of forest resources. Typically, rural women rely on forests for products such as firewood, fodder and non-timber items such as honey or medicinal herbs, while men generally view forests as a source of timber for construction or trade. Forest products extracted mainly by women commonly have a shorter gestation period than timber itself and are often accessed with more frequency or regularity. Such gender differences affect women and men's conservation and extraction practices, shape their knowledge of forest species and suggest the value of them playing different roles in forest governance and management. Taking into consideration such gender differences and complementarities in the ability to protect forests therefore makes the inclusion of women in forest governance institutions crucial to promoting responsible governance of forest tenure (Agarwal 2009).

Various studies have shed light on the constraints to women's participation in forest governance and provided insights on issues such as women's lengthening firewood collection time amidst regenerating forests (e.g. Sarin 1998; Hobley 1996). However, there is evidence that overcoming constraints and enabling women's participation in forest governance is also likely to have a beneficial impact on conservation outcomes. Agarwal, based on primary data collected among communities managing their local forests in parts of India and Nepal, has concluded that forest management groups with a high proportion of women in their executive committee show significantly greater improvements in forest condition, while groups with all-women executive committees in the Nepal sample had better forest regeneration and canopy growth outcomes than other groups, despite managing much smaller and more degraded forests (2009). Agarwal attributes the beneficial impact of women's participation in forest governance to their greater levels of forest protection, rule compliance and cooperation, as well as to the new opportunity for them to use their knowledge of plant species and methods of product extraction in their forest management role (2009). The conclusion is clear – gender and governance of tenure issues are as important to discussions of forest tenure governance as they are to land.

3.3.2. Fisheries

Fishery and aquaculture production activities worldwide provide direct employment and cash income to an estimated 155 million people, the vast majority of whom work in the traditional, small-scale sector, which accounts for about 70 per cent of global fisheries production (FAO 2007b; no date (b)). However, the role of women in the fisheries sector has largely gone

unrecognized; fisherwomen's interests are rarely represented among managers, policy-makers and legislators, providing an incomplete understanding of how the sector as a whole operates and functions (TAB 2006). Women's most prominent role in the small-scale fisheries sector is in post-harvest processing and marketing. For example, in West Africa, as much as 80 per cent of seafood is marketed by women, while in fish processing factories surveyed in India, 60 per cent of workers were young women, and in Vietnam, women make up 80 per cent of the aquaculture workforce (FAO no date (b)). Women also perform much of the preparatory work, such as mending nets, although their contribution here is often informal and unremunerated (Ibid).

As with forest resources, the different work done by women in fisheries generates different kinds of complementary knowledge. Thus, while men may know which stretches of river have the best fishing, women know the price these fish will fetch in the market. Knowledge of both is required to address management and governance issues in the sector, and this is even more the case in the face of ongoing changes in the sector, such as growing competition from industrial capture fisheries and large-scale aquaculture, which are both influencing gendered roles and responsibilities (FAO no date (b); TAB 2006). For example, in parts of Cambodia and Thailand, women increasingly fish and own boats and in Bangladesh 60 per cent of fish farmers are women; on the other hand, in India, the motorization of fishing vessels in one area has led to bigger catches and the replacement of women fishmongers by male merchants (FAO no date (b)).

Gender issues are also central to governance of tenure in fisheries because of the links between different natural resources – in this case to tenure of land because of its impact on access to the places where different fishery activities are carried out. In the Philippines, for example, case studies prepared for the International Land Coalition (ILC) by *NGOs for Fisheries Reform* found that encroachment on common property foreshores by private developments in tourism and commercial aquaculture (fish ponds and shrimp farms) affected women more severely than men due to their greater physical reliance on the foreshores land for seaweed farming and for drying fish and seaweed before marketing, and because of their greater reliance on coastal mangrove forests to meet household food and fuel consumption needs (Daley 2011, 33-40). This example also illustrates the complexity of gender issues in the governance of tenure of land and other natural resources because it highlights the links between multiple resources – forests, fisheries, water and land.

3.3.3. Water

Gender-equitable governance of tenure must also pay specific attention to links between water rights and land rights. Access to water for domestic use, pastoral water rights and customary access rights to water for irrigation all depend on people having secure rights of way over land that they may not own, and this provides a clear justification for addressing land and water tenure in an integrated way. In practice, however, discussions of water tenure have tended only to focus on legal (formal) water rights, for example in large-scale irrigation schemes, and customary water rights as such are often ignored.²⁹

Because water rights, especially customary rights, are strictly connected to land rights, policy reforms that have attempted to regulate the two domains separately have often brought about unforeseen consequences on local land and water tenure practices and use patterns (Adams,

²⁹ Pers. comm. Stephen Hodgson, Water Consultant, 29 September 2010.

Berkoff & Daley 2006). With respect to issues of gender, this has been the case in the Sudan, Gambia and Sierra Leone, where resource policy changes have had negative consequences both for women's resource rights and for their livelihoods. This is because the nature of the customary practices through which women obtained access to water and land, including the full extent and nuances of the links between customary land and water rights, were not fully understood nor taken into consideration during the formalization of land and water rights with policy change (Ibid, 25-27; c.f. Bernal 1988; 1999; Carney 1988; Watts 1993).

In another example from Burkina Faso, a water infrastructure project, "*Opération Riz*", undertaken between 1979 and 1993, empowered the government to expropriate existing resource rights and reallocate lifelong tenancy rights over the improved resource. In the first phases of the implementation, however, the project relied on male chiefs and on a male-biased interpretation of customary law. After the construction of the infrastructure, improved bas-fond (lowland) plots (and related water rights) were allocated to (male) household heads regardless of local customary practices which were more favourable to women. In Comoé Province, for instance, while men control land on the uplands and grow groundnuts and cotton, women have land rights in the bas-fonds and cultivate rice, and women are often also the local land-cum-water authorities in the bas-fonds. Only in subsequent phases of the project was the gender bias redressed so that women began to formally participate in the decision-making process and obtain new formal land and water rights in the bas-fonds through the project (Cotula 2002). The key conclusion here is that only by enabling local women's participation alongside men in the governance processes can gender-equitable outcomes be achieved.

3.3.4. Large-scale land-based investments

Large-scale land-based investments by foreign and domestic investors in agriculture-based economies are a growing phenomenon of substantial international concern (e.g. GRAIN 2008; Von Braun & Meinzen-Dick 2009). Gender-equitable governance of tenure is particularly relevant here, including through equitable participation in governance and decision-making processes relating to these large-scale land deals.

Although only limited attention has been devoted to the gendered impacts of large-scale land-based investments to date, with a consequent lack of empirical data, examination of the gendered impacts of the historical development of large-scale commercial agriculture suggests that large-scale land deals may not only worsen poor conditions of female land access and ownership but also limit rural women's opportunities for income generation with cascading negative impacts on overall sustainable rural development, food and nutrition security and poverty reduction, and recent case study research by the ILC supports this conclusion (Daley 2011). Furthermore, given that large-scale land deals involve many actors at different levels (community, local government, national government and investors), take place in different contexts and also take different forms, it is important to analyze the full array of possible impacts as well as the complexities of the situation prior to the land deal (Behrman, Meinzen-Dick & Quisumbing 2010).

