CHALLENGE AND OPPORTUNITIES FOR VGGT IMPLEMENTATION IN LATIN AMERICA AND THE CARRIBBEAN

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Almost five years after the adoption of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (the Guidelines) by the Committee on World Food Security (CFS), this paper will focus on the challenges faced and the opportunities generated for their implementation in a specific region: Latin America and The Caribbean (LAC). As a first part, the paper will explore some of the regional trends impacting governance of tenure. The paper will then develop a second part on the advances and limitations made and faced for improving the governance of tenure using the Guidelines in LAC at country level (drawing lessons from various countries), at sub regional level (in particular by Reunion Especializada por la Agricultura Familiar – MERCOSUR), and at stakeholders level (such as civil society, Indigenous People…). The third part of the paper will explore challenges ahead and suggest ways forward to enhance the Guidelines implementation in the region.

Keywords: Guidelines implementation; VGGT implementation; Latin America and Caribbean region
Almost five years after the adoption of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (the Guidelines) by the Committee on World Food Security (CFS), this paper will focus on the challenges faced and the opportunities generated for their implementation in a specific region: Latin America and The Caribbean (LAC).

1. **Land tenure Governance : some elements on current situation and trends**

As a first part, the paper will explore some of the current regional features and trends affecting governance of tenure.

1.1. A land market with tendency to land concentration:

As shown by various Gini coefficient analyses (Deninger and Olinto -2002; Klicksberg 2005; Franckema 2005), LAC is the region of the world with the highest unequal distribution of land. In its recent study, OXFAM (OXFAM, 2016) shows an average Gini rate of 0.79 for the region, split as 0.75 for Central America and 0.85 for South America. In form of reference, Gini rates in the other region are much lower: Europe (0.57), Africa (0.56) or Asia (0.55). The land strong unequal distribution today comes from a long path where it has changed shape along the way.

Land concentration in early twentieth century was one of *latifundios* possessed by few *terrenientes* with extensive production systems based on a poor labor force contracted through share cropping or lend of land modalities (*inquilinos*). Rooted in the Bi modal *latifundia* systems inherited from European colonization, the land distribution inequalities have either not been addressed by the subsequent political systems to decolonization or have been diminished in variable proportion by agrarian reforms (Barraclough, 1999). As underlined by Alegrett (Alegrett 2003), the effects of the agrarian reforms are embedded with the effects of other important changes affecting the countries at the same time at political, economic, social and institutional levels which turn difficult the assessment of the agrarian reform impacts. Main underlined impacts are the end of a feudalistic system of land occupation in the countryside (Cox and al, 2003) and the creation of smallholdings which created the basis of the current rural development.

Since the 90’s decade, change of political orientation and international mainstreaming towards more liberal policies have led several countries to alleviate regulations on land markets. These policy/legal changes along with the economy of scales pursuit in various production systems have driven to a new phenomenon of land concentration.

Land concentration in the twenty first century is of a complete new shape: issued from growing interest for land based investments emerging in the region since the nineties (in particular with the *pool de siembra*) (Van Dam, 1999) the concentration is done through annual lease of important extension of lands (Argentina, Paraguay, Brazil, Uruguay) for annual crop production (soya, corn…) or through land ownership for annual crop production, fruit production, palm oil, sugar, forestry in all the countries of the region.

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1 Data extracted from national agricultural census from 1990 to date.
2 e.g. the 1992 new agrarian ley in Mexico allowing sells of Ejido lands, the 1995 private investment law of Peru to diminish restriction on state lands allocation.
These productions are made through intensives production modalities issued from the modernization of the agriculture sector with concentration of financial capital (Baquero, Gomez, 2011). In this same study, which analyzes land concentration in seventeen countries throughout the region, conclusion is also brought that land concentration nowadays reached higher level than the one pre-existing to the agrarian reforms and, as underlined, changed shape.

The analyses made of the national agricultural census data sets show that one percent of the biggest production units have an average size superior to 22 000 Hectares and would in total gather more than the half of agriculture lands of the continent (Caribbean part excluded) (Oxfam, 2016).

1.2. A challenging access to land

On the opposite side of the spectrum, there seems to have still a notable proportion of smallholders with low access to land (Oxfam, 2016). The same report underlines that since five decades the smallholdings have been disappearing with highest rates and have concentrated on smaller portion of the territory (e.g. in Uruguay 96% of the 34% decrease rates of agriculture holdings were inferior to 100 Ha).

Situation for marginalized population is more critical: distribution of agriculture holders by sex varies between 8% in Guatemala to 31% in Peru of female holders (FAO, Gender and Land Rights Database3). The holdings owned by women are in average of smaller size than the one owned by men. This critical situation shows that recognition of equal tenure rights for women and men in legal frameworks might not be sufficient to ensure effective enjoyment. Indeed, countries of the region have adapted their legal framework towards equal recognition (FAO GLRD, Coronado, 2011) yet the percentages of women with recognized tenure rights remain low.

