

LEARNING FROM

10 YEARS

OF IMPLEMENTING THE VOLUNTARY GUIDELINES
ON THE RESPONSIBLE GOVERNANCE OF TENURE

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FOREWORD

In May 2012, the Committee on World Food Security adopted the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) to promote secure tenure rights and equitable access to land, fisheries and forests with respect to all forms of tenure. Over the past decade, the Guidelines have contributed to creating inclusive processes for policy formulation, giving voice to legitimate tenure rights holders, developing trust and accountability among key stakeholders, in the ownership, management, planning and use of legitimate tenure rights in land, fisheries and forests.

One of the most important challenges of such internationally agreed framework is its domestication and application to country specificities down to local and community levels. Setting up Multi-stakeholder Platforms is a strong recommendation of the Guidelines (Para 26.2) and are found in other normative frameworks governing land tenure at regional, continental or international levels. The aim of these inclusive, participatory, and gender sensitive platforms, established at local, national or regional levels, is to collaborate on making land governance more people centred. The VGGTs provide a common reference framework.

ILC and Welthungerhilfe with support from GIZ celebrated the 10th anniversary of the Guidelines' endorsement by launching the VGGT+10 Initiative with the goal to take stock and assess to which degree the Guidelines have been used as an orientation for national-level tenure reform processes and as a tool to contribute to tenure security. We also aimed at mobilizing and renewing concrete political commitments and to identifying the next steps for the further application of the Guidelines. Thanks to this Initiative, multi-stakeholder platforms successfully developed and maintained strategic collaboration with their respective Governments on land tenure reform. With continued support from GIZ and other donors, ILC, Welthungerhilfe and other LandCollaborative partners will support these processes to continue, guided and inspired by the VGGTs.

This report is a product of the VGGT+10 Initiative and focuses on the progress made across the 12 participating countries assessed, including good practices, as well as the challenges encountered, lessons learned and the main tenure issues still to be addressed. There has been significant progress in improving policies and legislation on the governance of tenure, with eleven of the twelve countries passing new policies and/or legislation or making major amendments. Many of the improved policies are aligned with the VGGT and support their principles.

This includes strengthened women's land rights, improved legal recognition of customary and communal tenure systems, and greater recognition of the importance of effective, transparent, and non-discriminatory land governance and administration. Policy processes have become more inclusive and consultative in all countries, with enhanced stakeholder involvement, dialogue, and MSPs.

While there is a lot to celebrate with the achieved milestones and policy improvements, the report indicates that implementation of existing policies and laws remains a key challenge across all localities. In many cases, policy reforms do not yet translate into tangible changes in the lives of people on the ground. The registration of communal land rights has been slow in almost all countries. Likewise, in all countries, power relations and inequalities continue to marginalize women and other vulnerable groups in practice.

The report ends with some practical recommendations and needs for the way forward that can guide everyone engaged in the improvement of land governance. Some of the most urgent include: establishing national regulations and guidance; mainstreaming best practices of inclusive dialogue and decision-making that inform both policy; securing financial resources and human capacity; prioritizing and safeguarding the right to food and nutrition security; coordinating backing of international policy instruments; or creating a unity of purpose across countries to regulate investment to protect natural resources and ensure wider community benefits. Context-specific solutions need to be found in each country, but it is hoped that some of the lessons shared and the broad trends identified in this report can help to inspire local solutions and inform globally supported interventions to improve tenure governance.



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INTRODUCTION

Around the world, the effective governance of tenure of land, fisheries, and forests is essential for the productive and sustainable use and protection of these and related natural resources. This is of particular importance for billions of people who depend on these resources very directly for food and livelihoods. With the increasing impacts of climate change and other natural resource degradation, it is becoming clearer that the way these resources are governed affects all of us.

This report is based on a review of the situation of the governance of tenure in 12 countries (*Table 1*) that was carried out during 2022 using the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) as a guide and benchmark. This came 10 years after the adoption of the VGGT by the Committee on World Food Security (CFS). The study was organised as part of the VGGT+10 Initiative of Welthungerhilfe, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and the International Land Coalition (ILC). Technical contributions were received from the Food and Agriculture Organization of the United Nations (FAO).

The review consisted primarily of a light assessment carried out in each country, which involved a review of policy documents and literature as well as interviews and inputs from key informants on tenure issues. These assessments are the main reference material for this report, and they in turn contain more references.⁴⁰ The key informants approached were from civil society, government, multilateral organisations and academia although it was not possible, due to limits on time and availability, to interview people from all sectors in each country. In total 48 questionnaires were received (*Annex 1*) and 30 of these respondents were also interviewed. The outcomes of stakeholder dialogues held at country level were also considered in the review. The country assessments and this report are the responsibility of the authors and do not necessarily reflect the views of any of those interviewed. The notion of a “light assessment” was based on an intention to identify the most important broad trends, rather than all the complex details of tenure governance in every country. There was also limited time available and an awareness that a range of other assessments have previously been done.⁴¹

⁴⁰ The light country assessments are available in English and French. See *Annex 2*, page 33.

⁴¹ Examples of other assessments include the Land Government Assessment Framework (LGAF) assessments supported by the World Bank (<https://www.worldbank.org/en/programs/land-governance-assessment-framework>), a study by FAO in 2021 (<https://www.fao.org/3/cb4876en/cb4876en.pdf>) and another by ActionAid in 2017 (https://actionaid.org/sites/default/files/aa_vgg_t_report_single_pages.pdf). The Land Portal also produces tenure governance profiles for many countries (<https://landportal.org/book/countries>).

This report focuses on the progress made across the countries assessed, including good practices, as well as the challenges encountered, lessons learned and the main tenure issues still to be addressed. The following section provides some important contextual and historical information, before overviews are given of tenure issues and tenure governance arrangements, looking at some of the changes that have happened in recent years. The report then goes on to discuss the influence of the VGGT and the extent to which tenure governance conforms with them. The report finishes with the identification of successes and possible best practices, and a conclusion that contains key recommendations.

Much progress has been made on improving governance of tenure, and the VGGT have contributed towards this. Countries are trying to find different ways to grapple with common challenges, such as giving statutory legal recognition to customary rights, and some examples are shared below. Context-specific solutions need to be found in each country, but it is hoped that some of the lessons shared here and the broad trends identified can help to inspire local solutions and inform globally supported interventions to improve tenure governance.