From a governance point of view, there is a need to ensure that all large-scale land deals are carried out in a way that includes gender considerations from the outset so that women will be able to participate in decision-making processes and benefit equally from the employment and development opportunities that may arise. This should be addressed not only through the VG but also through the "*Principles on Responsible Agricultural Investment*".

4. Regional Summary

Following from the above analysis of core themes and issues in gender and governance of tenure, it is also important to take into account the different regional perspectives that emerged during the VG's regional consultation process, so as to capture the implications for gender and governance of tenure from the complexity and variety of the many different socio-cultural, economic and political contexts throughout the world. The various regional consultations evidenced that although many issues are cross-cutting, context-specific differences do exist. Issues emerging from the VG's civil society and private sector consultations are also relevant here, as these stakeholders will be key actors in achieving and supporting gender-equitable governance of land tenure in practice.

One interesting point to emerge from the regional consultations was over the issue of how to address gender in the first instance. In the Latin American consultations, for example, the 'gender working group' during the discussions noted their unhappiness at being in a separate working group, and their concern that this was a form of discrimination that would reduce the likelihood of gender issues being mainstreamed into the discussions of all the other working groups within that consultation (FAO 2010b). On the other hand, in the Eastern and Anglophone West African consultations, it was suggested to mainstream gender issues and not have a separate working group, due to a limited number of people who could participate in it, but the participants decided to proceed with a small working group as they were concerned about the risk of diluting gender issues if they were not treated separately.³⁰

4.1. Latin America, Central America and the Caribbean region³¹

In Latin America, land and other natural resources are subject to extensive processes of commercialization and concentration, including increasing foreign land ownership in the majority of countries which affects the sustainability of family farming in this region and influences income inequality, conflicts over land and migration patterns. In the Caribbean subregion, the agrarian structure is marked by both large export-oriented plantations and smallholder settlements, while it is characterized by dual latifundio-minifundio tenure arrangements and landlessness in the Central American subregion. Both these subregions are affected by weak administrative and legal institutions and systems, which contribute to tenure insecurity, while increasing land pressures and soaring land prices hamper the rural population's access to land and ability to engage in land markets. Climate change issues are also very relevant in the Caribbean islands, and indigenous peoples' issues in both Central and Latin America.

Women across Latin America have been discriminated against historically with regard to property through agrarian reform processes that engaged with men as household heads. Some countries have remedied this over the last decade by promoting various legal and land policy reforms to improve gender equality and by giving a higher priority to women household heads in state-supported land allocation processes. Conversely, women outperform men in all levels of education and in participation in government and public service in the Caribbean and there are few legal restrictions in this subregion on women accessing and holding land, although cultural inequalities and gender disparities in land tenure still exist in practice.

³⁰ Pers. comm. Francesca Romano, Land Tenure Officer, FAO, Rome, 11 February 2011.

³¹ This summary draws on FAO (2010b) and Sotomayor (2008) on Latin America and FAO (2010g) and Griffith-Charles (2010) on Central America and the Caribbean subregions.

The Latin America VG consultations called for access to land for women and vulnerable groups to be considered as a human right, and for explicit reference to be made in the VG to international treaties and human rights instruments such as the CEDAW. These consultations also called for monitoring mechanisms to be established for the VG, including support for existing monitoring mechanisms on gender such as the UN Committee for the Elimination of all Forms of Discrimination against Women, and for local governments to be strengthened so as to be more effective in favouring vulnerable groups in land management. The Central America and Caribbean VG consultations called for gender-sensitive initiatives in land reform and land titling projects to be mainstreamed as part of broader development programs, and for lessons learned on gender equity issues to be systematized and disseminated. The Latin America VG consultations called for each country's legislation to guarantee that women's rights to land are safeguarded, that joint title deeds for family land are promoted at national level to avoid discrimination, and that gender equality is considered within participatory agrarian reform processes. To this end, these consultations called for legislation to be approached with an integrative perspective, ensuring access to other productive resources for agriculture such as credit and infrastructure.

Finally, the Latin America VG consultations called for the fundamental role of women in agriculture to be recognized and for women to no longer be considered merely as a support to the work of men, with women's important roles in food production and biodiversity preservation especially highlighted. These consultations also called for the replacement of the term 'family farming' – which is patriarchal and excludes women – with the term 'peasant farming' – which gives equal value to all components of the family group.

4.2. Pacific region³²

Improved land tenure governance is important both to food security and to climate change adaptation and mitigation throughout the island states of the Pacific region. Customary land tenure practices are strong across most of the region, and much activity is currently taking place to reform land administration systems and tenure, including through a regional initiative to support national land reforms and help harmonize traditional and modern values and practices.

The VG consultations in the Pacific region endorsed the principle of non-discrimination against women through recognizing and supporting key international instruments such as the CEDAW. The participation of all stakeholders in land and natural resource policy-making was called for, along with transparency, fairness (equity) and consideration for the rights of women. Given the tremendous diversity of local languages and cultures across the Pacific, communication and information were also identified as key issues in the VG consultations. Appropriately-packaged knowledge, awareness-raising and effective information-sharing will be needed to help people claim their rights, which must be accessible in local and spoken languages, and this will be of benefit to both women and men.

The need to respect customary tenure arrangements was given special prominence in the Pacific VG consultations, including a call for women to receive equal rights and opportunities to use customary land according to their cultural beliefs and traditional knowledge. However, it will be important to ensure that this is done in a way that upholds non-discrimination against women, and that different land rights and land uses are equally respected. In this vein

³² This summary draws on FAO (2010c).

the VG consultations also called for land valuation to address intangibles like food security, water resource use, traditional medicines, firewood, biodiversity and so on, rather than just financial market values.

4.3. Asia region³³

The Asia VG consultations included representatives from 15 countries in the region, including the most populous – China, India and Indonesia. The broader Asia region incorporates great diversity of governance of tenure. However, there are some commonalities between countries in the Southeast Asia subregion, where governments are working from the top down to register land and rationalize property rights despite rent-seeking, administrative corruption and lack of easy access to justice restricting the benefits to ordinary people. Countries in the Southeast Asia subregion also all face supply constraints on land for agriculture as natural forest cover declines, along with problems of land concentration, excessive land subdivision and fragmentation, and overlapping land and resource claims.

