

**Working Document of the Open-Ended Working Group
on the Voluntary Guidelines on the Responsible Governance of Tenure
of Land, Fisheries and Forests (“Voluntary Guidelines”)**

Purpose of the Voluntary Guidelines

This Working Document provides clarification of the intended purpose of the first draft of the Voluntary Guidelines. It has been prepared as a result of a request by Members, Participants and Observers during the Open-Ended Working Group meeting of 14, 16 and 17 June to review the first draft of the Voluntary Guidelines.

Purpose

The purpose of the Voluntary Guidelines is to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all, particularly vulnerable and marginalized people. In doing so, the Voluntary Guidelines are intended to contribute to the global and national efforts towards the eradication of hunger and poverty, and to the realization of sustainable livelihoods, social stability, housing security, rural development, environmental protection and economic growth.

Background

The livelihoods of many, particularly the rural poor, require secure and equitable access to and control over land, fisheries and forests. The eradication of hunger and poverty, and the sustainable use of the environment, thus depend in large measure on how people, communities and others gain access to those resources. They are the source of food and shelter; the basis for social, cultural and religious practices; and a central factor in economic growth.

How people, communities and others gain access to land, fisheries and forests is defined and regulated by societies through systems of tenure. These tenure systems determine who can use which resources, for how long, and under what conditions. The systems may be based on written policies and laws, as well as on unwritten customs and practices. Tenure systems increasingly face stress as the world’s growing population requires food security, and as environmental degradation and climate change reduce the availability of land, fisheries and forests. Inadequate and insecure tenure rights increase vulnerability, hunger and poverty, and can lead to conflict and civil war, and to environmental degradation when competing users fight for control of the resources.

The governance of tenure is a crucial element in determining if and how people, communities and others are able to acquire rights, and associated duties, to use and control land, fisheries and forests. Many tenure problems arise because of weak governance, and attempts to address tenure problems are affected by the quality of governance. Weak governance adversely affects social stability, sustainable use of the environment, investment and economic growth. People can be condemned to a life of hunger and poverty if they lose their tenure rights to their homes, land, fisheries and forests and their livelihoods because of corrupt tenure practices or if implementing agencies fail to protect their tenure rights. People may even lose their lives when weak tenure governance leads to violent conflict. In contrast, responsible governance of tenure supports social and economic development, and the protection and enhancement of the environment.

The Voluntary Guidelines are intended to provide a framework for responsible tenure governance that supports food security and the realization of the right to adequate food for all, poverty eradication, sustainable resource use and environmental protection, and economic growth. They set out principles and internationally accepted practices that may guide the preparation and implementation of policies and laws related to tenure governance. At the same time, they recognize that improvements in governance in this area will depend on, and also support, other development efforts including broader reforms to governance in society.

Box

Tenure, subsidiary tenure rights, customary tenure rights, and informal tenure rights

Tenure is the relationship among people with respect to the use and control of land (including associated buildings and other structures), fisheries, forests and other natural resources. The rules of tenure define how access is granted to use and control these resources, as well as associated responsibilities and restraints. They determine who can use which resources, for how long, and under what conditions. Tenure systems may be based on written policies and laws, as well as on unwritten customs and practices. Tenure rights may be held by individuals, families, indigenous peoples and other communities, associations and other corporate bodies, and by States and their various bodies. Within a country a wide range of tenure rights may exist, including ownership rights, lease rights and use rights, including subsidiary tenure rights.

Subsidiary tenure rights include tenure rights which are often used for subsistence by the poor, such as rights to gather firewood, to graze animals, to forage tree crop products, to fish at specified times and locations, and to cultivate crops.

Customary tenure rights of a community include the collective rights of community members to the natural commons as well as private rights of community members to their agricultural and residential parcels. Customary tenure rights have been granted formal legal recognition equivalent to other statutory tenure rights in some countries, while in other countries they lack such legal recognition.

Informal tenure rights are tenure rights that lack formal, official protection by the state. They often arise spontaneously, e.g. the emergence of informal tenure rights in peri-urban areas arising from large scale migrations.

Governance

Governance is the process of governing. It is the way in which society is managed and how the competing priorities and interests of different groups are reconciled. It includes the formal institutions of government but also informal arrangements. Governance is concerned with the 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.