

“Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” (VGGT)

from a Gender Perspective

Analysis and Policy

Recommendations



Brot
für die Welt



OXFAM
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Foreword

Women need access to productive resources, education, health, income and employment in an environment free of violence in order to realise their human rights and attain gender equality.

Securing women's land and property rights represents a critical step towards gender equality. Women need access to agricultural and productive resources as well as control over them, especially land, in order to improve their lives. In combination with information, training and support, these can contribute to improved income, sustainable livelihoods, food and nutrition security and the realisation of women's right to adequate food and nutrition. Additionally, secure land and property rights can help to reduce women's economic dependence on men and the related fear of abandonment and violence. Thus, overcoming gender inequalities in land rights contributes to the empowerment of women and strengthens their capacity to act and make choices.

Considering the importance that secure land and property rights have for the lives of women and girls, Bread for the World and Oxfam welcome the fact that the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forest in the Context of National Food Security" (VGGT) address gender equality. In this study conducted by Babette Wehrmann on behalf of the two agencies, a gender perspective

is applied to the above-mentioned guidelines and the connections regarding gender issues are identified. The study provides evidence that the guidelines acknowledge the importance of gender equality in land tenure in all activities related to the responsible governance of tenure.

However, the guidelines leave it up to governments, companies, international organisations and development banks to put them into practice. There is, therefore, a risk that the concerned actors will not integrate the guidelines systematically into their safeguards, land programmes, company policy and national laws. Civil society will have to play an important role to remind these actors of their responsibilities and to promote the implementation of the VGGT. The lack of resources and implementation capacities needs to be addressed. This applies to the provisions in general, but to the gender-related provisions in particular. As is often the case when issues with regard to gender equality are presented and discussed, the question of financing the necessary measures and policies is not sufficiently addressed. This shortcoming unfortunately also applies to the VGGT. Gender-responsive approaches that place an emphasis on the strategic implementation and financing of VGGT are crucial.

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Executive Summary

Currently, the most advanced international instruments and tools promote gender equality in tenure rights, responsibilities and opportunities and ask for gender responsive approaches to establish the equal treatment of women when it comes to obtaining access to land, property and housing, as well as acquiring, securing and financing it.

Endorsed by the Committee on World Food Security (CFS) on 11 May 2012, the “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” (VGGT) are an unprecedented international soft law instrument based on human-rights and developed on the basis of extensive multi-stakeholder consultation sessions, negotiated and agreed upon by states in the area of tenure promoting the respect of all legitimate tenure rights. All countries are explicitly encouraged to implement the Guidelines by resolutions of the United Nations General Assembly A/RES/67/228, the G20, the G8, and the RIO+20 Declaration. They, therefore, provide a very important framework for the global community’s future activities in relation to tenure.¹

The way that gender is addressed in the VGGT reflects the current international discourse. The VGGT promote gender equality in regard to tenure rights and access to land, referring to human rights, using the equity argument, addressing women’s practical and strategic needs in regard to tenure rights, and promoting empowerment.

Gender equality is one of the 10 implementation principles, and gender is a cross-cutting issue in the VGGT. They recognise equality between individuals and explicitly highlight women’s and girls’ equal tenure rights in comparison to those of men (VGGT, 3B Principles of Implementation, Articles 3 and 4). Hence, they recognise gender equality and the human right to non-discrimination as they recognise “the inherent dignity and the equal and inalienable human rights of all individuals” (VGGT, 3B Principles of Implementation, Article 1).

Further, the VGGT promote “taking positive action, including empowerment, in order to promote equitable

tenure rights and access to land, fisheries and forests, for all, women and men [...] within the national context” (VGGT, 3B Principles of Implementation, Article 3).

The main shortcoming of the VGGT with regard to gender is the recurrent limitation of a supplement referring to the “national context”. This restriction was added during the VGGT negotiations, not only in regard to gender issues, but regarding all topics that the negotiators could not agree to endorse as being applicable in all countries. The “[...] within the national context” supplement was a compromise that ensured that the claim as such remained in the document. However, the corresponding paragraphs have been weakened by it. A similar effect has been reached with two other supplements that were also inserted during the negotiations and refer to “the extent that resources permit” and “taking into account the capacity to implement”.