The Asia VG consultations called for high-level commitment and political will to address tenure insecurity for all groups and individuals, including legal recognition of the rights of women, and for gender issues to be supported in the region in the context of responsible governance of tenure. Specific recommendations from these consultations were that comprehensive agrarian reform programs should consider allocation of land under secure tenure to women and that key stakeholders should be sensitized to gender issues through appropriate education and information. The Asia VG consultations also called for women to be provided with legal protection and support in respect of large investment and development policies and projects. On institutions, these consultations called for mandatory representation of women in governance structures and monitoring of their impacts in decision-making to improve social accountability at local level, and for disaggregated data by gender on land access and control to be collated to enable better understanding of land use and relations and promote more informed policies in relation to social accountability. On land use and urban planning, the Asia VG consultations recommended that the importance of gender- and culture-sensitive and inclusive planning processes to achieve sustainable communities and cities should be recognized. Finally, in terms of land administration, the Asia VG consultations recommended that women's rights to land and other natural resources should be fully recognized and recorded appropriately, that the standard practice of recognizing only the husband as the household head should be replaced with joint recognition, and that gender-appropriate technologies and access to finance for women should be made available.

4.4. Africa region³⁴

The Africa region as a whole is characterized by widespread gender discrimination and generally patriarchal land ownership patterns, by legal pluralism, and by having different land areas governed by very different tenure arrangements. In Southern Africa, strong customary tenure practices combine with a long history of interventions in land tenure and land administration, including through various forms and means of land redistribution and large-scale colonial settlement. In Eastern, Western and Central Africa, customary tenure practices

³³ This summary draws on FAO (2009b) and Nabangchang and Srisawalak (2008).

³⁴ This summary draws on FAO (2010e), Kandine (2008) and Ntampaka (2008) for Francophone Africa, FAO (2009a) for Southern Africa, and FAO (2010f) for Eastern and Anglophone Western Africa.

are equally strong, but there are broad differences in the imported legal systems governing land between Francophone (civil law) and Anglophone (common law) countries, and the colonial history was also more diverse. Land governance is probably least effective in Central Africa, where particular issues include corruption and abuse of power, non-implementation of land and natural resource laws, and problems between customary and state authorities.

Demographic and environmental changes (for example, through rapid urbanization and climate change) pose land pressures for all African countries, including land and natural resource-related conflicts in many places – fuelled also by the strong social and cultural value of land in Africa – while good governance of tenure is vital to economic growth, poverty reduction and the attainment of the MDGs. The recent Africa-wide initiative of the African Union (AU), the UN Economic Commission for Africa (UNECA) and the African Development Bank (AfDB) to develop a continental ‘Framework and Guidelines’ on land policy development and implementation has influenced all three VG consultations in the region to emphasize the need for the VG to link to regional and national initiatives (for example, those led by the CLISS and ECOWAS states in West Africa) and for issues around customary and statutory land tenure to be addressed in a common policy framework across Africa.

The Southern Africa VG consultations directly addressed the importance of upholding non-discrimination in land matters and supporting women (among others) to have equitable and secure access to land and natural resources. These consultations called for representation and participation in processes of policy-making, review and reform to be open to all in order to address discrimination in both statutory and customary law, and for training, education and organization of women to enable them to claim their rights of representation and participation. The Southern Africa VG consultations also noted that social changes and the impact of HIV/AIDS have caused new forms of discrimination to arise beyond those entrenched in statutory and customary law, and called for international and national laws that recognize the rights of women to be brought to reality on the ground.

The Eastern and Anglophone West Africa VG consultations highlighted that good governance of tenure must embrace the challenge of gender issues; they noted that women are excluded from land governance at community and national levels, that statutory laws generally give women fewer rights than those due under the international commitments that countries in the region have signed up to, and that some statutory rules and regulations legitimize the secondary nature of women’s land rights. Administrative institutions and socio-economic realities also make it difficult for women to secure in practice even those rights they have on paper, or to participate in land management (for example, in drylands where they are primary land users). The Eastern and Anglophone West Africa VG consultations further highlighted that lack of transparency in land administration and management excludes women, who often have limited knowledge on processes of securing their rights to land, while a lack of gender-disaggregated data on land governance makes it difficult to support the case for women’s rights to land. Government budgets and donor support are both also often gender-blind on land issues, while, on land use planning and urban development, these consultations noted the lack of integrated planning and development to cater for the needs of all citizens including women.

Specific recommendations arising from the Eastern and Anglophone West Africa VG consultations were to undertake a comprehensive review of land laws to harmonize land rights and responsibilities, proscribe all types of discrimination including those based on gender, and protect the land rights of poor and vulnerable groups, to set up a legal framework

and/or provisions to safeguard and protect the rights of women in relation to agricultural investments, as well as to initiate Africa-wide research on gender and land issues in light of the AU/UNECA/AfDB 'Framework and Guidelines', and to create an African regional women's network on land to build consensus and monitor progress in the implementation of national policies and laws and the adherence to regional and international commitments. These consultations further suggested that civil society should act as a watchdog in championing the rights of women.

The Francophone Africa VG consultations noted that specific problems for women's access to land and natural resources stem from the existence of unequal customary and religious rules and/or practices, as well as the inappropriate or absent enforcement of the legal and regulatory framework, its often unequal nature and the weakness of institutions. Cultural inhibitions and low levels of education also restrict women's access to information in Francophone Africa, while women's low economic and/or financial capacity limits their ability to assert their rights. The Francophone Africa VG consultations therefore drew attention to the importance of formally securing women's rights and ensuring their meaningful participation in the design of policies, programs and legislation related to land tenure. Among the specific recommendations from these consultations was for positive discrimination to facilitate access to natural resources for marginalized groups, including for land legislation to specify measures to benefit women such as introducing land parcel allocation quotas or registering the names of both husbands and wives on land certificates.

The Francophone Africa VG consultations also called for legislative and regulatory actions on the status of women to focus on the registration of women's rights under the same conditions as men's rights, on the application of international conventions on women's rights, and on the recognition of women's customary rights to land and other natural resources. On the institutional level, these consultations called for actions to prioritize the integration of women in bodies responsible for the management and control of land services, capacity building for women and their organizations (especially rural women) and the establishment of monitoring and enforcement institutions as well as platforms for dialogue and coordination to facilitate access. Finally, the Francophone Africa VG consultations called for states to ensure that laws and conventions guaranteeing women's access to land and natural resources are observed, to put in place mechanisms for the monitoring, evaluation and adaptation of laws on women's access to land, to facilitate and simplify access procedures, and to ensure that social and religious rules and practices do not discriminate against women.

4.5. Near East and North Africa region³⁵

In the Near East and North Africa region, tenure security and land access rights are challenged by region-specific land and natural resource-related phenomena including war, occupation, land expropriation and refugee/IDP/restitution issues. Most countries in the region are still male-dominated; women form a minority in the workforce, have unequal access to land and suffer widely from physical abuse. In some countries, laws need to be revised to ensure women's equal rights; in other countries, gender-sensitive laws remain unenforced for cultural reasons.

The VG consultations in the Near East and North Africa region recognized the need to comply with international human rights laws as they apply to good land governance, and that

³⁵ This summary draws on FAO (2010d).

the existence of plural legal frameworks – statutory, Islamic and customary (including nomadic) – is a region-specific issue that has direct consequences on land governance and gender equality. The consultations thus called for the reform of all laws relating to land and natural resources to harmonize different tenure practices and strengthen gender equality, including through land administration laws moving beyond land market regulation to also consider family law and customary issues.