Table 1. The 12 countries included in the study, with core information

COUNTRY	POPULATION	LAND AREA (SQ KM)	AGRICULTURAL AREA (SQ KM)	FOREST REA (SQ KM)	INLAND WATER AREA (SQ KM)	COASTLINE (KM)	GDP PER CAPITA (USD)	HUMAN DEVELOPMENT INDEX (HDI)	% FOOD-INSECURE	PRINDEX, % FEEL INSECURE IN LAND RIGHTS
<i>Benin</i>	12,686,428	114,763	39,500	31,851	2,000	125	1,428	0.524	68.0	35
<i>Burkina Faso</i>	22,513,486	273,600	121,430	62,664	620	0	918	0.449	52.6	44
<i>Cambodia</i>	16,773,890	176,150	57,480	72,200	4,520	435	1,592	0.594	50.0	35
<i>Cameroon</i>	28,387,000	472,710	97,500	203,964	2,730	402	1,662	0.576	55.8	32
<i>Ethiopia FDR</i>	123,415,729	1,136,243	381,896	120,000	7,670	0	944	0.498	56.2	27
<i>Lao PDR</i>	7,484,901	230,680	21,047	166,300	6,000	0	2,551	0.607	31.8	25
<i>Liberia</i>	5,308,879	96,320	19,540	76,477	15,050	570	673	0.481	80.6	43
<i>Madagascar</i>	29,721,044	581,800	408,950	124,430	5,495	5,000	515	0.501	61.0	25
<i>Malawi</i>	20,411,281	94,280	56,500	22,837	24,200	0	643	0.512	81.3	21
<i>Senegal</i>	16,209,125	196,710	88,780	80,682	4,131	550	1,607	0.511	49.2	21
<i>Sierra Leone</i>	8,310,044	72,180	39,490	25,546	120	560	516	0.477	86.7	35
<i>Uganda</i>	47,295,449	200,520	144,150	23,792	41,030	0	858	0.525	72.5	26

KEY HISTORICAL AND CONTEXTUAL FACTORS

Ten of the 12 countries studied have been colonised in the past by European nations,⁴² the exceptions being Ethiopia and Liberia. The colonised countries gained independence during the 1950s and 1960s. Ethiopia was not immune to foreign intervention, with the invasion by Italy in the 1930s and a brief period of British rule during the Second World War. Ethiopia also went through its own tumultuous and conflict-ridden changes, moving from a feudal state under an emperor as recently as the early 1970s to become a communist regime and then a federal democracy. As this report was being written, part of Ethiopia was experiencing violent conflict and then reached a peace agreement, which hopefully will hold. Liberia declared itself independent in 1847 and was never colonised; nevertheless, it has its own peculiar and troubled history as a place where slaves from the USA were returned and settled. The division between descendants of freed slaves and the indigenous people of the area continues to mark the country today, not least in relation to land rights and a series of brutal civil wars. Half of the countries assessed have a fairly recent history of violent conflict. The lengthy civil wars in Sierra Leone and Liberia, for example, only ended in the early 2000s.

Colonialism and conflicts have profoundly shaped and still affect land governance in these countries today. Seizure and other forms of control over land and natural resources were central to the logic and functioning of colonial regimes, and land issues were important drivers of many of the conflicts. The current politics and economic and social challenges in these countries also shape and are in turn influenced by tenure governance issues; inequalities often have roots in land inequalities, and challenges of corruption and elite capture profoundly affect governance of tenure. It is therefore essential that we analyse and address tenure challenges within their contexts.

A specific tenure-related impact of the colonial influence is the introduction of statutory legal systems based on Western models, with related concepts of property and freehold title. These were quite different from existing customary tenure governance arrangements with their related, often more fluid and collective, principles of land use and rights. The resulting dual tenure systems – customary on the one hand and statutory on the other – continue to plague tenure governance in most of these countries. Many of the tenure reforms of recent decades, certainly in relation to customary land, have been efforts to address this duality and give improved recognition under statutory law to communal and customary tenure governance arrangements.

42 The colonising nations for the countries assessed were the United Kingdom, France and Germany.

All 12 countries studied have forms of democratic government, although the level of effective democracy is a point of contention. The Lao People's Democratic Republic (PDR), for example, holds elections for a parliament every five years but it is a one-party state, with the Lao People's Revolutionary Party having held power since 1975 and currently holding 158 out of 164 seats in the parliament. The Kingdom of Cambodia is a constitutional monarchy with an elected National Assembly, but there is still an influential role for the king. Burkina Faso has tried to build a constitutional democracy, but experienced two seizures of power by military coup during 2022 alone.

These 12 countries include some of the poorest in the world, with Burkina Faso ranking 184th out of 191 countries on the Human Development Index (HDI) and Sierra Leone not doing much better at 181st. The best-off country is Lao PDR ranked at 140th, just ahead of Cambodia at 146th. All these countries are among the 27% least developed countries in terms of their HDI score. There are quite big differences between them, though, in terms of their levels of economic activity. Annual gross domestic product (GDP) per person for the economically poorest countries, Madagascar and Sierra Leone, are just \$515 and \$516 respectively, compared with \$2,551 for Laos, which is the richest country. For comparison, however, Laos's GDP per capita is still only a fraction of that of the USA, with its GDP per capita of \$70,248 per annum.⁴³

43 GDP per capita for Lao People's Democratic Republic and United States of America from the World Bank: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=LA-US>

LAND, FISHERIES AND FOREST ISSUES TODAY

Across the 12 countries assessed, agriculture is a major source of jobs and livelihoods and makes an important economic contribution. Ethiopia, for example, has a population that is around 80% rural, with about 70% of the total population employed in or deriving their livelihoods from agriculture. The most urbanised country in the group is Liberia, with just over 52% of its population in urban areas. But Liberia still has around 43% of all employment in agriculture, with more people benefiting from production on the land and employment in fisheries and forest activities.

In all these countries, most farming is carried out by small-scale farmers using pieces of land that average around one hectare. This is in line with analysis that shows that 84% of all farms around the world are less than two hectares in size.⁴⁴

The level of importance of fisheries varies across the countries due to their different levels of water resources. As an island state, ocean fisheries are very important to Madagascar. Five of the countries are landlocked, with no ocean coastline; however, for some of these countries fisheries still make a significant contribution. In Malawi, with the enormous Lake Malawi (also known as Lake Nyasa), fish are a very important source of protein and the fishing industry as a whole provides livelihoods for around 500,000 people. Cambodia is also landlocked, but with the Tonlé Sap Lake it has important fisheries resources that around two million people depend on for their livelihoods.

Across all the countries, large parts of their fishing industries are led by artisanal fisher people who increasingly find themselves having to compete with larger operators and investors in fishing. Fishing resources are under stress, with declining catches due to a combination of dropping water levels due to droughts and upstream water capture by dams, and overfishing. The overfishing includes extensive illegal fishing and is also enabled by poor regulation, such as the lack of protection for key breeding grounds. Contamination of rivers and lakes, due to human and industrial waste and soil loss from poor farming practices, is also having negative impacts. Forests, especially those close to freshwater bodies, are often important for the preservation of water sources, but these forest resources are themselves under pressure from the expansion of agriculture and the loss of forest cover.