The VGGT provide an overarching framework, principles and guidelines, but do not enter into the description of specific tools and methodologies that provide more specific guidance on how to implement gender-equitable governance of land tenure. However, the tools that are in line with the VGGT philosophy can be used to apply the VGGT principles in practice.

For recommendations, see Chaps. 5 and 6.

1. Introduction

The land rights of women and their secure and equitable access to land are crucial. Not only do weaker land rights for women than for men, and women's greater difficulties in accessing land, violate their human right to be protected against discrimination, but women's land rights are also correlated with increased empowerment, better outcomes for women and children, and sustainable development in general. If women's land rights are respected, their well-being increases in one way or another (e.g. through access to shelter and/or the opportunity to generate income their livelihood improves resulting in better health conditions; increased (financial) independence may also protect them from domestic violence² etc.). In traditional models for women in many societies, women are responsible for caring and for the well-being of the family, so they are more likely to spend their income on the food, health and education of their children than men. Hence, children generally benefit if their mothers have tenure security. When women have a secure claim to land, they are less vulnerable if their husband dies or leaves. They do not have to fear losing their shelter. In rural areas, they can continue farming, including being part of out-grower schemes, and in urban areas they can also use their property for productive activities in the formal and informal sectors. In addition, tenure security on farmland generally has a positive impact on its productivity and income

as well as on the sustainability of its use and is positively correlated with efforts to improve soil fertility. So the intention to increase and strengthen women's land rights and power in control over use and management of other natural resources related to land is a question of a fairer and more equal society and inclusive development, as well as a matter of productivity, food security and sustainability.

Women and men have equal rights, including tenure rights, under international law and various constituencies throughout the world. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the only—for its signatories—binding international instrument for protecting women's rights, empowering them and promoting gender equality, explicitly refers to the right to have access to land. This recognition has often not yet trickled down to other (national) legislation, policy and programmes related to land, housing and (marital) property and is often not acknowledged in customs and practice. Furthermore, the practice and perception of a woman's position in the household, family and community affects to what extent women can exercise their land rights. Thus inequalities in land tenure and housing rights³ between men and women continue to exist (UN Habitat 2006).

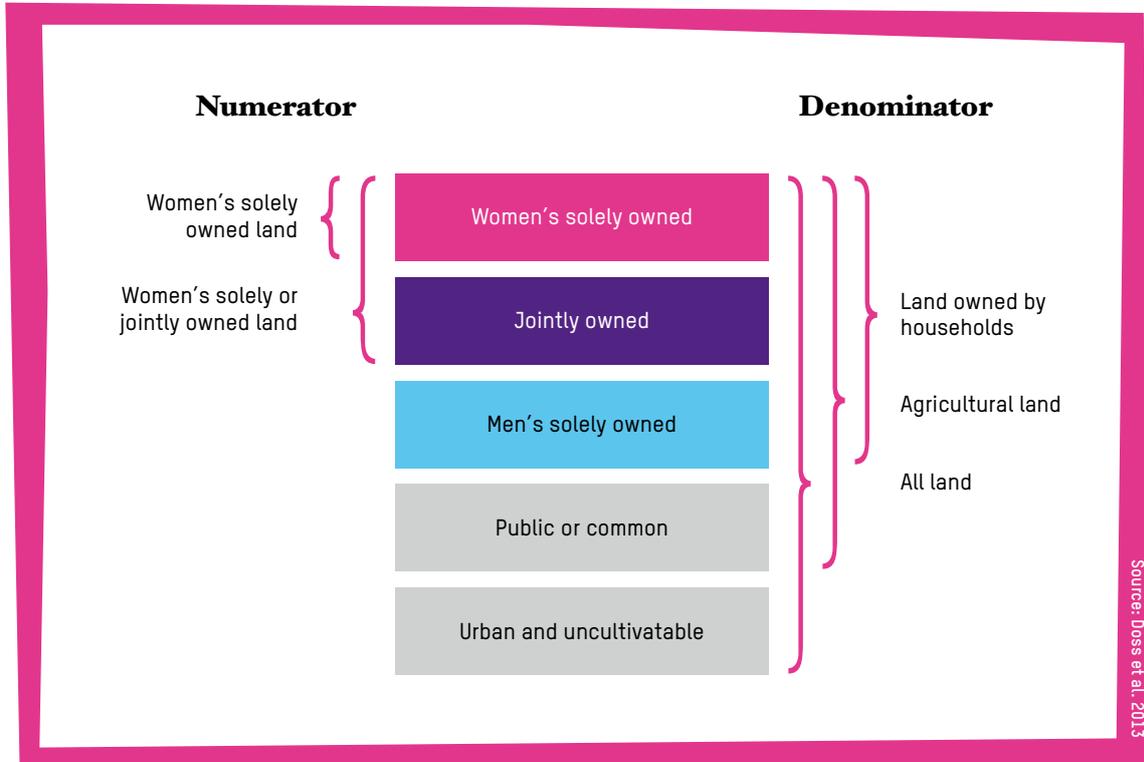
1.1 Prevailing gender inequality in land tenure in practice