The Near East and North Africa VG consultations called for land governance to respect the rights of all citizens, including women. On technical matters, increasing the number of women surveyors was a specific recommendation, along with temporary affirmative actions to increase land access rights for marginalized groups, such as creating incentives for setting up cooperatives and solidarity groups to protect the rights of women. At the same time, greater access to information and public awareness-raising in appropriate languages and media were highlighted as important ways of increasing the legal literacy and empowerment of all people, especially women and vulnerable groups who are often unaware of their land rights and need safe spaces to talk about them.

4.6. European and CIS region³⁶

The wider European region contains a range of different arrangements for the governance of land tenure. In many European countries, governance is well established and based on a long tradition of land administration. In other countries, the governance of tenure remains affected by transition issues relating to the completion of land reforms, the creation of new institutional and legal frameworks and the adoption of European Union (EU) rules and regulations for accession countries; EU standards are generally aspired to even by countries that are not (yet) member states, and Estonia, Lithuania and Slovakia stand out as having made the most progress in land and natural resource governance in the region in recent years.

A major issue affecting transition countries, and some Western European countries, is the current agrarian structure, which is widely marked by state ownership and centralized land administration and management. Yet land privatization and land consolidation/concentration processes also create specific land governance issues in this region. In Eastern Europe, men and women generally hold equal rights over land under statutory law and gender discrimination affects only a limited number of countries – especially the Balkan states, Romania, Bulgaria and Georgia. Under Communism, gender equality was widely incorporated into legal frameworks but *de jure* gender equality has not translated into *de facto* equal opportunities for women to access land and participate in the governance of land and natural resources, and there is evidence of a resurgence of discriminatory customary practices since 1989/1990. Moreover, gender-disaggregated data on land ownership are often not available in post-Communist countries and, especially in Central Asia, traditional inheritance practices and social pressures still negatively affect women's property rights. The Russian Federation VG consultations, which directly addressed gender issues, highlighted that gender problems are specific to certain countries of the CIS.

The European VG consultations identified the need to link the VG to international and regional initiatives, also recognizing the role of the EU in setting standards and approaches and the importance of guaranteeing constitutional rights to land ownership and protecting against land loss without compensation. Access to land and other natural resources by women

³⁶ This summary draws on Salukvadze (2008), Wehrmann (2010), and FAO (2010a; 2010h).

and vulnerable people was identified as a major issue and the European VG consultations specifically called for this to be enhanced and protected, for example through the registration of joint property in the names of both husbands and wives, through the provision of legal support and legal information for vulnerable groups, and through special assistance to ensure their inheritance rights. The Russian Federation VG consultations called for specific measures to grant women access to favourable credit lines and to land allocations close to home.

The European VG consultations called for multidisciplinary and participatory land policy processes to take into account all stakeholders including women and for policies to improve gender equality among the land professionals in management and technical functions of land agencies in the region. The Russian Federation VG consultations particularly stressed the need to update the legal framework and institutional mechanisms for the implementation of standards and principles on gender equality, including the introduction of mechanisms to guarantee gender equality in access to land and natural resources. These consultations also called for more general efforts to support women and strengthen their role in society, such as the provision of agricultural science education for women, the opening of leadership schools for women from Central Asian countries, and the updating of databases for gender-based analyses and evaluations in all sectors. The European VG consultations also called for governments in the European and CIS region to ensure that all sectors of society are informed of their land rights and that they particularly develop awareness-raising programs to raise women's awareness of their tenure rights, while a specific recommendation from the Russian Federation VG consultations was for the development and strengthening of coordinated activities and social partnerships between state structures and civil society to promote gender equality by means of joint projects.

4.7. Civil society organizations and the private sector

Civil society organizations (CSOs) took part in the VG consultation process through the International Planning Committee for Food Sovereignty (IPC) Working Group on Agrarian Reform and Territory and its members. Four CSO consultations were held in Europe, Asia, Africa and Latin America, and the common themes to emerge were those of the principle of non-discrimination and of framing land rights as human rights as well as property rights. The CSO consultations highlighted variations among regions and countries as well as a number of common land and natural resource governance issues that the VG should address (IPC 2010a; 2010b; 2010c; 2010d; 2010e; see Box 5 overleaf).

A consultation on the VG has also taken place with members of the private sector and at the time of writing a second and more extensive private sector consultation was being planned. Gender issues were not addressed by the first private sector consultation, except in respect of one recommendation that land sector professionals should provide non-discriminatory and gender-sensitive advice to policy-makers, investors and local communities in order to enable informed decision-making and genuine participation by all stakeholders (FAO 2010i). However, it was intended that gender issues would be more systematically addressed in the second private sector consultation.³⁷

³⁷ Pers. comm. Mika Torhonen, FAO Senior Officer and VG Project Manager, Rome, 26 November 2010.

Box 5 – Gender Analysis in the CSO Regional Consultations

Latin America

The Latin American CSO consultation specifically addressed the discrimination faced by women farmers as a result of the patriarchal social relations that are dominant in rural communities, and it called for setting out access to land as the pivotal axis for women's full participation in agriculture.

Europe

The European CSO consultation raised gender among rights issues with respect to the Central Asia subregion, and noted gender inequality in land tenure and land acquisition with respect to the West Asia subregion.

Asia

The Asian CSO consultation highlighted multiple burdens of class, caste and gender discrimination, sexual abuse and violence facing rural women, and gender inequity in land and resource tenure; Asian women have fewer and unrecognized rights than Asian men and are excluded from decision-making and governance processes. The consultation therefore called for governance of resources to be gender-just and community-based, and for states both to strengthen local self-governance of different social groups, including rural women, over land and natural resources, and to recognize customary institutions while ensuring respect for the rights of women. The consultation also called for the promotion of tenure reforms which support equitable, non-discriminatory distribution and use of land and ensure that women receive full equality of opportunities and rights to land and resources, recognizing their diversity and redressing past discrimination. It also highlighted the need to set up a clear system to monitor governments and international institutions' policies and actions and to collect gender-disaggregated data on issues linked to security of tenure, including indicators on secure and equitable access.

Africa

The African CSO consultation called for states to ensure both the establishment of a mechanism for securing the land rights of women and that customary collective tenure arrangements respect the rights of women. The consultation highlighted that African women especially in rural areas and living under customary tenure arrangements, are excluded and discriminated against as a result of patriarchal customary tenure and land administration arrangements, despite constitutional and statutory provisions which increasingly uphold gender equality in the ownership and use of land. This situation, which includes inequitable distribution of land between men and women and male control of most land and decisions about its development and use, entrenches gender inequality and increases women's vulnerability to poverty and exposes them to further forms of discrimination. The consultation called for affirmative measures to redress past discrimination against women and for land and natural resource redistribution schemes to support equality of opportunity and be gender equitable.

