



**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

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This assessment is based on the discussions and outputs of the Pacific regional consultation meeting on the *Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources* held in Samoa 14-16 July 2010. The views expressed in this assessment are those of the participants of the consultation meeting and do not necessarily reflect the views of their organizations and communities or those of FAO.

A. Background

Responsible governance of tenure is necessary for the realization of the Millennium Development Goals (MDG), specifically MDG 1 (“Eradicate extreme hunger and poverty”), MDG 3 (“Promote gender equality and empower women”), and MDG 7 (“Ensure environmental sustainability”). The governance of tenure is also relevant to climate change, with regard to both adaptation and mitigation, to Multilateral Environmental Agreements, and to biodiversity which is particularly relevant as 2010 is the International Year of Biodiversity. Enhanced tenure systems and policies for the use of land and other natural resources are crucial factors that underpin food security, a fact recognised by the Pacific Food Summit Meeting in Vanuatu in 2010. Increasingly, land policy reform is being placed on the agenda of most Pacific Island countries, and the Pacific Forum Leaders in their meeting in Niue in 2008 endorsed that the Secretariat of the Pacific Community develop a regional initiative to support national land reform efforts.

Equitable access to, and secure tenure of, land and other natural resources is a governance issue, and the responsible governance of tenure can help to reduce hunger and poverty, and to support sustainable social and economic development. The Pacific Plan identifies models for land ownership, tenure and use as milestones for enhanced governance mechanisms in resource management, and in the harmonization of traditional and modern values and structures. Further recognition of the importance of the governance of tenure has come through the recent preparation of the paper on “Improving Access to Customary Land and Maintaining Social Harmony in the Pacific”, and the subsequent elaboration of principles to provide Pacific Island countries with a framework to discuss country specific matters on governance of tenure through policy reform.

FAO (Food and Agriculture Organization of the United Nations) and other development partners are working together with countries to prepare Voluntary Guidelines that will provide practical guidance to states, civil society, private sector, donors and development specialists on the responsible governance of tenure. By setting out principles and internationally accepted standards for responsible practices, the Voluntary Guidelines on the Responsible Governance of Tenure of Land and Other Natural Resources will provide a framework and point of reference that stakeholders can use when developing their own policies and actions.

Consultations in different regions on the proposed Voluntary Guidelines are an important part of the process. The consultations bring together regionally representative, multidisciplinary groups to assess regional priorities and issues that should be considered when the Voluntary Guidelines are drafted. The regional consultation for the Pacific Islands was hosted by the Government of Samoa, and was opened by Mr Taulealeausumai Laavasa Malua, Chief Executive Officer, Ministry of Natural Resources and Environment, Samoa. The consultation was co-organized by the University of South Pacific, the Secretariat of the Pacific Community, and the FAO Subregional Office for the Pacific Islands. It was attended by 43 people, from 12 Pacific countries, who combined their broad range of expertise to identify the issues contained in the assessment for the Pacific Region. Participants were drawn from the public sector, civil society, private sector and academia, and came from Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Palau, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. In addition, people from the Federated States of Micronesia, Niue and Papua New Guinea were invited but were unable to attend.

B. Issues and actions identified at the Regional Consultation

- 1. The Voluntary Guidelines should promote tenure policies that reduce hunger and poverty. Tenure policies should balance spiritual, cultural, social, environmental and economic interests, and consider current and future needs. They should balance national and community interests by ensuring the participation of all stakeholders.**
- 2. The Voluntary Guidelines should be linked to international, regional and national initiatives.**
 - They should reflect commitments to the Millennium Development Goals, and international instruments on human rights for women, children and indigenous peoples, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), ILO Convention 169, United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), United Nations Convention on the Rights of the Child (UNCRC), Multilateral Environmental Agreements, etc.
 - They should support and recognise regional initiatives, including the Framework for Action on Food Security for the Pacific, and the principles developed by the Pacific Island Forum for land management and conflict minimization, etc.
 - They should support ongoing national initiatives to improve governance of tenure through reforms to land and other natural resources policies that respect customary tenure, the development of sector frameworks for land and natural resources, etc.
- 3. The best use of land and other natural resources should be ensured through effective consultation; clear policy, legislation and procedures; data sharing; and integrated planning and management.**
 - a) Transparency and participation**
 - All dealings in land and other natural resources, including development agreements and land use dealings, should be transparent, accountable and fair.
 - Governments should ensure that decision-making, with free, prior, informed consent, takes place in an integrated (traditional and western) system of management, distribution and use of land and other natural resources in harmony with cultural, social, environmental and economic interests.
 - The rights of Indigenous Peoples, women and customary landowners including vulnerable groups such as youth and children should be considered in policies for development, and the use of land and other natural resources.
 - b) Policy and legal frameworks**
 - Policies on land and other natural resources should be developed through a participatory process of adequate consultation involving all stakeholders with free, prior, informed consent. Stakeholder should be able to understand and contribute to the process as an integral part of their development.
 - Policies on land and other natural resources should be formulated and reviewed and policy guidelines should be established.
 - Current laws on land and other natural resources should be reviewed, and revised or replaced, or complemented by new legislation, where appropriate to reflect responsible governance.