Worldwide, more men than women own land.⁴ When we talk about land owned by women, we mean land that is solely owned by women and land owned in joint landownership by a woman and her spouse (including in some countries common-law spouse). The gender gaps are larger if we consider only land that is owned solely (individually), by a man or by a woman. "On average, across 10 countries in Africa, 39% of women and 48% of men report owning land, including both individual and joint ownership. Only 12% of women report owning land individually, while 31% of men do so" (Doss 2014)⁵. In addition, women generally do not only

own fewer parcels than men do, but these parcels are on average smaller than those parcels owned by men.

Still, ownership is not all that matters. Access to land and control over it, as well as management and control of output, are also important to achieve the desired outcomes. Figure 1 provides an overview of agricultural land under different ownership to which rural women may have access: Agricultural land and pastures owned solely by women or jointly with their spouses, additional agricultural land and pastures owned by the household, as well as pastures, forests,

Figure 1:
Lands under different ownerships to which rural women may have access.



swamps, and water resources held in public or common. Such land held in public or common is of particular importance for women as many of them depend on it for the collection of water, firewood, medical herbs, forest fruits etc. It is women's rights on those lands that need equally to be secured as those areas are most likely given away for foreign investment.

A lot of land to which women have access is not owned by them. Yet, they do have legitimate land tenure rights to it. In rural areas, these are often subsidiary rights based on customary tenure. In urban areas, (sub)tenancy rights based on informal tenure as well as informal sub-tenancy and sub-lease arrangements derived from formal tenure are common among poor women (and men). It is those legitimate tenure rights that require special attention, if women's land rights are to be improved.

When it comes to agricultural land, women generally also have less control of the output.⁶ This is particularly striking, as women represent a significant share of the agricultural workforce, produce a remarkable

amount of food in the world and ensure food security of households and communities in many developing countries (ILC 2015, FAO 2011).

Why is this the case in spite of all the international hard and soft law on women's (equal) rights? The reason is that in practice women's access to and control over land as well as other natural resources results from a complex system of statutory law, as well as customary and religious laws and practices. And it is a matter of economic and political power and control within many societies, especially where the ownership of land is also linked with political leadership and kinship. The societal, often traditional role, of women does not fit with the societal model of leadership and power, which is often exclusively combined with masculinity and men's roles.

Across Asia, customary laws and practices that discriminate against women remain deeply embedded in tradition, with men more likely to inherit, own, control and manage larger areas of land compared to women. The notion of the male household head is entrenched

in Asia, nourished by “Asian values” based on religious practices of a patriarchal nature. In South Asia, for instance, women are less likely to own and operate land (roughly 10–15 per cent of total land), and when they do, the size and value of holdings are lower than those of men (FAO 2011: 8). When women do acquire rights to land, they often do so through inheritance, which

is strongly influenced by laws and customs governing family and social relations, with the result that formal laws often defer to customary or religious laws and practices. Furthermore, women’s knowledge of their rights remains scant, as does detailed knowledge of how land governance affects women and men differently.