The CSOs have collectively made a number of proposals with respect to the VG (IPC 2011). However, although the principle of non-discrimination emerged as a key theme, as did also the principle of gender equality, the CSOs do not collectively hold the issue of gender-equitable governance of tenure at their centre as a priority. Throughout their proposals, women in particular are presented as just one among many groups deserving of special attention, with others including peasants, nomadic herders, fisher-folks, indigenous peoples, and so on, and the overarching CSO concern is with the rights of communities for participation in and self-governance of their land and natural resources. This is perhaps inevitable given the great diversity of interests within civil society worldwide, but it means

that the CSO proposals are therefore not a sufficiently solid basis by themselves on which to formulate the VG from the perspective of gender-equitable governance of tenure because they appear to gloss over the highly-politicized nature of ‘communities’ and the central need, through responsible governance of tenure itself, to manage conflict and social difference within communities.

On the other hand, some useful recommendations in relation to gender are contained within the CSOs’ overall set of proposals, as set out in Box 6 below (IPC 2011).

Box 6: CSO Proposals on Gender and Governance of Tenure

- CSO proposals of relevance to gender-equitable governance of tenure include:
- VG to build on existing international human rights obligations including the CEDAW.
 - VG to endorse non-discrimination (including gender-equality) as a pillar of redistributive land reforms, and agrarian reform to include measures to support rural women.
 - VG to protect women’s tenancy rights as independent tenants (so their rights are not lost on widowhood or the dissolution of marriage).
 - Local communities, in their capacity to exercise self-governance of their natural resources, should pay special attention to guaranteeing and promoting women’s equal rights.
 - VG to support the secure and gender-equitable promotion of urban agriculture.
 - States to support customary tenure arrangements that do not violate human rights, particularly those of women.
 - New technologies for developing and managing land and natural resources to be gender-equal, accessible, affordable and sustainable.
 - States to ensure coordinated government policy-making and policy, law and program implementation to enable to realization of rights to land of different groups including women.
 - States to ensure consultations on land investments engage all community members including women.
 - States to support data collection that is disaggregated by gender.

There is also some recognition within civil society that the demands of different groups are not homogenous, and that “there can be conflict in practice between different groups over the very same resources” (Monsalve Suárez, Osorio & Langford 2009, 14). At the same time, however, this is often blamed on external factors such as “ill-conceived policies” that “pit different groups of the poor against each other” (Ibid, 14). Whilst this is no doubt an important factor, the issue for responsible governance of tenure must therefore be to ensure gender-equitable (and more broadly socially-inclusive) participation in the processes of tenure governance from the outset so as to build joint responsibility and accountability for the policies and practices that emerge.

In sum, and in addition to all the many specific suggestions raised, the two key principles in relation to gender and governance of tenure to have emerged from the VG consultation process are those of non-discrimination in gender matters and of commitment to the existing international instruments on gender equality.

5. Conclusions for the Voluntary Guidelines

In this paper we have contextualized and defined gender for the VG, discussed what governance of tenure means from a gender perspective, and identified and analyzed key issues and themes. We have also summarized the recommendations relevant to gender that emerged during the VG consultations in different regions of the world. Our discussion of gender and governance of tenure has focused primarily on equitability in the process of operationalizing relationships between and among women and men with respect to land through both formal institutions and informal arrangements for land administration and management. By drawing on supporting research, consultation and literature review as well as on the outcomes of the VG development process to date, the paper has paved the way to take the VG and the accompanying Gender TG beyond the usual debates on gender and land.

What has emerged clearly is that the gender dimensions of governance of tenure still need to be fully understood, nuanced and mainstreamed into the more general debate on responsible governance of tenure. Although it may be difficult to move away from current discourses which focus on the content of women's land rights, it is necessary to do so in order to address what comes beyond this i.e. to address the conditions that will enable long-term security of tenure for all women and men and will facilitate gender-equitable governance processes that are responsive to all people's interests. The task for the VG from a gender perspective is then to make sure that the envisaged principles address gender issues painstakingly, ensuring that all governance processes are grounded on the principle of gender equity and thus benefit both women and men, as well as simultaneously taking equity beyond the principle of non-discrimination to recognize that in different situations, men and women may have different needs, and that only by responding to these differences will long-term, balanced and sustainable gender equality be reached. This latter point follows particularly if it is considered that true equity requires treatment of all human beings as equals rather than necessarily equal treatment for all (Daley & Englert 2010, 102; c.f. Dworkin 1991).

In terms of conclusions for the continuing VG development process, the fundamental message of the present paper is that the VG should aim above all to support and strengthen all the existing international instruments on gender equality and non-discrimination by providing the details of how gender-equitable governance of tenure of land and other natural resources can be assured.

6. References

- Adams, M., Berkoff, J. & E. Daley, 2006. *Land-Water Interactions: Opportunities and Threats to Water Entitlements of the Poor in Africa for Productive Use, Final Draft Paper for Human Development Report 2006*, Washington: UNDP.
- Agarwal, B. 1988. 'Who Sows? Who Reaps? Women and Land Rights in India', in *Journal of Peasant Studies*, Vol. 15, No. 4 (July), pp. 531-581.
- Agarwal, B., 2009. 'Gender and forest conservation: The impact of women's participation in community forest governance', in *Ecological Economics* Vol. 68, pp.2785-2799, International Society for Ecological Economics.
- Alden Wily, E., 2003. *Governance and Land Relations A Review of Decentralisation of Land Administration and Management in Africa*, London: IIED.
- Ariff, S. 2009. *Adat land laws in Malaysia*. Presented at the 3rd Land Administration Forum for the Asia and the Pacific Regions, 24-26 May 2009, Teheran, Iran.
- Asian Development Bank (ADB), 2004. *Lao PDR: Gender, poverty and the MDGs. Country Gender Strategy*, Manila: ADB.
- Behrman, J., Meinzen-Dick, R & A. Quisumbing, 2010. *The Gender Implications of Large-Scale Land Deals*. Washington, DC: International Food Policy Research Institute.
- Bernal, V., 1988. 'Losing Ground – Women and Agriculture on Sudan's Irrigated Schemes: Lessons from a Blue Nile Village', in J. Davison (ed.), *Agriculture, Women and Land – The African Experience*, Boulder, USA: Westview Press Inc.
- Bernal, V., 1999. 'Migration, Modernity and Islam in Rural Sudan', *Middle East Report 211*, Summer 1999
- Berry, S., 1993. *No Condition is Permanent – The Social Dynamics of Agrarian Change in Sub-Saharan Africa*, USA: University of Wisconsin Press.
- Carney, J., 1988. 'Struggles Over Land and Crops in an Irrigated Rice Scheme: The Gambia', in J. Davison (ed.), *Agriculture, Women and Land – The African Experience*, Boulder, USA: Westview Press Inc.
- CEDAW, 1979. *Convention on the Elimination of all Forms of Discrimination against Women*. Full text available on UN Women Division for the Advancement of Women website, <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- Cotula, L., 2002. *Gender and Law – Women's Rights in Agriculture, FAO Legislative Study 76*, Rome: FAO.
- Daley, E. 2005a. 'Land and Social Change in a Tanzanian Village 1: Kinyanambo, 1920s – 1990'. *Journal of Agrarian Change*, Vol.5, No.3, pp.363-404.
- Daley, E, 2005b. 'Land and Social Change in a Tanzanian Village 2: Kinyanambo in the 1990s'. *Journal of Agrarian Change*, Vol.5, No.4, pp.526-572.