In Latin America, Keene estimates that 23% of the territory is owned or controlled by Indigenous people rights (Keene, 2016). The progression of the recognition of Indigenous Peoples’ tenure rights – in particular in forest areas- has increased over the last twenty years. The adoption of legal frameworks to recognized Indigenous Peoples’ tenure rights by an important part of the countries of the region is one of the cause (Larson and al, 2008). In this regard, the voluntary ratification by most of the countries of the region of the convention 169 of the International Labour Convention concerning Indigenous and Tribal People in Independent Countries show also this progress towards a recognition of Indigenous Peoples’ tenure rights and towards a higher implementation of the Free and Prior Informed Consent to respect these rights.

High rates of smallholders’ land parcels have informal rights due to persisting non-nation- wide coverage or non-up-to-date maintained land administration systems, despite the important land administration programs supported throughout the region. Fragmentation of information between various types of registers (national level/municipality level land registers, property registry, regional/ federal registers…) is also a common feature for many countries of the region.

2. Experiences of implementation of the Guidelines in Latin America and the Caribbean

This part focuses on the actions that have been receiving FAO technical assistance. The implementation of the Guidelines in the region is not limited to these experiences indeed: Governments, Civil society organizations and Academia have undertaken independent actions/ projects to support Guidelines implementation. However, for being beyond the scope of the paper, they will not be referenced.

2.1. The Guidelines: a multidimensional tool

Since the adoption of the Guidelines on the 11th of May 2012, FAO’s support to their implementation has allowed to conceptualize and to test various possible uses of the Guidelines.

i. The Guidelines as a tool to generate dialogue

The generation of dialogue with the Guidelines has been supported through inclusive multistakeholders platforms, working groups and/ or raising awareness events. For the two first ones, generation of dialogue is a process shaping throughout multiple meetings. As it will be underlined in the case of Guatemala (see infra), the use of the guidelines as common framework to discuss challenges faced on governance of tenure in a country (or at local level) allows to step aside from oppositions that may have been generated over long period. For instance, interrupted negotiations over the pastoral land law in Mongolia got through a new revival within the Guidelines platform of dialogue. Inclusiveness is the condition sine qua non of the generation of dialogue as underline in the respective para 2.3 and 26.2 of the Guidelines.

2.3 “These Guidelines can be used by States; implementing agencies; judicial authorities; local governments; organizations of farmers and small-scale producers, of fishers, and of forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned to assess tenure governance and identify improvements and apply them.”

26.2 “States are encouraged to set up multi-stakeholder platforms and frameworks at local, national and regional levels or use such existing platforms and frameworks to collaborate on the implementation of these Guidelines; to monitor and evaluate the implementation in their jurisdictions; and to evaluate the impact on improved governance of tenure of land, fisheries and forests, and on improving food security and the progressive realization of the right to adequate food in the context of national food security, and sustainable development. This process should be inclusive, participatory, gender sensitive, implementable, cost effective and sustainable. In carrying out these tasks, States may seek technical support from regional and international bodies.”

However, to materialize, inclusiveness should be actively promoted not only by making sure that all concerned stakeholders take place at the table but also by ensuring that all concerned stakeholders have the capacity to make their voices heard and that asymmetry of powers can be circumvented by promoting the formation of common position.

The capacity development programs set should support dialogue at level of the implementation of principles of responsible governance and, beyond, to face concrete
issues of responsible governance of tenure. As such, how can Free and Prior Inform Consent can and should be applied? How mass regularization process can be made to enhance responsible governance of tenure (ensuring recognition of common tenure rights, women and youth tenure access and tenure rights…)? How a sustainable land management system can and should enhance responsible governance of tenure (recognition of rights, modality of spatial planning, participation of stakeholders….).

ii. The Guidelines as a tool to evaluate field reality
The evaluation of field reality can be done for specific local case (e.g. women natural resources access/ tenure rights in a specific village / area) or – in a broader perspective- at national level (e.g. land administration system). This evaluation of field reality can be conducted either against the principles of responsible governance (see annex 1) or against specific guideline.

For this second level of in-depth analysis, civil society through the process of preparation of the People´s Manual (see infra) have prepared analytical grid⁴ (see annex 2) which reveals particularly useful. This grid segments in 26 themes –easier- to understand the topics tackled by the Guidelines. For instance, themes are: access to land, fisheries and forests or restitution or agrarian reform or youth or women rights and gender, etc… Each theme is then linked to corresponding para of the Guidelines and relevant Human rights text (convention 169 of ILO, UN declaration on the Rights of Indigenous People…).

A program implemented since 2014 to enhance capacity of civil society to use the Guidelines conducted in over a dozen of countries in partnership with civil society has integrated the analytical grid as a tool to create linkages between: real case study – themes of governance of tenure concerned – specific guideline to be considered.