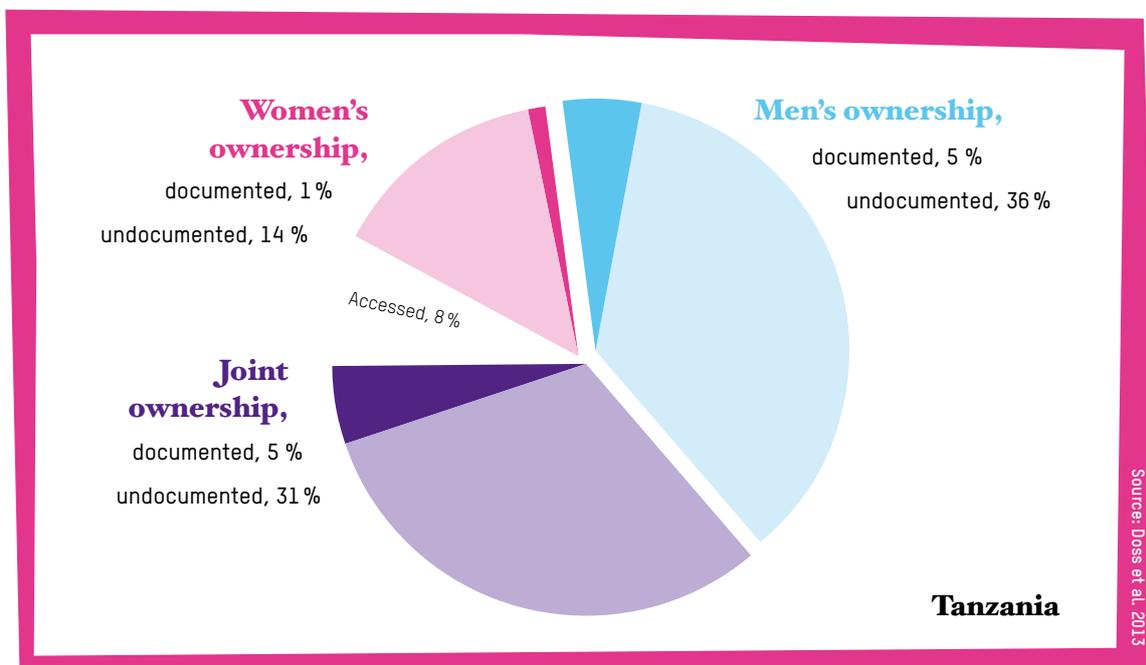
Box 1: Status of women’s land rights in India, Pakistan and Nepal

In India, Pakistan and Nepal, women’s legal land rights are rarely implemented in letter and in spirit. Socio-cultural and customary practices play an important role in depriving women from their (de jure) land rights. These practices override law and are highly patriarchal in nature.

The most common source of acquiring property for women is inheritance from the natal family, followed by purchase. However, research conducted by Oxfam in Nepal, Pakistan and India found that inheritance patterns among communities are only governed by the legal code of the country in Nepal, whereas they are governed by personal laws and customary laws in India, and by Sharia law in Pakistan. Customary and religious practices in India and Pakistan do not favour or even foresee land to be inherited by daughters as those—according to custom—receive a dowry consisting of movable properties. The reason is that they are supposed to move to their husband’s place. Accordingly, sons receive immovable property (such as land) and daughters receive movable property, including jewelry. Such an inheritance system works in a traditional setting which does not leave a lot of space for individual choices pertaining to the way one wants to live one’s life. This is in contradiction with modern demands for individual freedom and equity. In

today’s world, it places women in a disadvantaged position. Not being the owner of the land they are tilling—and women in rural India and Pakistan till a lot of land during their lives—means not having access to credit, subsidies or other programmes and support that are linked to the ownership of agricultural land. In India, the state policy considers only land owners as farmers. As women hardly ever own the land they till they are not considered farmers and thereby excluded from any policies and programmes addressing farmers. Despite efforts at the level of the three governments and provisions on women’s land rights in law, there are several gaps in women’s access to secure land rights. Women get only land allocated from the state in joint title with male members and not in exclusive titles. This not only means that women do not have absolute control over land, joint ownership of land only benefits one section of women, i.e. married women. Not taken into account are among others the specific problems of landlessness among single women in rural areas. Government programmes are also marred by implementation problems such as proper identification of beneficiaries, lack of awareness among women in remote areas about such schemes and processes, patriarchal attitude of officials toward women which hamper design and delivery of these schemes.