44 Guereña, A. and M. Wegerif (2019). "Land Inequality: Framing Document". Rome: International Land Coalition. https://d3o3cb4w253x5q.cloudfront.net/media/documents/2019_8_report_land_inequality_framing_document_web_single_page.pdf

The forestry sector in each country employs relatively lower numbers of people directly compared with agriculture and fisheries, but forest plantations still provide important jobs and forests are an important source of fuel and other products for local communities. Indigenous forests are under pressure and are being reduced in size across all the countries. Sierra Leone, for example, has one-third of its land area covered by forest now, after losing 32% of its tree cover since the year 2000.⁴⁵

Globally, there is great pressure on land and related natural resources as industry and food companies seek raw materials and investors seek profits. It is these pressures that tend to undermine the good intentions written into policies and laws. The Land Matrix has recorded 1,865 large land deals (above 200 hectares each) on 33 million hectares of land globally since the food price and financial crisis-driven rush of 2007/2008. The surge in land deals from 2007 to 2013 saw 30 million hectares affected. The pace has slowed since then, but the deals continue and compliance with principles of responsible investment remains as scarce as benefits to local communities. As the third analytical report from the Land Matrix project stated in 2021:

«The results of our review and complementary analyses are sobering, in part alarming. Compliance with the principles of responsible business conduct is rare, and scant consultation with the affected communities is common. The non-consensual and uncompensated loss of land often comes with only little socio-economic benefits – be they employment, positive productivity spillovers, or infrastructure.»⁴⁶

This study makes similar findings of large land deals continuing to put pressure on land and other natural resources, often at the expense of local communities and the environment. Even when reasonable policy frameworks are in place, the potential benefits for a few investors and their enablers in government seem irresistible. Threats, bribes and the manipulation of community "consultation" processes are all used to override the policies that should be protecting people's rights.

Countries with fewer land resources have seen land grabs on a smaller scale, but these are still significant in the context of limited land resources and high demand. The other challenge is that even when land is available, the higher demand – whether from small-scale farmers focused on meeting livelihoods needs, medium-scale market-orientated farmers or large-scale investors – is for the same land. That is generally fertile land that has access to water, road networks and markets.

45 Forestry information at: Global Forest Watch. "Sierra Leone". <https://bit.ly/3axUkF8>; and Wadsworth R.A. and A.R. Lebbie (2019). "What happened to the forests of Sierra Leone?". Land 8(5), 80. <https://www.mdpi.com/2073-445X/8/5/80>

46 Lay J., W. Anseeuw, S. Eckert, I. Flachsbarth, C. Kubitzka, K. Nolte and M. Giger (2021). "Taking stock of the global land rush: Few development benefits, many human and environmental risks". Land Matrix Analytical Report III. https://landmatrix.org/documents/129/Land_Matrix_2021_Analytical_Report_revised_22112021-FINAL.pdf. Similar findings are made in Anseeuw W., J. Bourgoin and A. Harding (2022). "Little Progress In Practice: Assessing Transparency, Inclusiveness, and Sustainability in Large-Scale Land Acquisitions in Africa". https://landmatrix.org/documents/142/LMI_Africa_Report_on_investor_practices_2022.pdf

The new land pressures often come on top of historically created land inequalities. For example, the 21,000 hectares of agricultural land acquired in large land deals in Malawi over the past 15 years is a lot for that densely populated country, and it is in addition to other land taken from local farmers and incorporated into large estates during the colonial period. Over 14% of the land area of Liberia, a total of 1,368,987 hectares, has come under contract in the past 15 years, in just 11 land deals. This is in addition to a long history of large land concessions being made to international companies and investors, notably Firestone Corporation, which was allocated 400,000 hectares of land in Liberia as early as 1926.⁴⁷

47 See the light country assessment reports and the Land Matrix data at: <https://landmatrix.org/>

OVERVIEW OF GOVERNANCE OF TENURE

There has been significant progress in improving policies and legislation on the governance of tenure, with 11 of the 12 countries passing new policies and/or legislation or making major amendments since 2000 (Table 2). Most of them have done so since 2012, showing an acceleration of policy and legislative work. Some such processes were under way as this study was being carried out. For example, significant amendments to six pieces of land-related legislation came into effect in Malawi in May 2022. The parliament of Sierra Leone also passed two new land laws in September 2022 (*see below*).

Table 2. Overview of tenure policy and legislation in each country, with year of recent adoption

COUNTRY	LAND POLICY	LAND LEGISLATION	FISHERIES POLICY	FISHERIES LEGISLATION	FORESTRY POLICY	FORESTRY LEGISLATION
<i>Benin</i>	2009	2013	2013	2014	2012	1993
<i>Burkina Faso</i>	2007	2009	2014	2011	1995	2011
<i>Cambodia</i>	2009	2001	–	2006	1993	2003
<i>Cameroon</i>	–	1974	–	1994	–	1994
<i>Ethiopia FDR</i>	–	1997 ⁴⁸	–	2003	–	2007
<i>Lao PDR</i>	2017	2019	2008	2009	2005 ⁴⁹	2019
<i>Liberia</i>	2013	2018	2014	2019	2007	2006
<i>Madagascar</i>	2016	2005	2015	2015 (A ⁵⁰ 2018)	2017	1997
<i>Malawi</i>	2002	2016 (A 2022)	2016	1997	2016	1997 (A 2017)
<i>Senegal</i>	–	1964	2016	1963 ⁵¹ 2015 ⁵²	2005	1998 (A 2010)
<i>Sierra Leone</i>	2015	2022	–	2018	–	1988 (A 2022)
<i>Uganda</i>	2013	1998 (A 2004 and 2010)	2017	2021 (under discussion)	2001	2003

48 Legislation by proclamation at the federal level. A range of regional-level proclamations are not shown here but can be found in the country assessment.

49 Ministry of Agriculture and Forestry, 2005. Forestry Strategy to the Year 2020.

50 A = Amended

51 Inland fisheries law.

52 Maritime fisheries law.

While Ethiopia does not have any official document called a “national land policy”, the country has issued proclamations at the federal and regional levels (legislative work at the regional level is not reflected in **Table 2**) in recent decades that have fundamentally changed land law and practice. The federal Rural Land Administration and Land Use Proclamation of 2005 has been followed by new proclamations in most regions. These proclamations have mandated and created the powers and procedures needed for the country’s extensive land registration programme.

A similar situation is observed in Laos, where the vision of the ruling party functions as the country’s land policy. There have also been recent revisions of land and forest laws in Laos. Madagascar has done significant policy work across land, fisheries and forests with its revised land policy (*Nouvelle Lettre de Politique Foncière 2015–2030*), the adoption of a five-year implementation plan (2016–2020) and revision of customary/untitled land laws (*propriété privée non titrée*).

Cameroon and Senegal are countries that still have old legislation and lack land policies. Cameroon started land reform discussions in 2011, but to date these have not brought about the adoption of new policies or legislation. Thus, the country still relies on land legislation from 1974 (heavily influenced by French as well as British and German law) and customary land systems that have not been codified in law. Senegal held significant and inclusive discussions on land policy from 2012 and a new policy was drafted, but it was put aside by the President in 2017 in an example of politics overriding process, and the adoption of land policy has stalled since then. Senegal has, however, brought in new policy and legislation on fisheries.

The lack of new policy and legislation in Senegal and Cameroon results in a continued failure to fully recognise customary tenure systems and customary rights. This leaves local communities and indigenous people with tenure insecurity, as the national domain regime continues to operate with no rights granted to local communities on land outside state and private land. Other countries that had similar regimes (i.e. Benin, Burkina Faso and Madagascar) have replaced them with “*presumption of ownership*”, which recognises customary rights and title of land users. These rights are then registered and made more defensible with new documents, such as attestations of possession, certificates of ownership or customary land rights certificates. Land reform in Senegal was following a similar path, but the draft land policy submitted in 2017 has not been endorsed by the President.