The Guidelines can serve also to design methodology to study specific phenomenon as the one of land concentration in Colombia studied by the UPRA with technical assistance of FAO (see infra.)

iii. The Guidelines as a tool to evaluate policy/ legal / regulatory framework
The same approach than for evaluating the reality exists also when it comes to the policy, legal and regulatory frameworks evaluation. Evaluation could be made against the principles of responsible governance or each individual guidelines (Vidar, 2016). Various tools have been created at legal level such as the Legal assessment undertaken in Sierra Leone⁵ and the Legal Assessment Tool for gender-equitable land tenure (Kenney and De La O Campos, 2014). At policy level, the conduction of a multi-stakeholders analysis of the 10 years of the land tenure reform against the principles of the Guidelines has allowed the provision of inputs into the design of the second phase of the land tenure reform (Antananarivo, Madagascar, February 2015) (see annex 3 methodology used, in French).

iv. The Guidelines as a tool to design of policy/ legal / regulatory framework
The use of the Guidelines as framework for the design of Policy and legal framework has now come to reality in several countries, amongst which, Senegal, Sierra Leone, Madagascar and Guatemala (see infra). The process for the design of the new policy/ legal

framework have been aligned with the Guidelines implementation principles: multi stakeholder capacitation and consultation have been used to produce the new frameworks.

Extract from The Guidelines (FAO, 2012):
Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.

v. The Guidelines as a tool to develop stakeholders’ capacity

The Capacity development on the Guidelines and on the various technical facets required by responsible governance of tenure has taken the form a comprehensive curriculum of technical guides\(^6\), e learning modules\(^7\) and training programs. The capacity development on responsible governance of tenure is a necessary ingredient to sustain a genuine inclusive multi stakeholders dialogue, to allow analysis of the existing and design of improved framework.

As shown through the curriculum of technical guides, e learning modules and development programs, the capacity development material tackles the needs of general knowledge on responsible governance of tenure and of specific aspect of it (agriculture investments, commons, monitoring and evaluating policy, spatial planning, registration of rights, etc.). Moreover, facing specific issues, the in – country projects and programs complement this wide range of material by adapting it to their own needs. The intermediation by the FAO regional and headquarter offices allows a double way flow of the responsible governance capacity development innovation.

vi. The Guidelines as a tool to monitor and evaluate

Since their endorsement, monitoring and evaluation has generated strong discussions around the following main issues:

- Is it the implementation of the Guidelines to be monitored or the responsible governance of tenure?
- Who should be given mandate to monitor and evaluate?
- How implementation can be measured on the ground?

The aim of this paper is not centered on the issue of monitoring and evaluation, however it worth only mentioning that FAO is working with CFS secretariat, with civil society (see infra) and within the Transversal support to the EU land governance programme (Munro Faure and Hilton, 2016).

\(^6\) Available at: http://www.fao.org/nr/tenure/information-resources/technicalguides/en/

\(^7\) Available at: http://www.fao.org/elearning/#/elc/en/courses/VGGT
2.2. Regional and sub-regional

At regional level, FAO has brought technical assistance to civil society organizations through the main regional civil society organizations’ platform: Allianza por la soberanía alimentaria who is member of the International Planning Committee for Food Sovereignty who participates to the Civil Society Mechanism of the CFS. Soon after the adoption of the Guidelines, the IPC expressed the need to allow the ratified text to be more graspable for a large audience. The People’s Manual on the Guidelines on Governance of Land, Fisheries and Forests\(^8\) is built in three main parts around what are the Guidelines, what are subject tackled by the Guidelines through case studies and how they could be implemented. This work, which has benefited from the support of Brazilian cooperation, Oxfam and European Union, has federated a lot of inputs from LAC region.

Allianza por la soberanía alimentaria, with FAO technical assistance, also engaged in 2015 into an attempt of monitoring and evaluating the implementation of the Guidelines in some emblematic cases of four countries (Colombia, Panama, Paraguay, and Peru). The methodology developed was composed of field visits (with bibliographic review, focus groups discussions and key stakeholders interviews) to emblematic cases followed by group seminars where the outputs of the field visits where discussed and compared to individual Guidelines within organizations of civil society. This monitoring and evaluation attempt published independently by Allianza por la soberanía alimentaria allows also to deepen on the challenges linked to the monitoring and evaluation: can the monitoring and evaluation be focused on emblematic cases or can it be systematic with analysis of governance at national and local levels? Whose mandate should be?

At sub-regional level, the REAF (Reunion Especializada de Agricultura Familiar) has been a strong driver for raising awareness and enhancing the use of the Guidelines within its country members (Argentina, Bolivia, Brazil, Chile, Ecuador, Paraguay, Uruguay, Venezuela). Receiving technical assistance from FAO, the REAF is a platform of dialogue between government, academia and civil society created within the MERCOSUR in 2004 to tackle all related issues on family farming. The REAF itself has progressively subdivided in several working group of which three are particularly working on governance of tenure issues and/or with the Guidelines: (i) Tenure policies, Access to Land and Agrarian Reform; (ii) Gender equity; (iii) rural youth.

The Tenure policies, Access to Land and Agrarian Reform working group has been created in 2006 has a follow up of the ICARRD (International Conference on Agrarian Reform and Rural Development, Porto Alegre, Brazil, 7\(^{th}\) – 10\(^{th}\) of March 2006). Since its creation, the working group has developed studies and seminars on burning issues for governance of tenure in the region: land markets (in particular: foreign direct investment and land concentration), integral rural reform, youth and access to land, women and access to land, spatial planning, strengthening land administrations.

These studies and seminar generated at sub regional level have, in some cases, then percolated into national policies such as, in Brazil, the adoption of a series of administrative regulations to impose a higher control of foreign direct investment on land.