Figure 2: Share of documented and undocumented women’s, men’s and joint ownership in Tanzania



In most developing countries, women as well as men suffer from the fact that most of their land is not documented, recorded or registered and from the risks that result from such tenure insecurity (see Figure 2 for an example).⁷ However, in a number of situations the risks for women are higher. The reason is that women’s informal rights to land usually depend on their relations with their husbands or their in-laws. Hence, women risk losing their access rights

after divorce, desertion, male migration or widowhood as well as when badly-designed compensation and registration projects only target male owners/heads of households. When compensation is not equally shared within the household, women lose out, as they do when their husbands sell land that has only been registered in their names instead of in the names of both spouses.

1.2 The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT)

Endorsed by the Committee on World Food Security (CFS) on 11 May 2012, the “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” (VGGT) are an unprecedented international soft law instrument in the area of tenure—based on extensive multi-stakeholder consultations and negotiated and agreed upon by states. They are a human-rights based

instrument linked to the UN Principles on business and human rights.⁸

All countries are explicitly encouraged to implement the Guidelines by resolutions of the United Nations General Assembly A/RES/67/228, the G20, the G8, and the RIO+20 Declaration. They, therefore, provide a critically important framework document for future

work and activities of the global community in relation to tenure.

The VGGT seek to improve tenure governance for the benefit of all, with an emphasis on vulnerable and marginalised people, with the goals of food security and progressive realisation of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development. The guidelines respond to a generally weak public sector management and address with a critical stance all forms of fraud and corruption, both bureaucratic and political. Accordingly, they seek to enhance transparency, strengthen the capacities of all stakeholders and to contribute to the improvement and development of policy and legal and organisational frameworks by providing guidance and information on internationally accepted good practice.

At the heart of the guidelines are the so-called "legitimate"⁹ tenure right holders and the rights that should be respected by states and non-state actors, including business enterprises. Whereas the latter are considered to have a responsibility to respect human rights and legitimate tenure rights, states should not only respect but also recognise all legitimate tenure rights, safeguard them against threats and infringe-

ment, promote and facilitate their enjoyment and provide access to justice in case of infringement of these rights. Accordingly, the guidelines:

- define responsibilities for states and non-state actors including business enterprises,
- delineate procedural approaches on how this should happen, and
- depict key governance issues to be respected when dealing with tenure.

The VGGT highlight the centrality of gender equality by adopting it as one of the 10 principles of implementation and by fully mainstreaming it throughout the guidelines.

Chapter 3 of this paper deals with how the VGGT relate to gender issues. The VGGT provide an overarching framework, principles and guidelines, but do not enter into the description of specific instruments, approaches and methodologies providing more specific guidance on how to implement gender-equitable governance of land tenure. However, the tools that are in line with the VGGT philosophy can be used to apply the VGGT principles in practice. An overview of relevant tools is provided in Chapter 4. Although the VGGT deal with tenure of land, fisheries and forests, this document refers exclusively to land tenure.

2. The international discourse on women's access to land and land tenure rights

International discourse primarily focusses on two key arguments for promoting women's land rights: the efficiency and poverty reduction argument and the equity and empowerment argument. Whereas the first argument focuses on the opportunity to increase food security and to contribute to more sustainable development through providing women with secure, full and equal tenure rights, the second one highlights the human right of women to be treated equally to men and not to be discriminated against, and promotes the achievement of gender equality and women's rights.

Another argument is the peace–conflict argument that states that the more inequalities in societies and especially between men and women can be observed, the more likely conflicts can escalate into violence. Unequal power relations between men and women are among the strongest predictors of domestic violence (Resko 2010). In low-income, agriculture-based economies in particular women's secure land rights can provide an important source of income and increase economic independence and bargaining power—reducing dependency on their partners and thus their vulnerability to gender-based violence (USAID 2013).