New and groundbreaking land legislation was passed in Sierra Leone in 2022: the Customary Land Rights Act (CLRA) and the National Land Commission Act (NLCA). Three issues of particular interest are confirmation of the requirement of free prior and informed consent (FPIC) from affected communities and families before changes are made to their land rights and use; the requirement for wider involvement of both women and men in families in land decision-making; and a provision for the inclusion of landless land users.

The CLRA in Sierra Leone requires FPIC from families and communities before developments or changes in tenure status can be finalised (sections 28, 32(1) and 43(6)b) of the CLRA)⁵³. This follows the lead of Liberia, which included a similar requirement in the 2018 Land Rights Act (Article 33.3) for FPIC from communities before developments that interfere with land use can proceed. The new Sierra Leone law goes further by requiring FPIC from “*adult male and female members of the affected community*” (section 43(6)b).

A requirement is also established by the CLRA for at least 60% of both women and men in families to approve important decisions concerning family land (sections 11(1) and 28). This is an interesting attempt to address a weakness seen in legislation in other countries that provides protection for spouses in decision-making on land but leaves out other family members who access land, especially unmarried women.

In the face of the threat, and in some cases the reality, of increasing landlessness across many countries, Sierra Leone’s NLCA provides for landless land users to be part of local land decision-making structures. Chiefdom Land Committees are required to have both a “*land owner*” and a “*land user*”, who by implication is not an owner, as members (Section 43(10) b and c of the NLCA)⁵⁴.

All the countries in the study have moved from past practices of explicit discrimination against women in tenure rights to now prohibiting discrimination based on gender. Given the reality of historically created inequalities between women and men and continued discrimination against women, some countries have gone further to require affirmative action to improve women’s tenure rights. In this regard, Ethiopia is a positive example, with provisions on women’s land rights including a commitment in the constitution to affirmative action to address gender imbalances. The federal land laws also explicitly give women the right to land for free if they want to engage in agriculture. These commitments are reflected in a land registration process that has seen more women become registered land rights holders than men: 23–24% of titles are in the names of women alone compared with 14–15% in the names of men alone, while 55% of land parcels are held in joint title with both spouses named.

These policy and legislative changes, as well as programmes of implementation, have brought progress across all the countries in the study when measured against the VGGT. All the countries that have brought in new or amended policies and/or legislation have strengthened women’s land rights and have given improved legal recognition to customary and communal tenure systems. Changes have also given greater recognition to the importance of effective, transparent and non-discriminatory land governance and administration. Policy processes have become more consultative in all the countries, with more stakeholder involvement, more dialogue and multi-stakeholder platforms (MSPs). Ten of the 12 countries have established MSPs that are working on improving policy and practice in relation to governance of tenure. These are organised around the promotion of the VGGT, and they gain some legitimacy from this. These MSPs have been quite influential in some countries, notably Burkina Faso, Senegal and Sierra Leone.

53 The Sierra Leone CLRA: <https://faolex.fao.org/docs/pdf/sie212374.pdf>

54 The Sierra Leone NLCA: <https://faolex.fao.org/docs/pdf/sie212618.pdf>

These improvements in policy, as is well known, have not yet been fully implemented across all localities; too many people have not yet seen policies being translated into improvements in their rights and lives. Those who have experienced concrete benefits have often done so through pilot projects, while wider progress in areas such as the registration of communal land rights has been limited (e.g. in Benin, Burkina Faso, Cambodia, Liberia, Uganda and other countries), leaving many with land rights still not secured. Further, the ability of communities to defend the rights obtained on paper, through registration and certificates, has in some cases been challenged in poorly functioning courts and through extra-legal pressures.

Consultative processes have become more widespread but have also too often remained superficial or have been dominated by elites, including elites from NGO and civil society groups. The meaningful involvement of the poorest and most vulnerable in decision-making remains a challenge in all the countries. Too often grassroots people are not truly influential in the discussions that affect their lives, especially when there are no NGOs or international organizations present.

Despite slow progress, there have also been successes in implementation. Many have seen greater awareness of rights enabling more active citizenship at local levels. In Senegal, despite a lack of national policy and legislative reform, there are municipalities and projects that have facilitated women's access to land through measures such as the abolition of fees for women to obtain land for cultivation, setting targets for land to go to women and fixing quotas for women's representation in land management structures. Ethiopia has rolled out substantial land rights certification for over 25 million land parcels, which has been free to beneficiaries and has been done at a total cost per title of just \$8.50. This makes it the largest, and arguably the most cost-effective, new land titling initiative in the world in the 21st century. Only Rwanda has had a more comprehensive programme covering a higher proportion of land, although it has a smaller total number of titles as it is a smaller country. In both Ethiopia and Rwanda, the challenge of covering the costs of land registration, including keeping records up to date, has emerged as an issue.⁵⁵ Making the process too expensive, as some argue has been the case in Rwanda, can discourage people from registering changes of rights, while not charging, as is still the case in Ethiopia, may be unsustainable.

One of the lessons learned, or confirmed, is that having a "*land policy*" (or fisheries or forestry policy) is only the first step in a process of putting in place effective tenure governance. Countries have discovered that putting a new policy into practice requires not only a new law but the amendment of related laws, and that revised or new regulations are also essential to give effect to these laws. Malawi has done a remarkable amount of legislative work in the past 10 years, passing and then amending not only the Land Act but at least six other pieces of legislation at the same time. This is a good example that also indicates the amount of work involved.

⁵⁵ For a debate of the sustainability of land registration in Rwanda, see Ali D.A., K. Deininger, G. Mahofa and R. Nyakulama (2021). "Sustaining land registration benefits by addressing the challenges of reversion to informality in Rwanda". <https://www.sciencedirect.com/science/article/abs/pii/S0264837719311081>

Alongside this, and often dependent on new regulations, is the reforming or putting in place of institutions responsible for implementation. Liberia, for example, established a new Liberia Land Authority in 2016 and a National Fisheries and Aquaculture Authority in 2017. These two important institutions joined a longer-established Forestry Development Authority.⁵⁶

Important work is being done in most of the countries to set up new land registries. This is often linked to new initiatives to register customary lands, including both individual and communal land. The aim is always to have unified national registries covering rural and urban land and all types of tenure, but this has not yet been achieved in any of the countries in the study. Another new initiative in the past decade has been the digitalisation of land registries, which most of these countries have now started but none have completed. The lack of central registries of this nature leaves tenure rights less secure, with greater risks of conflict, and it also contributes to a lack of reliable data on the status of people's tenure in the country.

SUMMARY OF MAIN CHALLENGES

The main challenges in land and resource governance can be split into two types: one is the challenge of implementation and the other is political and elite resistance to change. It is important to note that there are also a few countries, such as Cameroon and Senegal, that still have significant policy gaps.

The implementation challenges across the countries can be summarised as: 1) insufficient budgets and human resource capacity for effective land administration slowing down implementation of policies and laws, including slow take-up of new technology for land and natural resource administration; 2) lack of registration and protection in practice of customary rights and women's land rights; 3) weak consultation processes combined with lack of transparency in tenure governance and in investment decision-making; 4) poor access to justice and lack of awareness on land rights and governance issues; 5) human and environmental rights violations in large investment projects.