\(^8\) Available at http://www.foodsovereignty.org/wp-content/uploads/2016/06/peoplesmanual.pdf
To reinforce the capacities of the working group to enhance governance of tenure through analyses and dialogue, a capacity program has been launched in July 2016 in three phases: (i) a regional workshop trained 40 participants to be facilitators to promote effective use of the Guidelines in Santiago, Chile, 6-7 October 2016; (ii) a mentoring phase to support countries to design and implement Guidelines capacity development events at national level; (iii) systematization of the results of series of workshop in the annual report to be presented to the MERCOSUR in order to design a roadmap for Guidelines implementation. The regional event has been also the occasion to promote sur cooperation as the training to working group representatives has been partially delivered by representatives from FENSUAGRO and Fundacion Guillermo Toriello (respectively from Colombia and Guatemala) who have been implementing capacity development programs at national level (see infra).
2.3. Guatemala

FAO has started supporting Guidelines implementation in Guatemala at the request of the Government in May 2013. This support has initially focused on the government led process an agrarian policy design to then broaden the range of stakeholders and technical themes supported.

- Policy formulation support:

La Secretaria de los Asuntos Agrarios y la comisión Presidencial de Desarrollo Rural – responsible entities for the agrarian policy - launched the process of formulation in 2012 in parallel to the process of adoption of the integral rural development law. The latter generated strong controversies in the country leading to a halt of the two processes. The Agrarian policy has eventually been re-launched in 2013 with a request of technical assistance to FAO to know and integrate the Guidelines to the agrarian policy. FAO organized a series of seven capacity development and dialogue events on the Guidelines and on the Agrarian Policy which gathered 140 participants from 53 different organizations (Government, Civil Society, Academia and Private Sector) (Gamboa, 2015). A series of recommendations for an alignment of the Agrarian policy with the Guidelines have been produced for each of the four component of the Agrarian policy i) access to land; ii) tenure related conflicts resolution; iii) security and legal certainty of tenure; and iv) access to other resources. The new agrarian policy has finally been approved in October 2014 by the Government in a context of diminished tensions. The 2015 political crisis faced by the country has repercussion on the agrarian policy for which no specific action for implementation has been undertaken. The new government approached FAO in the first semester 2016 with a request of technical assistance for the implementation.

- Civil Society capacity development:

In 2015 and 2016, a programme for civil society to enhance the use of the Guidelines has been implemented in Guatemala. This programme - conducted in partnership at global level with FIAN International – has been designed to give all the necessary tools to roll out learning events on the Guidelines by the national partners (Fundacion Guillermo Torriello –FGT- in Guatemala and FENSUAGRO in Colombia, see here after) without direct intervention of FAO. The methodology for the facilitation of the capacity development events was based on an experiential learning approach to allow participants of all profile (grassroots participants, national CSOs representative) to embed the principles of the VGGT into real cases analysis.

In 2015, the FGT organized a committee of eight civil society organizations which after a four days four days training of trainers ensured seven subsequent events capacitating over 200 persons. In 2016, the FGT adapted the methodology to focus on gender equity in access to tenure rights and managed to train over 200 persons and to produce eight case studies.

These two consecutive sessions of training have brought the following new capacities: i) knowledge of the Guidelines; ii) use of the Guidelines to analyze systematically cases where governance of tenure can be improved; iii) planning activities to support the Guidelines implementation in Guatemala; iv) network strengthening on governance of tenure issues.
Communication for development to enhance recognition of communal lands

FAO has provided technical assistance to the group promoting recognition of communal land\(^9\) to generate a series of communicational material\(^{10}\) (communication methods and audiovisual contents) to promote responsible governance for communal lands. The technics of communication for development applied have allowed the generation of owned conceptualization of local governance composed by the following five pillars: (i) Land security and legal certainty; (ii) local organization and participation; (iii) conflict management; (iv) spatial planning and natural resources management; (v) linkages with external stakeholders.

This action has led to the capacitation of 30 facilitators representative of rural and forestry institutions, producer groups, civil society and indigenous peoples’ organizations, which have then worked in pilot areas to raise awareness, facilitate social dialogue and generate local action plans for improved governance and recognition of communal land.

Knowing the existing good practices for governance of tenure:

In partnership with the agronomic faculty of San Carlo University, FAO has brought technical assistance to map the already existing good practices of governance of tenure. Aiming at analyzing the challenges for a responsible governance of tenure in Guatemala and to produce recommendations to enhance it, the study unfolds in three phases: (i) bibliographic review that has allowed the selection of 28 interesting cases; (ii) a multi-stakeholders seminar of case validation that led to the selection of seven of them; (iii) deepened investigation on seven chosen cases. Nine recommendations to enhance governance of tenure are provided in the published study\(^{11}\) of which it could be underlined the necessity to strengthen national institutions and their means of actions; support the recognition of communal land tenure and capacity building to enhance participation at local level (municipalities, civil society) and local governance; to enhance women access to recognized tenure rights.

Facing new request for technical assistance, FAO has jointly designed projects that ensure building on the capacities and methodologies already developed. As such, FAO will work alongside to government, civil society and academia to enhance recognition of common lands and to test modalities for the implementation of the agrarian policy for several of its components.