c) Communication and awareness raising

- Communication should be in both the local and spoken languages, and promote education and awareness on regional, national and local issues concerning the tenure of land and other natural resources.
- The knowledge of all stakeholders on existing tenure systems should be enhanced and respected. Increased knowledge by vulnerable groups of legislation related to land and other natural resources is needed to reduce tensions and loss of land and other natural resources to claimants who are not rightful owners.

d) Information

- Information should be available in local languages, and appropriately packaged for free, prior and informed decision-making at all levels.
- Studies should be carried out to understand and share the scientific, cultural and economic characteristics and potential of the land and other natural resources, in order to inform decision-making by communities, national governments, etc.
- Information systems and databases on the tenure of land and other natural resources should be established as appropriate to promote economic efficiency and effectiveness, cultural awareness, and environmental and social sustainability.
- Policies and procedures should be established to ensure the efficient and effective sharing of information between agencies, traditional owners, indigenous peoples, women, youth and children, and appropriate organizations, universities and other stakeholders.

e) Coordination of land administration

- The procedures and actions of customary land administrators and agencies responsible for administration of land and other natural resources should be coordinated in order to improve services to citizens and other customers.
- Institutional infrastructures must be developed to ensure that adequate systems and technical capacity are in place to efficiently maintain a high standard service of land records and administration with inherent and sustained integrity and accuracy.

f) Regulated planning of the use of land and other natural resources

- Governments should adopt appropriate policies and practices for the use of land and other natural resources to encourage sustainable land development and sustainable livelihoods in rural areas in order to reduce the impact of rural to urban migration.
- Rural and urban land use planning should be integrated to ensure the best use of land and other natural resources. Good agricultural land should not be converted to other detrimental uses. Arable land should be protected because of its scarcity in small island developing states.
- Development planning should be systematic and programmed, allowing the cumulative effects of individual projects to be identified and addressed.
- Regulations and processes for the use of land and other natural resources should incorporate indigenous land uses, traditional knowledge systems and beliefs as appropriate.

g) Valuation

- Valuation agencies should be strengthened, well resourced, and clearly guided by policy and backed by legislation.

- Systems and approaches for valuation should include economic, cultural heritage and sacred sites, ecosystem services, and other factors. Valuation approaches for forestry should address not only economic benefits, but also values arising from food security, water resource use, traditional medicines, firewood, biodiversity, other ecosystem services, etc.
- Regulations and processes for valuation should be established, and should consider the impact of the cultural beliefs and use of indigenous land and other natural resource on market values.
- Comparable data on property values should be collected for valuation purposes.

h) Conflict management

- Effective and accessible approaches, including traditional principles of restorative justice and recognised customary law, should be developed and strengthened for the management of conflicts over land and other natural resources by government and customary owners.

4. Indigenous/customary tenure

- Governments should recognise customary ownership and use rights of indigenous peoples.
- Governments that have ratified the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and other related international human rights instruments should ensure that these rights are enjoyed, protected, considered and reflected in guidelines, policies, regulations and laws for land and other natural resources. Those governments in the Pacific that have not ratified and respected the international human rights instruments are encouraged to do so.
- To ensure accountability, government and local councils should adopt and promote transparent and participatory decision-making processes that require free, prior and informed consent for decisions that affect indigenous lands and other natural resources.
- Reforms to the administration of customary land and other natural resources to improve customary land management should include capacity building in terms of training, awareness and media programmes to stakeholders such as local communities, traditional owners, government, civil society, and the private sector.
- Women should receive equal rights and opportunities to use customary land according to their cultural beliefs and traditional knowledge systems.
- The impact of land tenure and other natural resources systems on the rights of children should be fully considered when guidelines, policies, regulations and laws are enacted.

5. Capacity building

- Capacity development should be undertaken to support sustainable natural resource management.
- Training and education opportunities should be provided to ensure there are sufficient numbers of professionals with the required skills and knowledge of administration and management of land and other natural resources.

6. Climate change and natural disasters

- Climate change effects (such as sea level rise), and natural disasters (such as severe storm surges, cyclones and tsunamis), can require the relocation of people who are

displaced as a result of the inundation of coastal areas. Governments should ensure that displaced people receive long term security of tenure in the areas in which they are relocated. Intergovernmental cooperation would be required if it becomes necessary to resettle large numbers of people in other countries.

- Governments should adopt adaptation and mitigation policies and risk management strategies for tenure of land and other natural resources that do not further exacerbate the impacts of climate change.