Daley, E. 2011. *Gendered Impacts of Commercial Pressures on Land*. Rome: International Land Coalition.

Daley, E., Dore-Weeks, R. & C. Umuhoza, 2010. 'Ahead of the Game: Land Tenure Reform in Rwanda and the Process of Securing Women's Land Rights', *Journal of Eastern African Studies*, Vol. 4, No. 1, March 2010, 131-152.

Daley, E. & B. Englert, 2010. 'Securing Women's Land Rights', *Journal of Eastern African Studies*, Vol. 4, No. 1, March 2010, 91-113.

Daley, E. & B. Englert, with Adoko, J., Ansoms, A., Holvoet, N., Ik Dahl, I., Levine, S., Nyamu-Musembi, C. & S. Ong'wen Okuro, 2008. 'Afterword. Securing women's land rights', in Englert, B. & E. Daley (eds.), *Women's Land Rights & Privatization in Eastern Africa*, Suffolk: James Currey; New York: Boydell & Brewer; Kampala: Fountain Publishers; Nairobi: East African Educational Publishers; Dar es Salaam: E & D Vision Publishing.

Deere, C. D., 2003. 'Women's Land Rights and Rural Social Movements in the Brazil Agrarian Reform,' in *Journal of Agrarian Change*, Vol. 3(1/2): 257-288

Dworkin, R., 1991, *Taking Rights Seriously*, London: Duckworth.

Englert, B. & E. Daley, 2008. 'Introduction', in Englert, B. & E. Daley (eds.), *Women's Land Rights & Privatization in Eastern Africa*, Suffolk: James Currey; New York: Boydell & Brewer; Kampala: Fountain Publishers; Nairobi: East African Educational Publishers; Dar es Salaam: E & D Vision Publishing.

FAO, no date (a). *Gender and Land Rights Database*, Rome: FAO.
<http://www.fao.org/gender/landrights/home/>

FAO, no date (b). *Gender website, FAO Programme: Fisheries*, Rome: FAO.
<http://www.fao.org/gender/gender-home/gender-programme/gender-fisheries/en/>

FAO, 2002a. *Land Tenure and Rural Development, Land Tenure Studies 3*, Rome: FAO.

FAO, 2002b. *Gender and Access to Land, Land Tenure Studies 4*, Rome: FAO.

FAO, 2004. *Access To And Control Over Land From A Gender Perspective. A Study Conducted In The Volta Region Of Ghana*, Rome: FAO.

FAO, 2005. *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security*, Rome: FAO.

FAO, 2006a. *The Right to Food in Practice – Implementation at the National Level*, Rome: FAO.

FAO, 2006b. *Better Forestry, Less Poverty – A Practitioner's Guide. FAO Forestry Paper 149*, Rome: FAO. Available at: <http://www.fao.org/docrep/009/a0645e/a0645e00.htm>

FAO, 2007a. *Good governance in land tenure and administration, FAO Land Tenure Studies 9*, Rome: FAO.

FAO, 2007b. *Gender Policies for Responsible Fisheries - Policies to Support Gender Equity and Livelihoods in Small-scale Fisheries, New Directions in Fisheries – A Series of Policy Briefs on Development Issues*, No. 06, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/009/a0990e/a0990e00.pdf>

FAO, 2009a. *Southern Africa Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources*, Windhoek, Namibia, 28-30 September 2009, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/012/ak582e/ak582e00.pdf>

FAO, 2009b. *Asia Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources*, Hanoi, Vietnam, 19-21 October 2009, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/012/ak802e/ak802e00.pdf>

FAO, 2009c. *Towards Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources – Discussion Paper, Land Tenure Working Paper 10*, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/011/ak374e/ak374e00.pdf>

FAO, 2009d. *Dialogue, Consensus and Vision. Participatory and negotiated territorial development - more than a methodology - a strategy for territorial interaction and integration*, Land Tenure Working Paper 12, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/012/ak545e/ak545e00.pdf>

FAO, 2009e. *Participatory Land Delimitation. An innovative development model based upon securing rights acquired through customary and other forms of occupation*, Land Tenure Working Paper 13, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/012/ak546e/ak546e00.pdf>

FAO, 2010a. *European Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources*, Bucharest, Romania, 22-24 March 2010, Rome: FAO.

<http://www.fao.org/docrep/012/al140e/al140e00.pdf>

FAO, 2010b. *Final Report, FAO Regional Consultation for Latin America on Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources*, South America and Mexico, Brasilia, 20-21 May 2010, Rome: FAO.

<http://www.fao.org/docrep/012/al413e/al413e00.pdf>

FAO, 2010c. *Pacific Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources*, Apia, Samoa, 14-16 July 2010, Rome: FAO.

<http://www.fao.org/docrep/012/al379e/al379e00.pdf>

FAO, 2010d. *Near East and North Africa Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources*, Amman, Jordan, 2-4 May 2010, Rome: FAO.

<http://www.fao.org/docrep/012/al304e/al304e00.pdf>

FAO, 2010e. *Evaluation of the regional consultation of Francophone Africa, Voluntary guidelines on the responsible governance of tenure of land and other natural resources, Ouagadougou, Burkina Faso, 23-25 June 2010*, Rome: FAO.

<http://www.fao.org/docrep/012/al306e/al306e00.pdf>

FAO, 2010f. *Eastern and Anglophone Western Africa Regional Assessment: FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources, Addis Ababa, Ethiopia, 20-22 September 2010*, Rome: FAO.

<http://www.fao.org/docrep/013/al919e/al919e00.pdf>

FAO, 2010g. *Final Central America and the Caribbean Regional Assessment for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources, Panama City, 6-8 September 2010*, Rome: FAO.

<http://www.fao.org/docrep/013/al918e/al918e00.pdf>

FAO, 2010h. *Russian Federation Consultation for the FAO Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources, Moscow, Russian Federation, 23-25 November 2010*, Rome: FAO.

FAO, 2010i. *Private Sector Assessment for the Voluntary Guidelines on Responsible Governance of Tenure of Land and Other Natural Resources, 25-26 January 2010, London, UK*. Rome: FAO.

<http://www.fao.org/docrep/012/al051e/al051e00.pdf>

FAO, 2010j. *Advanced Information Sheet - The State of Food and Agriculture 2010–11: Women in agriculture: closing the gender gap for development*, Rome: FAO.