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\(^9\) El grupo promotor de tierras comunales includes the following institutions: Agronomic faculty of San Carlos University, el Registro de Informacion Catastral (RIC), la CONAP, el INAB and Utz che.’

\(^{10}\) Videos available at: [https://www.youtube.com/watch?v=R5vQ6Zm-mTY&index=1&list=PLzp5NgI2-dK5uQkVR6QD9NzQ-FZhav](https://www.youtube.com/watch?v=R5vQ6Zm-mTY&index=1&list=PLzp5NgI2-dK5uQkVR6QD9NzQ-FZhav)

\(^{11}\) Available at [http://www.fao.org/3/a-i6799s.pdf](http://www.fao.org/3/a-i6799s.pdf)
2.4. Colombia

The recently signed peace agreement (see annex 4 principles for the first point of the Peace agreement: *Hacia un Nuevo Campo Colombiano: Reforma Rural Integral*) shows the centrality of the access to land/tenure issues / insecurity of tenure rights and lack of production support for small-scale farmers as fueling causes of this five decades conflict. The Guidelines as the unique international negotiated framework of good practices on responsible governance of tenure can be a support to the implementation of the Peace Agreement by ensuring inclusive and informed participation of the stakeholders.

Besides, on each concrete challenge to be faced by Colombian society (e.g. how to ensure security of tenure, how to implement massive land regularization, how to conduct tenure rights restitution processes, how to create alternative mechanisms to manage for territorial governance conflicts, how to reformulate policies and legal frameworks) the Guidelines can support the definition of common agreed ground.

FAO’s support to the implementation of the Guidelines has started in Colombia in September 2013 with a Latin America regional raising awareness workshop. Following this first workshop, the implementation of the Guidelines has been internalized before a blossom of activities in 2015 - 2016.

- **Raising awareness activities:**

Since March 2015, FAO brought technical assistance to four master classes on rural development organized by the Universidad Externado de Colombia. These master classes were the opportunity for presentations of the Guidelines (contents and development) and lectures and exchanges of their relevance to Colombia. In addition, in April 2016, two days of seminar have been dedicated to the “new rurality” in order to analyze the challenges in the light of the Guidelines to be met after Peace agreement signature. For the participants, the Guidelines should be used as framework for the new policies and institutions.

Alongside this support to Academia, three raising awareness workshops with government, private sector and civil society have been organized since June 2015. These workshops were focused on presenting the Guidelines and elaborating on the role that each stakeholder can play in their implementation.

In total, the various actions to raise awareness has gathered 750 key stakeholders from national and local levels and from all type of constituencies: government, private sector, civil society and academia.

- **Civil society capacity development:**

In 2016, FAO, with support from Allianza por la soberania alimentaria and FIAN International, brought technical assistance to FENSUAGRO (a farmers’ union) to enhance civil society organizations’ capacities to use the Guidelines. The training of trainers organized by FENSUAGRO gathered 75 leaders from 21 organizations during 4 days in August. The trained leaders were then responsible to conduct raising awareness events at local level where other 60 persons were capacitated. During the trainings, the necessity to deepen the analysis of the Guidelines in line with the peace agreement and the documentation of real cases analyzed with the Guidelines in order to generate proposals for the implementation of the peace agreement surged along with the
importance of reinforcing the knowledge of the Guidelines through the “Cumbre Agraria” – which is a mechanism of dialogue between state and civil society.

FAO technical assistance to the mainstreaming of the Guidelines as a tool to support the peace process within civil society organizations will continue in 2017.

- **Study on land concentration and foreign investments:**

The government of Colombia, in its role to regulate land markets, has requested through its Unidad de Planificacion Rural Agropecuaria (UPRA, from Ministry of Agriculture and Rural Development) technical assistance to FAO to study the status of land concentration and foreign investment. The Guidelines forms the framework of analyze of the tenure rights, use and transfers used all through the study.

The trends of the land market in Colombia and its impact on land use and small farmers’ livelihoods has been reviewed in April 2016 at an expert meeting. The need for an appropriate regulatory framework has been underlined by the participants (government, civil society and academia).

The methodology retained for the study a multidimensional (legal, environmental and socio economic) and a multi- scalar (national, regional and local) approaches. In order to restrain the complexity of the parameters to be taken into account, the study has an entry point around the issue of risks and costs of opportunity associated to the phenomena of land concentration and foreign investment (see Annex 5: some graphical illustrations the methodological concepts in Spanish). As result, at national level, the study produced a comparative analysis of the actual functioning of the cadaster system in Colombia with the Guidelines on land administration systems (see chapter 5, FAO, 2012). The land concentration has been characterized at national and regional level through the study of GINI coefficient. Finally, at local level, the study documented two case studies (Municipios of Montería and Puerto Gaitan). The multi scalar approach allowed to produce differentiated recommendations in function of the territories considered for policy making.