Political and elite resistance is based on unequal power relations, with particular interest groups attempting to defend and advance their positions of power. This also involves pushbacks from such groups that attempt to undo positive changes that have been achieved. Three main forms of pushback experienced in some countries, which are potential risks in others, are: 1) from traditional leaders, who feel that their roles are being undermined by attempts to democratise and create greater accountability in communal land governance. Examples of this have been seen in Sierra Leone and Malawi, where traditional leaders mobilised to reject parts of new customary land legislation and managed, especially in Malawi, to win concessions; 2) a lack of political and budget commitment to give effect to laws and policies, which in some cases is not just government failure but active resistance from elements in government.

⁵⁶ For Liberia's land, fisheries and forestry authorities, see: <https://lla.gov.lr/>; <https://nafaa.gov.lr/>; and <https://www.fda.gov.lr/>

For example, in Madagascar and Burkina Faso the localisation of land governance has been resisted by those in central government who feel that they risk losing power and access to resources; and 3) investor interests combining with elements in government to frequently override measures put in place to protect people, communities and natural resources. As one respondent from Uganda said: *“People in leadership are the grabbers, everyone with a bit of power is grabbing.”* As has already been mentioned, it is hard for ordinary people to get justice when the violation of rights is committed by those in power.

Another threat that has arisen is disillusionment, which brings a waning of the energy and commitment needed to take forward tenure reforms and results in people losing faith in policy work. Disillusionment sets in when there is a lack of implementation and lack of access to justice when new rights are abused.

ROLE OF THE VGGT

INFLUENCE OF THE VGGT

The VGGT have been directly influential in policy and programme development in most of the 12 countries. They have been a source of ideas and guidance, and due to their adoption at an international level they have lent credibility to inputs that draw on them. Respondents spoke of their influence; for example, one civil society representative from Ethiopia said:

«now whenever we discuss these issues, VGGT is at the centre as it protects the rights of smallholders and pastoralists and women and protects the environment, it is the centre of our discussions. We check our laws in relation to these principles.»

The VGGT are also explicitly mentioned in some policies and it can be seen that new policies and legislation across the countries have moved towards greater compliance with them, as elaborated in the next section. In a number of countries, CSOs have used the VGGT as a reference point for their critiques and inputs on policies, such as in Malawi. Even in countries like Senegal, where new policies have not yet been adopted, the VGGT have informed awareness-raising, policy debates and local piloting of land titling and registration. The VGGT have been less influential in other countries, such as Cambodia, where the topic is avoided in debates as it is seen as a form of outside interference.

The influence of the VGGT is clear in Sierra Leone where the government, along with FAO and other international actors, convened VGGT dialogues, and civil society groups used the guidelines as a reference point for inputs on the new National Land Policy introduced in 2015. The policy itself states that the VGGT *“helped in the making of this comprehensive and substantive land policy reform”*. Uganda’s National Fisheries and Aquaculture policy of 2017 mentions the importance of the VGGT, and the country’s Land Sector Strategy Plan 2013–2023 states that the VGGT were *“central to land sector reforms initiated under LSSP-I”*, its forerunner, and that the LSSP-II strategy would continue to be guided by them.⁵⁷ In Laos, the VGGT were among the key documents referred to in the revision of land and forest laws in 2019. They played the same role in Madagascar when the country adopted its second land policy in 2015, which took up seven of the 10 guiding principles of the VGGT: human dignity; non-discrimination; equity and justice; gender equality; consultation and participation; accountability; and rule of law.

⁵⁷ See page 40: <https://faolex.fao.org/docs/pdf/uga195927.pdf>

The VGGT came at a good time for Malawi as it was drafting and then reviewing its land laws. There is wide agreement that the principles had a positive influence on land governance in the country and helped to open up space for a more consultative approach that addressed issues such as women's rights. Members of civil society in Malawi said that they used the VGGT as a "blueprint" for analysis of the draft land bills. This included the hiring of a lawyer who worked as part of the legislative drafting team with a focus on getting the VGGT principles included. This helped to ensure that some key principles were included, although not all parts of the VGGT were followed.

Another reason why the VGGT may not have had an impact in Cambodia could be poor timing, as the country had passed key legislation on tenure in the decade before the adoption of the guidelines in 2012 (Table 1). The explicitly voluntary nature of the VGGT may also be a factor, as Cambodia has not resisted signing up to other international conventions that are mandatory.

Beyond policy influence, examples were given from a number of countries (Malawi, Liberia, Sierra Leone, Senegal, Cameroon, Benin and Madagascar) of how the VGGT were used in awareness-raising work at local levels, often supported by FAO and other international organisations. The VGGT have also been a reference point in engagements with investors that have been organised by civil society and government.

Guidelines are followed not only because they are convincing: donor and multilateral agency support for the VGGT has clearly helped to promote them. FAO has played an important role in consistently promoting the VGGT from country to international levels. Important funders of tenure reform, such as GIZ and the World Bank, explicitly reference the VGGT. In some cases, such as the Land Governance Support Activity (LGSA) in Liberia,⁵⁸ mandatory referencing of the VGGT was part of the funding conditions.

While progress is clear, the limitations identified in some legislation, policies and plans remind us that the influence of the VGGT and indeed of any framework is never complete or straightforward. The promotion of particular principles and approaches has to be constantly worked on, just as tenure governance is constantly contested by different interests and affected by new political and technological developments.

58 See for example USAID (2018), "Liberia Land Governance Support Activity, Quarterly Report FY18, Q3 (April–June 2018)", https://pdf.usaid.gov/pdf_docs/PA00TMMQ.pdf

REFLECTIONS ON CONFORMITY OF GOVERNANCE OF TENURE WITH THE VGGT

CONFORMITY WITH THE 10 IMPLEMENTATION PRINCIPLES OF THE VGGT

It is a complex issue to accurately assess conformity with lengthy and complex guidelines like the VGGT in any one country, harder still across 12 countries. This study and report have deliberately avoided a ranking of countries, which it was felt would be too simplistic. It is also important to remember that the ways of giving effect to the VGGT will vary between countries, as each country has to deal with its own specific context. What this section does is to give an overview and reflect on some of the common and important areas of conformity and non-conformity and some of the debates that arise from that.