FAO, 2010k. *Global Forest Resources Assessment 2010 - Main report*, Rome: FAO.

<http://www.fao.org/docrep/013/i1757e/i1757e.pdf>

FAO, forthcoming. *Reforming Forest Tenure: Issues, Principles and Process*, Rome: FAO.

FIG, 2001. *Women's Access to Land - FIG Guidelines. Principles for Equitable Gender Inclusion in Land Administration: Background Report and Guidelines*, FIG Publication No. 24, Copenhagen: FIG.

<http://www.fig.net/pub/figpub/pub24/figpub24.htm>

Golub S., ed., 2010. *Legal Empowerment: Practitioners' Perspectives. Legal and Governance Reform: Lesson Learned No, 2/2010*, Rome: IDLO

GRAIN, 2008. *Seized! The 2008 Land Grab for Food and Financial Security*, GRAIN.

http://www.grain.org/briefings_files/landgrab-2008-en.pdf

Griffith-Charles, C., 2010. *Good Governance and Natural Resources Tenure in the Caribbean Subregion, Land Tenure Working Paper 17*, Rome: FAO.

<http://www.fao.org/docrep/012/al381e/al381e00.pdf>

Grover, R., 2009. *Voluntary Guidelines for Good Governance in Land and Natural Resource Tenure – Issues from an International Institutional Perspective, Land Tenure Working Paper 9*, Rome: FAO.

Guyer, J., 1987. *Women and the State in Africa: Marriage Law, Inheritance, and Resettlement*, USA: African Studies Centre, Boston University (Working Papers in African Studies No. 129).

Hatcher, J., Meggiolaro, L. & C. Santonico-Ferrer, 2005. *Cultivating women's rights for access to land. Country analysis and recommendations*, Rome: Actionaid International.

Hobley, M., 1996. *Participatory Forestry: the Process of Change in India and Nepal*, London: Overseas Development Institute.

Ikdahl, I., 2008. "'Go Home & Clear the Conflict". Human rights perspectives on gender & land in Tanzania', in Englert, B. & E. Daley (eds.), *Women's Land Rights & Privatization in Eastern Africa*, Suffolk: James Currey; New York: Boydell & Brewer; Kampala: Fountain Publishers; Nairobi: East African Educational Publishers; Dar es Salaam: E & D Vision Publishing.

International Development Law Organization (IDLO), 2010. *Legal Empowerment Program Update, Issue 4, Aug - Sept 2010*, Rome: IDLO.

International Justice Mission (IJM), no date. *IJM website, Our Work: What We Do*, New York: IJM
<http://www.ijm.org/ourwork/whatwedo>

International Land Coalition (ILC), 2009. 'Advancing the Monitoring of Land Governance for Ensuring Impact on Poverty Reduction', presented at *Land Governance in Support of the MDGs: Responding to New Challenges*, World Bank, Washington DC, March 9 and 10, 2009.

International Planning Committee for Food Sovereignty Working Group on Agrarian Reform and Territory (IPC), 2010a. *CSO Regional Consultation for Europe, Central and West Asia on FAO Voluntary Guidelines for the Governance of Tenure of Land and Other Natural Resources*, Rome, Italy, July 7-9, Rome: IPC.
<http://www.foodsovereignty.org/Portals/0/documenti%20sito/Resources/Archive/Working%20Groups/ART/Regional%20Meetings/RegCons-Rome2010.pdf>

IPC, 2010b. *Informe final de la consulta regional para América Latina de las OSC sobre las Directrices "Voluntarias" sobre Tenencia de la Tierra y Recursos Naturales*, Brasilia, Brazil, 17-19 May 2010. Rome: IPC.

IPC, 2010c. *Conferencia Regional de los Movimientos Sociales, Organizaciones Sociales y ONGs sobre las Directrices Voluntarias para la Tenencia de la Tierra y de los Recursos Naturales - Declaración de Brasilia*, Brasilia, Brazil, 19 May 2010. Rome: IPC.
<http://wgart.foodsovereignty.org/wp-content/uploads/2010/05/Declaracin-de-Brasilia-19maggio.pdf>

IPC, 2010d. *Civil Society Consultation on FAO's Voluntary Guidelines on Responsible Land and Natural Resources Tenure*, Kuala Lumpur, Malaysia, 24-26 March 2010, Final Report. Rome: IPC.
<http://www.foodsovereignty.org/Portals/0/documenti%20sito/Resources/Archive/Working%20Groups/ART/Regional%20Meetings/RegCons-KLumpur2010.pdf>

IPC, 2010e. *Civil Society Consultation on FAO Voluntary Guidelines on Responsible Governance of Lands and Natural Resources Tenure*, Nyeleni, Mali, 8-10 September, 2010. Rome: IPC.

<http://www.foodsovereignty.org/Portals/0/documenti%20sito/Home/News/Report%20of%20the%20African%20CSO%20Consultation%20-%20FAO%20land%20&%20NR%20guidelines.pdf>

IPC, 2011. *Civil Society Organizations' Proposals to the FAO Guidelines on Responsible Governance of Land and Natural Resources Tenure, Second Draft*, 28 January 2011. Rome: IPC.

Kandine, A. M., 2008. *Gouvernance Foncière et des Ressources Naturelles, État des Lieux en Afrique de l'Ouest, Land Tenure Working Paper 6*, Rome: FAO.
<ftp://ftp.fao.org/docrep/fao/011/ak019f/ak019f00.pdf>

Land Equity Movement of Uganda (LEMU), 2008. *Fighting the Wrong Battles? – Towards a New Paradigm in the Struggle for Women's Land Rights in Uganda*, Working paper, Kampala: LEMU, December 2008.

Lastarria-Cornhiel, S., 2000. *Integrating Gender in Land and Natural Resource Tenure Programs: Policy Guidelines*, Rome: FAO.

Lastarria-Cornhiel, S., 2005. *Gender Sensitive Land Policies and Implementation*, Rome: FAO.

Lastarria-Cornhiel, S & A. Manji, 2010. *Land Tenure, Land Policy, and Gender in Rural Areas* (Draft), Rome: FAO.

Mackenzie, F., 1989. 'Land and Territory: The Interface Between Two Systems of Land Tenure, Murang'a District, Kenya', *Africa*, Vol.59, No.1, pp.91-109.

Mackenzie, F., 1990. 'Gender and Land Rights in Murang'a District, Kenya', *Journal of Peasant Studies*, Vol.17, No.4, pp.609-643.

Mackenzie, F., 1993. "'A Piece of Land Never Shrinks': Reconceptualizing Land Tenure in a Smallholding District, Kenya' in Bassett, T. & D. Crummey (eds.), *Land in African Agrarian Systems*, USA: University of Wisconsin Press.

MacKinnon, C., 1987. *Feminism Unmodified: Discourses on Life and Law*. Cambridge: Harvard University Press.