- **Land restitutions to forced eviction´ victims:**

Since 2014, in partnership with the kingdom of Sweden, FAO brings technical assistance to the land restitution unit (Unidad Administrativa Especial de Restitucion de Tierras Despojadas - URT) created in 2011 on the methodology followed by the land restitution programme drawn from the law 1448 of 2011 (Ley de Victimas y Restitucion de Tierras). Part of this assistance focused on analyzing the alignment of land restitution programme to the Chapter 14 of the Guidelines on Restitution (see Vega and Leon, 2015) and it has been completed by promoting concrete implementation of the Guidelines in 10 cases of land restitution to 2826 families from Indigenous and Afro descendant communities for a total of 100 891 hectares in 7 departments.

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12 See article 1 of decree 4829 de 2011
13 Antioquia, Cauca, Cesar, Guaviare, Nariño, Valle del Cauca and Vichada
- **Recognition of farmers rights in protected areas:**

With the support of the European Union and in partnership with the natural parc network (Rede de los parques naturales nacionales), WWF (World Wildlife Fund), UPRA, URT and the mesa de negociación campesina, FAO is bringing technical assistance to support the establishment of a methodology to manage conflicts and enhance territorial governance. Amongst the issue to be faced by the project is in particular the one of farmer tenure rights recognition in protected areas and process of land restitutions in protected areas for Indigenous and afrodescendent communities. Implemented in line with the Guidelines, the project, started in last quarter of 2016, functions with dialogue platforms at national and local levels in the 5 areas of national parks\(^{14}\).

- **Massive land regularization:**

The peace agreement contains an objective of 7 million of hectares regularized in the next 10 years. To the request of Colombian government, FAO is bringing assistance to the recently set land agency (Agencia Nacional de Tierras – ANT)\(^{15}\) to follow two pilots for massive land regularization in the municipalities of Ovejas and eleven municipalities in the region of La Mojana. The technical assistance aims at supporting inter-institutional coordination mechanisms and support for the massive land regularization methodology design based on the lessons learnt from technical assistance brought to various country in meso America\(^{16}\) supported by World Bank land administration programmes.

FAO, in its role of one of the main support to the implementation of the Peace Agreement first point – Integral Rural Reform- alongside with the via Campesina, the United Nation Development Program and the European Union, is bringing a multi stakeholder and multi level technical assistance focused on the Guidelines as a framing tool for dialogue and to support decision making.

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\(^{14}\) Sierra Nevada, Paya, Nevado del Huila, Catatumbo y Acandí

\(^{15}\) Decree 2363 of 7\(^{th}\) of December 2015

3. **Outlook on the implementation of the Guidelines in the region**

These experiences related here above, and other from FAO worldwide, show the importance at country level of the Guidelines being a tool to answer concrete challenges faced on governance of tenure.

At country level, the Guidelines embed themselves in existing processes and sets of tenure governance challenges to give orientation, generate dialogue, capacity development and tailor made solutions to address the specific issues through inclusive processes.

As such, some of the issues faced in Guatemala are the improvement of indigenous people tenure rights recognition through the communal land recognition, the improvement of access to land and management of conflict to implement the agrarian policy. In Colombia, the multiple challenges to be faced in the frame of the implementation of the Peace Agreement are the massive process of regularization, the multi-use cadaster set up, the victims´ tenure rights restitution process, the inclusive participation, the inter institutional coordination.

At regional and sub-regional levels, as shown with the activities developed by REAF and Allianza por la soberania alimentaria, the Guidelines reveal important tool to generate common position, common analytical grid, capacity development and platform of exchanges of experiences.

Internally, FAO has set a series of measures to support the implementation of the Guidelines by recruiting land tenure officers in each regional office, by having an obligation of check compliance to the Guidelines in the project cycle and by offering training to its staffs.

Nevertheless, five years after adoption, there is a need to strengthen the momentum gained by the Guidelines in LAC. Number of countries with process of implementation of the Guidelines to face responsible governance challenges is still restraint. Some important stakeholders seems also to be absent of the debates and of the process of implementation. This calls for systematic action in two directions:

**At national level:**

- To enlarge the number of stakeholders involved into the process by working through partnership with Academia, civil society and private sector.
- To support inclusive multistakeholders dialogue process tackling governance of tenure issues faced by the country.
- To enhance the documentation of good practices and experiences on implementation of the Guidelines,
- To support the capacity development on the general principles of governance of tenure and the setup of tailor made programs.

**At regional and sub-regional level:**

- To enhance efforts from all stakeholders using already the Guidelines to materialize the lessons learnt and good practices on implementing the Guidelines.
- To target existing networks of exchange of experience and good practices of stakeholders to promote exchange on Guidelines implementation.
- To enlarge the categories of stakeholders participating into the implementation of the Guidelines within the region.
- To detect common challenges faced by countries to set communities of practices on specific issues.
- To give special attention to groups who have the weakened tenure rights and the challenged access to resources: Indigenous People, Women and Youth.
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3A General principles

3.1 States should:

1. Recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights.

2. Safeguard legitimate tenure rights against threats and infringements. They should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law.

3. Promote and facilitate the enjoyment of legitimate tenure rights. They should take active measures to promote and facilitate the full realization of tenure rights or the making of transactions with the rights, such as ensuring that services are accessible to all.

4. Provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes.

5. Prevent tenure disputes, violent conflicts and corruption. They should take active measures to prevent tenure disputes from arising and from escalating into violent conflicts. They should endeavour to prevent corruption in all forms, at all levels, and in all settings.
Annex 2: extract of the analytical grid of People’s Manual

<table>
<thead>
<tr>
<th>Topic</th>
<th>Relevant sections of the Guidelines</th>
<th>Further relevant documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rights to land, fisheries and forests and Human Rights</td>
<td>Paragraph 1.1 establishes that the Guidelines form part of the duties incumbent on a state under international human rights law, and specifically mentions the Universal Declaration of Human Rights. Paragraph 1.1 establishes that the Guidelines form part of the duties incumbent on a state under international human rights law, and specifically mentions the Universal Declaration of Human Rights. Furthermore, it states that the aim of the Guidelines is to improve the governance of tenure of land, fisheries and forests for the benefit of all stakeholders, but with a specific focus on marginalized groups. Specific aims of the Guidelines are to achieve food security, the progressive realisation of the human right to adequate food for all, eradication of poverty, social stability, rural development and protection of the environment. Paragraphs 3811 to 3830 set out the principles under which the Guidelines are to be applied, as well as stating some of the key principles of human rights, including human dignity, non-discrimination, equality and justice, gender equality, a holistic and sustainable approach, the rule of law, accountability and continual improvement. Paragraph 3.7 deals with the responsibilities of non-state actors, including private companies, in respecting human rights and legitimate tenure rights. It also highlights the responsibilities states have in ensuring that private companies do not abuse human rights or tenure rights, and in protecting individuals from such abuse. This applies especially to state-owned enterprises, enterprises controlled by the state, or enterprises which receive support from state organs. Additionally, this paragraph makes specific reference to the home State of the company (the country where the companies are headquartered) when foreign or multinational companies are involved. Chapter 4 focuses on rights and responsibilities relating to tenure and highlights that land, fisheries and forests are crucial in achieving human rights, food security, poverty eradication, sustainability of livelihoods, social stability, housing and rural development (paragraph 4.1). Paragraph 4.8 reaffirms that human rights are universal, indivisible, interdependent and interrelated, and states that the governance of tenure of land, fisheries and forests should take into account all civil, political, economic, social and cultural rights. Moreover, it underscores the need to respect and protect the civil and political rights of human rights defenders, and especially the human rights of indigenous peoples, peasant farmers, fisherfolk, pastoralists and rural workers.</td>
<td>- International Covenant on Economic, Social and Cultural Rights (ICESCR)</td>
</tr>
</tbody>
</table>
Exercice de familiarisation sur les principes généraux des VGGT

Groupe 1, principe 1 : Reconnaître et respecter tous les détenteurs de droits fonciers légitimes et leurs droits

La méthode “H”

Principe 1 (exemple) : Les détenteurs de droit fonciers légitimes et leurs droits sont-ils bien reconnus et respectés à Madagascar ?

Raisons négatives

Evaluez 0-10

Raisons positives

0-------------------10

Solutions potentielles
Recommandations

Instructions

1. Lisez et discutez les cinq principes (15 minutes)

2. Concentrez-vous sur le principe 1 des VGGT indiqué ci-dessus et discutez sa pertinence à Madagascar en vous appuyant sur les questions suivantes:
   - Que signifie ce principe dans le contexte de Madagascar et au vu de l’examen du bilan des 10 ans de mise en œuvre de la réforme foncière malgache ?
   - Quels sont les aspects positifs qui vont dans le sens de la prise en compte de ce principe et quels sont les facteurs négatifs qui, au contraire, l’empêchent ou l’affaiblissent ?
   - Évaluer dans quelle mesure le principe est appliqué à Madagascar (évaluer de 1 à 10) ?
   - Si vous considérez qu’il y a des limites à son application, quelles solutions potentielles pourriez-vous envisager pour améliorer la situation ?

3. Consignez les conclusions sur le flipchart

Les résultats vous serviront pour les prochaines sessions de travail de groupe et seront inclus dans le rapport final de l’atelier.

Annex 3: example of use of the Guidelines to analyze a policy
Punto 1: Hacia un Nuevo Campo Colombiano: Reforma Rural Integral

Principios
En la implementación de lo acordado en el punto “Hacia un Nuevo Campo Colombiano: Reforma Rural Integral” se tendrán en cuenta los siguientes principios:

• **Transformación estructural:** es decir la transformación de la realidad rural con equidad, igualdad y democracia.

• **Desarrollo integral del campo:** el desarrollo integral del campo depende de un adecuado balance entre las diferentes formas de producción existentes -agricultura familiar, agroindustria, turismo, agricultura comercial de escala-; de la competitividad y de la necesidad de promover y fomentar la inversión en el campo con visión empresarial y fines productivos como condición para su desarrollo; y de la promoción y fomento, en condiciones de equidad, de encadenamientos de la pequeña producción rural con otros modelos de producción, que podrán ser verticales u horizontales y en diferente escala. En todo caso se apoyará y protegerá la economía campesina, familiar y comunitaria procurando su desarrollo y fortalecimiento.