Table 3: Overview of the main content of the VGGT⁵⁹

PRINCIPLES	MAIN GUIDANCE ON GOOD TENURE GOVERNANCE
<i>Human dignity</i>	Delivery of services (General Matters, Section 6)
<i>Non-discrimination</i>	Part 3: Legal recognition and allocation of tenure rights and duties. Including for women, indigenous people and communities and recognition of informal rights. Safeguards and consultation for and with those affected.
<i>Equity and justice</i>	Part 4: Transfers and other changes to tenure rights and duties. Including fair markets, public and private investment with no harm done, land consolidation and expropriation only as needed and with fair process, consultation and compensation. Restitution, redistribution and expropriation where needed for justice and equity.
<i>Gender and equality</i>	Part 5: Administration of tenure.
<i>Holistic and sustainable approach</i>	Including keeping of records, fair valuation and taxation, clear spatial planning and dispute resolution.
<i>Consultation and participation</i>	Part 6: Responses to climate change and emergencies.
<i>Rule of law</i>	Including appropriate preparedness, risk mitigation and responsiveness to climate change, natural disasters and conflicts.
<i>Transparency</i>	Part 7: Promotion, implementation, monitoring and evaluation.
<i>Accountability</i>	
<i>Continuous improvement</i>	

Unsurprisingly none of the 12 countries assessed have governance of tenure in full conformity with all of the VGGT principles and guidance. This is especially the case when considering not just the laws and policies in place but also their implementation and people's actual experiences of the practice of tenure governance. Across all the countries, the experts interviewed felt that the level of compliance with the VGGT was better in policy and legislation than it was in practice. This implementation gap is a common phenomenon and many of the findings and recommendations in this report relate to this gap, what it is rooted in and what could be done about it.

In most of the countries their legal frameworks, including their constitutions, are in line with the first four VGGT principles – human dignity, non-discrimination, equity and justice, and gender equality. Most, however, only prohibit discrimination based on gender, with only a few going further to require affirmative actions to ensure more gender-equitable outcomes.

59 Full VGGT document available at: <https://www.fao.org/3/i2801e/i2801e.pdf>

The Rural Land Tenure Law in Burkina Faso calls for actions to improve the position of women and youth and, importantly, sets a target of 30% of developed land going to women and young farmers. All the countries that have introduced new policies or laws in the past decade have included provisions for a minimum number of women (ranging from 30% to 50%) to be members of local land management structures.

Principle 5, on taking a holistic and sustainable approach to tenure governance, is not well achieved in any of the countries. Even where there are good intentions, the challenges that undermine the principle include a lack of coordination across government departments, lack of effective land use planning in most contexts, pressures on land from investors and rapid urbanisation.

The principle of the rule of law is written into policy and legislation in all the countries. Unfortunately, however, this is also one of the principles most widely reported as not being a reality in practice. As a respondent in Cambodia put it: *"In Cambodia there is only law enforcement against the poor and indigenous communities, but not when the rich and powerful take over the land of indigenous people... Whenever you have the money you have the power."* Talking about the courts, a respondent from Uganda said simply: *"Only those who have means get their way."* The same sentiment was shared in other countries, with corruption and elite influence leaving many people in poverty feeling that they could not get justice in the courts if their tenure rights were violated. The realisation of the principle of accountability flounders in practice on the same failings as in the justice system. Without a wider culture and practice of accountability across governments and society, this too will not be achieved in relation to tenure governance.

The principles of transparency, consultation and participation are relatively strong in policy and in law across the countries, but with mixed experience in their implementation. In countries where reforms have taken place in the past 10 years, there has been a good level of stakeholder consultation and participation in national processes. In Laos, for example, the new land and forest laws were adopted after a three-year process that entailed wide consultations at national and provincial levels, strong civil society engagement and participation and inputs from development organisations and donors. Every country reported some level of stakeholder involvement, with the questions in some cases being around whether such involvement was actually influential, and whether true grassroots representation had been achieved.

One gap is the lack of clear regulations and agreed procedures for meaningful consultation at community level. In practice, local consultation processes are often reported as being more about forcing through predetermined outcomes than truly involving those affected in decision-making. Transparency is often limited, especially when it comes to information on mining and large land deals. Positive experiences of meaningful community involvement have tended to come when there are NGOs and international organisations involved.

Of particular interest are the groundbreaking commitments to FPIC, mentioned above, in Liberia and Sierra Leone. These countries, especially Sierra Leone, have gone further than the VGGT in taking a more expansive approach to FPIC, taking it beyond being applicable only for *"indigenous"* communities, as it is in the VGGT, to having it apply in more situations where community and family land is affected. If implemented, this will significantly raise the level of meaningful participation in decision-making. Sierra Leone's new National Land Commission Act also sets fresh benchmarks in relation to transparency by explicitly requiring land structures, from local to national levels, to publish activity and financial reports and to make available and searchable the land registry and cadastre information.

Countries that have failed to develop required new policies (e.g. Cambodia, Cameroon, Senegal) and others that have stalled on their implementation (e.g. Liberia, Uganda) are clearly not living up to VGGT principle 10 on continuous improvement. There are signs in some countries that momentum on tenure reforms can be lost, and there is little built into policies and laws that requires continuous improvement. While most countries have some form of monitoring and evaluation (M&E) system, these are often not being well implemented in the sphere of tenure governance. There are some good examples, such as Madagascar and Burkina Faso, which have both inserted M&E into their policies and are periodically evaluating to learn from implementation. Burkina Faso's most recent evaluation in 2021 made key recommendations for improvement. Madagascar drew lessons from the first 10 years of reform to inform new land policy and implementation measures, and it also revises its implementation programme every five years. The lack of unified national land registries across all the countries does, however, leave an information gap, which undermines effective planning and monitoring of progress.

CONFORMITY WITH GUIDELINES AS SPELLED OUT IN SECTIONS 6-26 OF THE VGGT

The points made above in relation to conformity with the VGGT principles all apply to the wider guidance in the VGGT on good tenure governance. The implementation gap referred to has obvious relevance to section 6 of the VGGT on the delivery of services.

All the countries that have adopted new policies and laws have improved the legal recognition of customary and communal tenure rights, as well as the recognition of women's tenure rights. Most of these have also committed to new tenure administration structures, but most have not managed to put in place the required institutional capacity or to roll out widespread registration. As has been mentioned, there are no unified national land registries functioning yet, but there are programmes working to put these in place and to digitise them in most countries, including Benin, Burkina Faso, Ethiopia, Madagascar, Malawi and Uganda. In Senegal and Cameroon, outdated legislation continues to prevent the recognition of customary land rights. Cameroon also maintains a centralised land administration system that excludes local government, traditional leaders and communities from a role in land and resources governance.

Progress on improving practices around land transfers and other changes to tenure rights and duties (Part 4 of the VGGT) is mixed. The development of land markets is intentionally limited on communal land, in line with communal practice, in all the countries and in some cases on other land as well. The VGGT say: *"Where appropriate, States should recognize and facilitate fair and transparent sale and lease markets"* (p. 19) and they are also clear that the guidelines for what states should do in relation to fair and transparent markets apply *"where markets in tenure rights operate"*. So, the VGGT are not saying that markets in land should exist, but that where they do exist they should be fair and transparent, with transactions recorded.

In several countries the debate is about the extent to which land markets are desirable, given on the one hand the need for investment and the need to be able to unlock land value and on the other the risk of landlessness and greater land inequality. Malawi, for example, now explicitly prohibits the sale of customary land and undeveloped freehold land. This is part of a process that is effectively doing away with freehold land in the country. In Ethiopia, there are deliberate limits on land markets to reduce the risk of landlessness. The compromise in Ethiopia is to allow for the lease and mortgaging of use rights for a maximum of between 10 and 12 years depending on the region. There are different views on whether this is succeeding, with some arguing that it allows a level of market functioning without risking land loss by small-scale farmers, while others claim that it is too restrictive and does not allow for effective land markets that could help improve land utilisation by those with resources. In Cameroon and Senegal the law prohibits the sale of land, but in both countries an informal land market has emerged.