McAuslan, P., 2003. *A Narrative on Land Law Reform in Uganda*. Paper presented at Lincoln Institute Conference on 'Comparative Policy Perspectives on Urban Land Market Reform in Eastern Europe, Southern Africa and Latin America'. *Lincoln Institute of Land Policy Conference Paper*.

McAuslan, P., 2010. 'Personal Reflections on Drafting Laws to Improve Women's Access to Land: Is There a Magic Wand?' *Journal of Eastern African Studies* 4, 1 (2010): 131-147.

Merry, S., 1982. 'The Articulation of Legal Spheres', in Hay, M. & M. Wright (eds.), *African Women and the Law: Historical Perspectives*, USA: Boston University African Studies Centre.

Monsalve Suárez, S., Marquez Osorio, L. & M. Langford, 2009. *Voluntary Guidelines for Good Governance in Land and Natural Resource Tenure - Civil Society Perspective, Land Tenure Working Paper 8*. Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/011/ak280e/ak280e00.pdf>

Moore, H., 1994. 'The Divisions Within: Sex, Gender and Sexual Difference', in *A Passion for Difference – Essays in Anthropology and Gender*, Oxford: Polity Press.

Mumtaz, K. & M. M. Noshirwani, 2007. *Women's Access and Rights to Land and Property in Pakistan*, Ottawa: IDRC.

Nabangchang, O. & E. Srisawalak, 2008. *Good Governance and Natural Resources Tenure in South East Asia Region, Land Tenure Working Paper 4*, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/011/ak016e/ak016e00.pdf>

Ntampaka, C., 2008. *Gouvernance Foncière en Afrique Centrale, Land Tenure Working Paper 7*, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/011/ak018f/ak018f00.pdf>

Odgaard, R., 1998. *Fathers and Daughters in the Scramble for Women's Land Rights: The Case of the Hehe and Sangu Peoples in South Western Tanzania*, Copenhagen: Centre for Research on Sustainable Agriculture in Semi-Arid Africa (SASA Notes and Working Papers, October 1998).

Okoth-Ogendo, H.W.O., 2000. 'Legislative Approaches to Customary Tenure and Tenure Reform in East Africa', in Toulmin, C. & Quan, J. (eds.), *Evolving land rights, policy and tenure in Africa*, London: DFID, IIED, NRI.

Peters, P., 2004. 'Inequality and Social Conflict over Land in Africa', *Journal of Agrarian Change*, 4 no. 3, July (2004): 269-314.

Peters, P., 2010. "Our daughters inherit our land, but our sons use their wives' fields": matrilineal-matrilocal land tenure and the new land policy in Malawi', *Journal of Eastern African Studies*, Vol. 4, No. 1, 179-199.

Ranger, T., 1983. 'The Invention of Tradition in Colonial Africa', in Hobsbawm, E. & T. Ranger (eds.), *The Invention of Tradition*, Cambridge: Cambridge University Press.

Salukvadze, J., 2008. *Good Governance and Natural Resources Tenure in Eastern Europe and CIS Region, Land Tenure Working Paper 3*, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/011/ak015e/ak015e00.pdf>

Sarin, M., 1998. *Who is Gaining? Who is Losing? Gender and Equality Concerns in Joint Forest Management*, New Delhi: Society for Promotion of Wastelands Development.

Seeley, J, Batra, M. & M. Sarin, 2000, *Women's Participation in Watershed Development in India*, Gatekeeper Series No. 92. London: IIED.

Sotomayor, O., 2008. *Governance and Tenure of Land and Natural Resources in Latin America, Land Tenure Working Paper 5*, Rome: FAO.

<ftp://ftp.fao.org/docrep/fao/011/ak017e/ak017e00.pdf>

Stivens, M. 1985. 'The Fate of Women's Land Rights: Gender, Matriliney, and Capitalism in Rembau, Negeri Sembilan, Malaysia', in Haleh Afshar (ed.), *Women, Work, and Ideology in the Third World*. London: Tavistock Publications

Technical Advisory Body for Fisheries Management (TAB), 2006. *Gender and fisheries in the Lower Mekong Basin, Mekong Fisheries Management Recommendation No 4*, Vientiane: Mekong River Commission.

Tsikata, D., 2009. 'Gender, Land and Labour Relations and Livelihoods in Sub-Saharan Africa in the era of Economic Liberalisation: Towards a Research Agenda', in *Feminist Africa*, Issue 12, 2009.

United Nations (UN), 2009. *Legal empowerment of the poor and eradication of poverty, Report of the Secretary-General, Sixty-fourth session of the General Assembly of the United Nations*, 13 July 2009, New York: UN.

United Nations Development Program (UNDP), no date. *UNDP website, Legal Empowerment*, New York: UNDP.
<http://www.undp.org/legalempowerment/>

UN-HABITAT, 2005. *Land, tenure, housing rights and gender review: Southern Africa. Zambia*, Nairobi: UN-HABITAT.

UN-HABITAT, 2006. *Progress report on removing discrimination against women in respect of property and inheritance rights, Tools on Improving Women's Secure Tenure Series 1, Number 2*, Nairobi: UN-HABITAT.

Von Braun, J. and R. Meinzen-Dick, 2009. "Land Grabbing" by Foreign Investors in Developing Countries: Risks and Opportunities, IFPRI Policy Brief 13, Washington: International Food Policy Research Institute.

Watts, M.J., 1993. 'Idioms of Land and Labor: Producing Politics and Rice in Senegambia', in Bassett, T. and D. Crummey, (eds.), *Land in African Agrarian Systems*, USA: University of Wisconsin Press.

Wehrmann, B., 2010. *Governance of Land Tenure in Eastern Europe and Commonwealth of Independent States (CIS), Land Tenure Working Paper 16*, Rome: FAO and GTZ.
<http://www.fao.org/docrep/012/al378e/al378e00.pdf>

Whitehead, A. & D. Tsikata, 2003. 'Policy Discourse on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary', in *Journal of Agrarian Change*, Vol. 3(1/2): 67-112.

Women's Land Link Africa (WLLA), 2010. *The Impact of National Land Policy and Land Reform in Uganda*, Accra: WLLA.

Woodhouse, P., 2003. 'African enclosures: a default mode of development'. *World Development*, 31, no. 10, (2003): 1705-1720.

World Bank, 2005. *Gender Issues and Best Practices in Land Administration Projects*, Washington DC: WB.

World Bank/FAO/IFAD, 2009a. 'Module 4: Gender Issues in Land Policy and Administration', in *Gender in Agriculture Sourcebook*, Washington/Rome: WB/FAO/IFAD.

World Bank/FAO/IFAD, 2009b. 'Module 2: Gender and Agricultural Livelihoods: Strengthening Governance, in *Gender in Agriculture Sourcebook*, Washington/Rome: WB/FAO/IFAD.

Yngstrom, I., 1999. Gender, Land and Development in Tanzania: Rural Dodoma, 1920-1996, DPhil Dissertation: University of Oxford.