• **Igualdad y enfoque de género:** reconocimiento de las mujeres como ciudadanas autónomas, sujetos de derechos que, independientemente de su estado civil, relación familiar o comunitaria, tienen acceso en condiciones de igualdad con respecto a los hombres a la propiedad de la tierra y proyectos productivos, opciones de financiamiento, infraestructura, servicios técnicos y formación, entre otros; atendiendo las condiciones sociales e institucionales que han impedido a las mujeres acceder a activos productivos y bienes públicos y sociales. Este reconocimiento implica la adopción de medidas específicas en la planeación, ejecución y seguimiento a los planes y programas contemplados en este acuerdo para que se implementen teniendo en cuenta las necesidades específicas y condiciones diferenciales de las mujeres, de acuerdo con su ciclo vital, afectaciones y necesidades.

• **Bienestar y buen vivir:** el objetivo final es la erradicación de la pobreza y la satisfacción plena de las necesidades de la ciudadanía de las zonas rurales, de manera que se logre en el menor plazo posible que los campesinos, las campesinas y las comunidades, incluidas las afrodescendientes e indígenas, ejerzan plenamente sus derechos y se alcance la convergencia entre la calidad de vida urbana y la calidad de vida rural, respetando el enfoque territorial, el enfoque de género y la diversidad étnica y cultural de las comunidades.

• **Priorización:** la política de desarrollo agrario integral es universal y su ejecución prioriza la población y los territorios más necesitados y vulnerables, y las comunidades más afectadas por la miseria, el abandono y el conflicto, y hace énfasis en pequeños y medianos productores y productoras. Especial atención merecen los derechos de las víctimas del conflicto, de los niños y niñas, de las mujeres, y de las personas adultas mayores.
Integralidad: asegura la productividad, mediante programas que acompañen el acceso efectivo a la tierra, con innovación, ciencia y tecnología, asistencia técnica, crédito, riego y comercialización y con otros medios de producción que permitan agregar valor. También asegura oportunidades de buen vivir que se derivan del acceso a bienes públicos como salud, vivienda, educación, infraestructura y conectividad y de medidas para garantizar una alimentación sana, adecuada y sostenible para toda la población.

- **Restablecimiento**: el restablecimiento de los derechos de las víctimas del desplazamiento y del despojo, y la reversión de los efectos del conflicto y del abandono sobre comunidades y territorios.

- **Regularización de la propiedad**: es decir, lucha contra la ilegalidad en la posesión y propiedad de la tierra y garantía de los derechos de los hombres y las mujeres que son los legítimos poseedores y dueños, de manera que no se vuelva a acudir a la violencia para resolver los conflictos relacionados con la tierra. Nada de lo establecido en el Acuerdo debe afectar el derecho constitucional a la propiedad privada.

- **Derecho a la alimentación**: la política de desarrollo agrario integral debe estar orientada a asegurar progresivamente que todas las personas tengan acceso a una alimentación sana y adecuada y que los alimentos se produzcan bajo sistemas sostenibles.

- **Participación**: la planeación, la ejecución y el seguimiento a los planes y programas se adelantarán con la activa participación de las comunidades —hombres y mujeres—, que es además garantía de transparencia unida a la rendición de cuentas, a la veeduría ciudadana y a la vigilancia especial de los organismos competentes.

- **Beneficio, impacto y medición**: teniendo en cuenta la priorización, la RRI debe beneficiar e impactar al mayor número de ciudadanos y ciudadanas, con la mayor intensidad y en el menor tiempo posible, y medir sus efectos en cada proyecto y región.

- **Desarrollo sostenible**: es decir, es ambiental y socialmente sostenible y requiere de la protección y promoción del acceso al agua, dentro de una concepción ordenada del territorio.

- **Presencia del Estado**: para la construcción de una paz estable y duradera la presencia del Estado en el territorio rural será amplia y eficaz, y se expresará en el cumplimiento de los derechos de todos los ciudadanos y las ciudadanas en democracia.

- **Democratización del acceso y uso adecuado de la tierra**: mecanismos y garantías que permitan que el mayor número posible de hombres y mujeres habitantes del campo sin tierra o con tierra insuficiente puedan acceder a ella y que incentiven el uso adecuado de la tierra con criterios de sostenibilidad ambiental, de vocación del suelo, de ordenamiento territorial y de participación de las comunidades. Con ese propósito y de conformidad con lo acordado en el punto 1.1.1 Fondo de Tierras para la RRI (3 millones de hectáreas) y en el punto 1.1.5. Formalización masiva de la Propiedad Rural (7 millones de hectáreas), durante los próximos 12 años habrá una extensión objeto de la Reforma Rural Integral de 10 millones de hectáreas. En todo caso la meta de formalización se cumplirá dentro de los primeros 10 años y la formalización en los PDET dentro de los próximos 7 años.
Annex 5: extracts of FAO, UPRA (2016) Study Marco conceptual, legal e institucional de la concentración y extranjerización de tierras productivas en Colombia, como una contribución a la aplicación de las directrices voluntarias sobre la Gobernanza Responsable de la tenencia de la tierra

**Síntesis del marco conceptual general de la concentración y extranjerización de tierras a la luz de las DVGT**

**Ejemplos del enfoque metodológico de riesgos asociados a los fenómenos, con base en los ejes temáticos de las DVGT.**
Panorama actual del catastro en Colombia y elementos de las DVGT con respecto a la administración de la tenencia.