In other countries fair land markets are hampered by poorly functioning land registries, lack of land administration capacity and corruption. In Cambodia, for example, the land registration process allows for land markets, but there is dissatisfaction around procedures and practices concerning evictions and compensation for loss of land and other tenure rights.

Addressing restitution for past losses of tenure rights, where appropriate and possible (section 14 in part 4), is one of the most overlooked parts of the VGGT. None of these 12 countries have made clear provision for such restitution, even though they all have histories that include the dispossession of tenure rights. It is a sensitive issue, as addressing it involves delving into past wrongs, often conflicts, and resolving it often requires removing rights from those currently holding tenure rights on the land and other natural resources in question. Yet, not addressing past injustices leaves inequalities in place and unresolved resentment that can undermine the legitimacy of tenure regimes and destabilise governance of tenure and wider society. Liberia is an example of the challenges involved. For a century and a half, the tenure rights of the majority were denied, leaving them vulnerable to frequent dispossession of the land and natural resources they depended on. However, as a land activist from Liberia said: *"With the passage of the 2018 Land Rights Law, recognising community land rights without documents, land and social relationships in Liberia has been transformed drastically."*

The 2018 Land Rights Act was an important breakthrough that gave communities clear rights to their land and natural resources, but it also explicitly ruled out addressing the past and some quite recent dispossessions of community land rights that had taken place with no due processes or compensation. Those negatively affected still live not just with memories of the injustice but with its material consequences.

Across the countries, where land rights are not registered, there is a greater risk of land being taken by others or expropriated by the state and there is less chance of being able to claim compensation. In many contexts, land expropriation takes place with no or inadequate compensation, even when the land rights are registered. In Cameroon, Ethiopia and Senegal, compensation does not cover land as it belongs to the state or the nation. Compensation is therefore only paid for improvements on the land. In Ethiopia, complaints about this have led to the provision of alternative land in such cases, but there are still complaints that this alternative land is not equivalent to what was lost. There are also disputes in all the countries about the value of compensation for improvements and about what constitutes *"public purpose"*, which provides grounds under law for expropriating land. These factors, combined with the already mentioned difficulties of obtaining justice in the courts, result in many people losing out when there are land expropriations.

There is a continued tension across these countries between the need for investment and the need to protect existing tenure rights and the benefits from any investments for local people. Communities and civil society groups argue that investments are leading to dispossession of land and other natural resource rights and are not bringing the benefits promised. Indeed, there are many reports of negative social and environmental impacts and of obligations to carry out impact assessments being ignored. On the other hand, investors and those in government pushing for more investment and economic growth argue that investors face too many constraints and too much insecurity. When the new land laws were passed in Sierra Leone, for example, concerns were immediately raised that this would block investment. The situation is worsened when legislation is lacking, such as in Madagascar where a law on the specific status of land (*terres à statut spécifique*), which would confirm which land is earmarked for investment, is yet to be enacted. The *"win-win"* solution that the VGGT and many of its advocates argue for is that clear and registered tenure rights, implemented with inclusive decision-making processes, may take a little time and effort but can create the conditions for secure and responsible investments from which investors and local communities will more sustainably benefit. Unfortunately, there is no clear evidence of this happening yet. The few success stories identified (including in Malawi and Liberia) have so far involved only limited projects where fairer deals have been brokered by NGO groups with international support. These initiatives are also too new to judge their long-term impacts.

SUCCESSSES AND BEST PRACTICE EXAMPLES

This section identifies some potential best practice examples, a few of which have already been examined in more depth above. While these all look promising and can be learned from, it is not yet clear how some will work out, and what works in one country will not necessarily work elsewhere.

The thorough legislative amendment process in Malawi that addressed a raft of related legislation at the same time is a good example. The good practice is not so much in relation to the content of the legislation but is rather about the way that the country acted to make necessary related legislative amendments in a short time. The process also involved a lot of openness, including the involvement of civil society, traditional leaders and independent experts.

There are several examples where civil society groups, supported by donors and multilateral agencies, have worked with local communities and companies that are attempting more responsible approaches to renegotiate investment deals for improved benefits. For example, agreements reached with Illovo Sugar in southern Malawi involved farmers having their contribution of land recognised as an investment in the sugar company. They now get a share of the profits and have also secured land where they and their families grow food crops. In Sierra Leone, a palm oil investment by the company Natural Habitats was renegotiated down from taking 30,700 hectares of land to 2,320 hectares. The investor continued with its production on a still substantial area of land and communities have kept most of their land for their own uses.

The inclusion of FPIC in the land legislation of Liberia and Sierra Leone is a positive step, especially in the context of continuing pressures on land and other natural resources. The thorough approach taken in Sierra Leone, as explained above, has set a new benchmark that others can learn from.

The efforts across these countries to give legal recognition to customary and community land rights and at the same time manage the tension between land commercialisation and community and land/environmental protection are worth watching and doing more to learn from. Each country is trying slightly different ways of dealing with these issues in its own context. Perhaps of particular interest will be seeing how the efforts of Ethiopia, with its large scale of registration and attempts to allow a level of marketisation with mortgageable time-bound use rights, work out over time. The long-term results of Sierra Leone's innovations in legislating for FPIC should also be a source of important lessons.

More could be learned about Cambodia's approach to the registering of land rights through "*acquisitive ownership*", based on a person peacefully occupying land for five years at the time the country's Land Law came into effect. This approach gives legal recognition of land tenure without requiring participation in a particular custom or community.

Another area with a lot of potential for useful learning and sharing is in the establishment of unified and digitalised national land registries. It was beyond the scope of this study to assess the technical merits of the efforts in the different countries, but it would appear that Uganda's experience is worth looking at. Although it does not yet have one unified system covering all land, its new registry is reported to have helped generate improved revenue that has rapidly repaid the money invested in the system.

CONCLUSION

While there is understandable frustration at continued weaknesses in many areas of tenure governance, the progress made should not be overlooked. Ten of these 12 countries have improved the legal recognition of women's tenure rights and communal land rights in the past decade. Even the countries that have not passed new policies and legislation have, in their discourse on the topic and through a range of projects, improved the recognition of women's rights and customary and communal rights. Recognising and finding ways to build on this progress is important to avoid despondency and maintain the energy needed to continue to improve tenure rights and people's lives.

Tenure rights are complex and context-specific, requiring approaches that need to take into account the different interests involved. The solutions that can be sustained are unlikely to be ideal but are more about making the most of difficult situations often rooted in troubled histories. Countries are exercising agency in trying different approaches that might work for their contexts. Of particular interest are the ways that they are trying to manage the tensions between: 1) privatisation, commoditisation and marketisation of land versus collectivisation, protection from loss and forms of non-market access to land; and 2) respecting and working with traditional land governance systems, while also bringing recognition of statutory law and trying to ensure accountability and democratisation of tenure governance.