Table 1: Key arguments for promoting women's land rights

Poverty reduction argument	When women have full and secure access to and rights over land, their economic productivity and income will increase. This applies to rural and urban, formal and informal economies. As women are more likely to spend their income on food, health and education for their children than men are, children generally benefit from their mother's tenure security as well. Thus, women's improved access to land reduces their families' poverty.
Efficiency argument	Women represent half of the potential workforce. Their efficient and effective economic participation will increase economic growth. Full and secure land rights are one of the prerequisites as they provide access to two production factors: land and capital.
Equity argument	Women and men have equal rights. Women, therefore, also have a right to equal tenure rights.
Empowerment argument	Through secure land rights (and access to capital) women are empowered as they become (more) independent from men. This allows them to demand and fight for even more rights without fear of losing their basis of existence and to get more involved in policy processes and to increase their voice.

With this in mind, the promotion of women's land rights offers a chance to create more just societies, decrease structural and gender-based violence and create more stable environments. However, there is also a risk that gains in women's property ownership increase: the risk of domestic violence, as men perceive challenges to their traditional authority/superiority (Kaiser Hughes/Richardson 2015). Hence, any measures to improve women's land rights need to

be well-conceived and thoughtfully planned to avoid unwanted side effects.

Currently, the most advanced international instruments and tools promote gender equality in tenure rights, responsibilities and opportunities and ask for gender responsive approaches to establish women's equal treatment in having access to land, property and housing, and acquiring, securing and financing them.

2.1 Key concepts of the gender discourse in

development policy and how they apply to land tenure

In development theory, researchers distinguish between women's practical and strategic needs¹⁰. Over the decades, policy has sometimes addressed one set of needs, sometimes the other, and sometimes both using the welfare, equity, poverty reduction, efficiency, and/or empowerment argument.¹¹ Today, it should be clear that both sets of needs have to be addressed equally as they are interlinked. In terms of land tenure,

women's practical needs are the rights to land based on security of tenure—for shelter, subsistence agriculture, market production, business, access to credit etc. Women's strategic needs in this regard are to be included in land policy decision making, e.g. land policy formulation, land use planning etc. Hence, they need to be present on respective boards and commissions.

Since the beginning of this millennium, gender equality has been considered a core development issue—a development objective in its own right. It comprises:¹²

- equality in rights, i. e. equality under the law (de jure),
- equality in resources, i. e. equality of opportunity (de facto access), and
- equality of voice, i. e. ability to influence.

In terms of land tenure gender equality means:

- equal tenure rights under the law,
- equal access to the amount and quality of land and
- equal access to information, and equal ability to influence decision-making on land tenure issues.

According to UN Women,¹³ “gender equality refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. [...] Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men. Gender equality is not a women's issue but should concern and fully engage men as well as women. Equality between women and men is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centered development”.

2.2 Women's land rights discrimination is a violation of human rights— international standards on land, gender and non-discrimination

International and regional human rights instruments and standards have long been recognised as principles of non-discrimination and over time have referred more specifically to the equal rights of women to land and property. As far back as 1948, the **Universal Declaration on Human Rights** (UDHR) set out the principle of non-discrimination (including on the basis of sex) in exercising the rights that it lists. These include the right to own property (Article 17) and access to food and housing (Article 25). The principle of non-discrimination is reinforced in Article 2 of the International Covenant on Civil and Political Rights (ICCPR). Article 26 of the treaty enshrines equality before the law and can be applied to defend women's right to non-discrimination and equality, not only with respect to civil and political rights, but also with economic and social rights. The International Covenant on Economic, Social and Cultural Rights (ICESR) states that **“women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so”** (Article 3).

The **Convention on the Elimination of Discrimination Against Women** (CEDAW) calls upon states to take measures to modify or abolish existing laws, regulations, customs and practices which discriminate against women (Article 2). According to Article 16.1 (h), states shall ensure **“the same rights for both spouses**

in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.” Article 15.2 calls on states to accord women equal legal capacity in civil matters, in particular “equal rights to conclude contracts and to administer property”. And Article 14.2 (g) calls on states to ensure to women in rural areas **“equal treatment in land and agrarian reforms as well as in resettlement schemes”**.