7. Natural resources

- Effective policy and legal frameworks should be established to define, ensure and respect ownership and user rights for all natural resources, including those resources found under the land surface.

a) Forestry

- Forest resource planning should consider both current and future uses, and the needs of stakeholders.
- Areas of significance for conservation and watershed management should be identified and demarcated as protected areas.
- Tenure policies should minimize the negative aspects of logging and clearing activities, and should promote the maintenance and regeneration of natural forests, as well as uses of land and other natural resources that decrease the incidence of forest fires.
- The mitigation of climate change through REDD+ (Reduced Emission from avoided Deforestation and Degradation) should ensure that forest owners and recognised forest users benefit from the initiatives.

b) Fisheries and marine resources

- Land, maritime and seabed boundaries should be properly demarcated through processes that meet the obligations of the United Nations Convention on the Law of the Sea (UNCLOS). The processes for negotiating maritime boundary delimitations should be harmonized. Governments should complete the process of defining and registering their Exclusive Economic Zones.
- Foreign access to fisheries resources should be provided through transparent and enforced multi/bilateral international agreements or national licensing.
- Aquaculture should be promoted and developed on suitable identified land with free, prior and informed consent of the owners and other affected parties.
- Legislation related to land and other natural resources should be enforced to reduce pollution from land based activities.
- Effective conservation and management measures should be established for endangered species to respect the Pacific Islands' cultural and traditional values, in addition to economic considerations.
- Governments should respect migratory species, fisheries and marine resources also in areas beyond their national jurisdiction.
- A moratorium should be put in place to protect the natural migration of eels and other traditionally valued resources and species from the Pacific Ocean to waterways in New Zealand to ensure future sustainability.

c) Water

- The rights of customary landowners should be respected when water resources are located on their lands.
- Proper and sustainable water management systems should be established to ensure appropriate allocations of water for agricultural, residential and commercial uses.
- Governments should respect water as a public good and recognise the right of access to clean and affordable drinking water and include this into their guidelines, policies, regulations and laws.

d) Agriculture

- Leases for agricultural land should contain terms and conditions that ensure sustainable land management practices and enhance the value of the land. Leases should include provisions for damages incurred by the lessees.
- Conditions for leasing agricultural land should include provisions, as appropriate, to pay reasonable compensation at the end of the leases for agreed improvements made by the lessees. The agreements between lessors and lessees should include how matters of compensation for investments, if any, will be addressed at the expiry of the leases in order to ensure that problems do not arise when the land reverts to its customary owners.
- Lessors should enforce the terms and conditions of agricultural leases.

e) Minerals and energy

- Clear guidelines should be established for the prospecting and extraction of minerals and energy to ensure that the property rights of the traditional landowners and communities are protected, and to ensure that they receive a fair share of any accrued benefits.

f) Biodiversity

- Landowners should be compensated fairly for the loss of use of their land and other natural resources if it is designated as a protected area.
- All stakeholders, including resource owners, users and local communities, should be involved in the designation and management of protected areas.
- Measures should be introduced to ensure the sustainable use of natural resources within protected areas.
- Clear guidelines should be established for bio-prospecting of natural resources to ensure that the property rights of the traditional landowners and communities are protected, and to ensure that they receive a fair share of any accrued benefits.

g) Carbon

- Effective policy and legal frameworks should be established to regulate carbon ownership and user rights and trading in order to reduce unnecessary disputes.
- Small island developing states require special assistance to enable access to global carbon markets.
- Proper certification procedures should be established and implemented.
- Governments should reduce local and national carbon emissions.
- Fair, transparent and accountable funding mechanisms should be established to ensure that payments are made to the appropriate resource users.

C. The next steps

The Pacific Islands consultation is one of a series of regional consultations. The process includes other consultations in Southern Africa (Namibia), Asia (Viet Nam), Europe (Romania), Near East and North Africa (Jordan), Latin America (Brazil), West and Central Africa (Burkina Faso), Central America and Caribbean (Panama), East Africa (Ethiopia), and Eastern Europe and Central Asia (Russian Federation). Consultations specifically for civil society include meetings in Asia (Malaysia), Latin America (Brazil), Europe and Central Asia (Italy), and Africa (Mali). An additional consultation meeting was held for the private sector (United Kingdom). The outcomes of these meetings, along with a global electronic consultation, will provide feedback on what should be considered when the Voluntary Guidelines are prepared.

The preparation of the Voluntary Guidelines will begin following the regional and sector consultations. The draft version of the Voluntary Guidelines will be reviewed through a broad, participatory process. Participants of this workshop expressed keen interest to monitor this process. The participants will be invited to review the draft and to propose improvements to make the Voluntary Guidelines more effective.

A final draft of the Voluntary Guidelines will be submitted to FAO member countries and other stakeholders for review and endorsement in 2011.

Participants of this meeting will be kept informed of the schedule for the preparation of the Voluntary Guidelines.

Information on the Voluntary Guidelines and their preparation is available on the website: <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>