Donors and local and international NGOs – often using the VGGT for guidance and leverage in the process – have played critical roles in awareness-raising, in advocating for improved policies and legislation and in implementing pilot projects that have secured tenure rights for certain communities and individuals. These pilot projects have also led to lessons and capacity-building in relation to registering tenure rights. It is essential, however, that we now see a wide roll-out of the new policies, so that people across the countries can have their rights registered and defended, even when there is no external support. NGOs and wider civil society still have a key role to play in monitoring, in drawing out and sharing lessons and in advocating for systemic changes and broader implementation.

The VGGT have played an important role. The shift of policies towards alignment with their principles and guidance does not prove the influence of the VGGT but it is positive and, combined with references to the VGGT by research participants and key policy documents, it seems clear that they have had an influence. The backing and promotion of the VGGT by international agencies, notably FAO, with financial and human resources as well as political influence, has helped to make them influential. In several countries, it was reported that donor funding for land work was conditional on the use of the VGGT. A lesson from this is the way in which international policy instruments require concerted backing to ensure their influence.

Despite progress, it is essential that the challenges are not forgotten. The actual registering of communal land rights has been slow in almost all the countries. Likewise, in all the countries gendered power relations and inequalities continue to marginalise women in practice.

The continued pressure on land and other natural resources means that more effort is needed to design and ensure the use of meaningful consultation and participatory decision-making. This is essential to give effect to some of the positive commitments, including to FPIC, in new policies and laws.

Challenging as it is, wider issues of good governance will have to be addressed in all countries if there is to be effective tenure governance. These include ensuring improvements in the functioning of justice systems, building effective government administration and ending debilitating corruption.

A unity of purpose is needed across countries to regulate investment in ways that protect natural resources and ensure wider community benefits. This is essential to avoid a regulatory race to the bottom as countries compete for investments. Investors and other companies ultimately follow what works for their bottom line of profits, so they cannot be depended upon to do the right thing when it comes to the essential protection of people's rights to homes and livelihoods, and the natural resources and environment we all ultimately rely on. There must be clear regulation across countries to create an even playing field for all investors. Governments and investors need to have patience with local community processes and put in the time and effort to ensure that any investment and development projects work for people and the planet.

There are countries that still need to put in place key tenure policies and laws, while others need to amend and improve theirs. Most countries, however, need to now focus more on ensuring that policy gains become more meaningful at the local level and in people's lives, especially for the poorest and most vulnerable. To achieve further progress there is a need for a greater focus on the following actions:

- ▶ **Putting in place regulations** to guide and enable implementation that will give effect to new legislation (and passing or amending required new legislation first in countries where that is still needed). This sometimes involves a lot of work in assessing and repealing or amending existing related legislation and regulations.
- ▶ **Establishing national land registry and land information systems** covering all land. National registries need to be combined with a decentralisation of land administration with budgets, human resource capacity and practices that ensure equitable registration of communal land rights and accountability.
- ▶ **Putting in place good practices**, from the local to the national level, of inclusive dialogue and decision-making. This is essential for the processes of national policy and legislative and regulatory reforms and is equally essential at community and family levels when specific decisions on land, fisheries and forest are made that affect peoples' lives.
- ▶ **Ensuring good governance and rule of law**, with access to justice for the most vulnerable. This often involves overcoming vested and elite interests and corruption and must include actions to contain land grabbing.

- ▶ **Securing the necessary finances**, with government budgets and human resource capacity for the roll-out of policies and new laws and for effective land administration and governance and clear programmes of implementation.
- ▶ **Monitoring, evaluating and learning**, with a focus on tracking progress and drawing on lessons from key areas of contestation. This will need to include more systematic national data gathering.
- ▶ **Prioritising the achievement of the right to food and nutrition security** for all as a guiding aim across all governance of tenure interventions, and around which there needs to be greater interdepartmental and agency coordination. Without such a basic improvement in lives, it will be hard to maintain support for improved governance of tenure.
- ▶ **Advancing women's land, fishing and forest rights** with clearer commitments to affirmative actions and equitable outcomes. This needs programmes of action, with clearer targets and procedures as well as budgets for implementation.

A good place to start with united action in all the countries, combined with international support, would be ensuring that governments commit adequate budgets to tenure administration and governance. The lack of budgets affects every aspect of tenure governance and reform. Donor support is vital, but sustainable tenure governance requires countries to move beyond dependence on donors. Investment in tenure governance is essential for sustainable and equitable economic growth and can pay for itself, if well managed, through increased revenue generation.

Turning policy commitments into practice needs a number of things: informed people's movements (involving both women and men) that can take actions locally that improve people's lives and push for the national-level changes needed; enlightened and professional civil servants; responsive politicians who realise that they need to act in people's interests; and international and united across countries support for local and national efforts. The transformation needed will require determined and united action by these different actors to overcome the entrenched and elite interests that resist the creation of more just and equitable tenure governance. The right alliances, driven by the need to overcome the poverty and suffering that failures of tenure governance allow, and inspired by progress already made, can bring new impetus and energy to further improve people's tenure rights and lives.

ANNEX 1. CONTRIBUTORS TO THE STUDY

The table below lists those who completed questionnaires, most of whom were also interviewed, and the countries they focused on. A few others who requested that they remain anonymous have not been listed. We thank them all for their contributions.

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ANNEX 2. VGGT+10 INITIATIVE: COUNTRY ASSESSMENTS

Much progress has been made on improving governance of tenure and the VGGT have contributed towards this.

This report is based on a review of the situation of the governance of tenure carried out in 2022 using the VGGT as a guide and benchmark.

It **focuses on the progress made across 12 countries**, including good practices, as well as the challenges encountered, lessons learnt, and the main tenure issues to still be addressed going forward.

DOWNLOAD COUNTRY ASSESSMENTS:

- ▶ **BENIN - ENGLISH | FRENCH⁴⁰**
- ▶ **BURKINA FASO - ENGLISH | FRENCH⁴¹**
- ▶ **CAMBODIA - ENGLISH | FRENCH⁴²**
- ▶ **CAMEROON - ENGLISH | FRENCH⁴³**
- ▶ **ETHIOPIA - ENGLISH | FRENCH⁴⁴**
- ▶ **LAOS - ENGLISH | FRENCH⁴⁵**
- ▶ **LIBERIA - ENGLISH | FRENCH⁴⁶**
- ▶ **MADAGASCAR - ENGLISH | FRENCH⁴⁷**
- ▶ **MALAWI - ENGLISH | FRENCH⁴⁸**
- ▶ **SENEGAL - ENGLISH | FRENCH⁴⁹**
- ▶ **SIERRA LEONE - ENGLISH | FRENCH⁵⁰**
- ▶ **UGANDA - ENGLISH | FRENCH⁵¹**

40 EN: https://www.landcoalition.org/documents/1533/Benin_LCA_Final_-_Final_Eng.pdf

FR: https://www.landcoalition.org/documents/1548/Bénin_LCA_Final_-_Fr.pdf

41 EN: https://www.landcoalition.org/documents/1534/Burkina_Faso_LCA_Final_-_Eng.pdf

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FR: https://www.landcoalition.org/documents/1556/Uganda_LCA_Final_-_Fr.docx

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