The **bodies that monitor the implementation of the international human rights treaties**, including the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights, frequently **call on states parties to ensure women's human rights related to access, use and control over land and other productive resources**.¹⁴ In General Comment No. 28 the UN Human Rights Committee states that, “the right of everyone [...] to be recognised everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies the capacity of women to own property.” The General Comment also says that “states must ensure that the matrimonial regime contains equal rights and obligations for both spouses, with regard to [...]

the ownership or administration of property, whether common property or property in the sole ownership of either spouse. States should review their legislation to ensure that married women have equal rights in regard to the ownership and administration of such property, where necessary. [...] Women should also have equal inheritance rights to those of men when the dissolution of marriage is caused by the death of one of the spouses.”¹⁵

In its resolution 42/1 on human rights and land rights discrimination (13 March 1998), the UN Economic and Social Commission on the Status of Women came to an understanding that “land rights discrimination is a violation of human rights” and advised states “to design and revise laws to ensure that women are accorded full and equal rights to own land and other property [...]”. Simultaneously, the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities (later called Sub-Commission on the Promotion and Protection of Human Rights) published two resolutions with similar content: resolution 1997/19 on women and the right to adequate housing and to land and property and resolution 1998/15 on women and the right to land, property, and adequate housing.

In the early 21st century, the **UN High Commission on Human Rights** in Resolution 2002/49 on women's equal ownership, access to land and control of it and the equal rights to own property and to adequate housing affirms “**that discrimination in law against women with respect to having access to, acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women's human right to protection against discrimination**” and reaffirms “women's right to an adequate standard of living, including adequate housing”. The Commission on Human Rights, therefore, urges states to design and revise laws and “encourages Governments to support the transformation of customs and traditions that discriminate against women and deny women security of tenure and equal ownership of, access to and control over land and equal rights to own property and to adequate housing, to ensure the right of women to equal treatment in land and agrarian reform as well as in land resettlement schemes and in ownership of property and in adequate housing [...]”. This resolution was followed by others focusing on similar issues. Altogether the Commission on Human Rights has so far adopted five resolutions (2000/13, 2001/34, 2002/49, 2003/22,

2005/25) on women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing.

Other noteworthy policy fora where gender and land have been highlighted include the Fourth World Conference on Women (Beijing, 1995) which called upon governments to enable women to obtain affordable housing and access to land and to undertake legislative and administrative reforms to give women equal access to economic resources, including the right to inherit and own of land.¹⁶ The **Habitat Agenda**, adopted at the second United Nations Conference on Human Settlements, **committed governments to provide legal security of tenure and equal access to land to all people, including women and those living in poverty, and undertaking legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land and other property.**¹⁷ States were also called upon to support community projects, policies and programmes that aim to remove all barriers to women's access to property ownership; promote awareness campaigns, education and enabling practices regarding legal rights with respect to tenure, landownership and inheritance for women; and to promote mechanisms for the protection of women who risk losing their homes upon the death of their husbands.¹⁸

The **International Conference on Population and Development** (Cairo, 1994) called on governments to **improve women's ability to own land and their right to inherit property.** More recently, at the United Nations Conference on Sustainable Development (“**Rio+20**”), heads of state and government resolved to “**undertake legislative and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other forms of property, credit, inheritance, natural resources and appropriate new technology.**”¹⁹

The Voluntary Guidelines to Support the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security (FAO 2004) also highlight the need to provide women with the right to inherit and possess land and other property (VGRtF, 8.6).

2.3 Women's land rights within the Sustainable Development Goals (SDG)

The current draft of the Sustainable Development Goals includes equal access to land, ownership and control over land in targets 1.4, 2.3 and 5.a.

Goal 1: End poverty in all its forms everywhere

Target 1.4: To ensure by 2030 that all men and women, particularly the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership, and control over land and other forms of property, inheritance, natural resources, appropriate new technology, and financial services including micro-finance.

Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture

Target 2.3: To double by 2030 agricultural productivity and the incomes of small-scale food producers, particularly women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets, and opportunities for value addition and non-farm employment.

Goal 5: Achieve gender equality and empower all women and girls

Target 5.a: To undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of

property, financial services, inheritance and natural resources, in accordance with national laws.

Building on suggestions from UN Women, International Fund for Agricultural Development (IFAD), Food and Agriculture Organization of the United Nations (FAO), United Nations Environment Programme (UNEP), Sustainable Development Solutions Network (SDSN), and the Global Land Indicators Initiative, a coalition of civil society organisations proposes that these two indicators be combined into a feasible single indicator that is meaningful, universal and cross-cutting.

Proposed indicator: The percentage of women, men, indigenous peoples, and local communities (IPLCs) with secure rights to land, property, and natural resources, measured by:

- a) Percentage with legally documented or recognised evidence of tenure, and
- b) Percentage who perceive their rights to be recognised and protected.

Including this indicator will help track progress towards six sustainable development goals: ending poverty (1); ensuring food security (2); achieving gender equality and empowering women (5); reducing inequality within and among countries (10); making cities and human settlements inclusive (11); and protecting, restoring and promoting sustainable use of ecosystems, forests and land (15).

2.4 The latest concepts: Gender-sensitiveness and gender-responsiveness

The most recent literature uses the terms gender-sensitiveness and gender responsiveness. A gender-sensitive approach/strategy/framework is one that supports policies, programmes, administrative and financial activities, and organisational procedures with the objective to differentiate between the capacities, needs and priorities of women and men; to ensure that the views and ideas of both women and

men are taken into account; to consider the implications of decisions on the situation of women relative to men; and to take actions to address inequalities or imbalances between women and men.²⁰ A gender-responsive approach/strategy/framework is one that includes planning, programming and budgeting that contributes to the advancement of gender equality and the fulfillment of women's rights.²¹ This advance-

ment will involve changing gender norms, roles and access to resources as a key component of project outcomes.²² Hence, the main difference is that a gender-responsive approach involved budgeting and aims to advance gender equality and the fulfillment of women's rights. Gender-responsiveness is therefore considered to be the stronger term/concept and is currently used by groups lobbying for women's empowerment and the fulfillment of women's rights. Regarding women's tenure rights, gender-responsiveness is used by recent literature and tools developed by UN-Habitat and the Global Land Tool Network (GLTN).

Gender equality

Ensure the equal right of women and men to the enjoyment of all human rights, while acknowledging differences between women and men and taking specific measures aimed at accelerating de facto equality when necessary. States should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status.

Source: VGGT, 3.B.4

In conclusion, according to the current international development policy discourse, women's equal and secure access to land is considered to be a human

right. The fulfillment of this right addresses the key practical and strategic needs of women and will lead to their empowerment. It is evident that "affirmative action" is needed when it comes to the fulfillment of women's land rights. In 2011, the Committee on World Food Security urged member states to ensure that women have equal access to land through measures including affirmative action, when appropriate.

3. How the VGGT address gender

The way gender is addressed by the VGGT reflects the current international discourse. The VGGT promote gender equality in regard to tenure rights and access to land, referring to human rights, using the equity argument, addressing women's practical and strategic needs in regard to tenure rights and promoting empowerment.

Since gender equality is one of the 10 implementation principles, the VGGT address gender issues in a cross-cutting way.

The VGGT recognise equality between individuals and explicitly highlight women's and girls' equal tenure rights as compared to men (VGGT, 3B Principles of Implementation, article 3 and 4). Hence, they recognise that gender equality is at the very heart of human rights and adhere to the principles of non-discrimination as they recognise "the inherent dignity and the equal and inalienable human rights of all individuals" (VGGT, 3B Principles of Implementation, Article 1).

Further, the VGGT promote "taking positive action, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests, for all, women and men [...] within the national context" (VGGT, 3B Principles of Implementation, Article 3).

The VGGT clearly state that women have to be equally involved in all activities related to the responsive governance of tenure, including gender-sensitive policy-making (e.g. 5.5, 9.10, 10.1), gender-sensitive law-making (10.1), building gender-equitable land institutions (6.1), gender-sensitive land administration and management processes/procedures (10.3, 17.3, 20.3), gender-sensitive communication and awareness-raising strategies and methods (8.9, 15.9), gender-sensitive land based investments (12.11), gender-sensitive monitoring (8.11, 15.8) and gender equitable dispute resolution (21.1, 25.3).

According to the VGGT, not only the processes but also the outcomes should be gender-sensitive, such as policies (4.4, 5.3, 14.4, 20.2), laws (4.4, 14.4, 20.2),

Table 2: Additional VGGT principles of implementation relevant for gender equality

3.B.1 Human dignity	Recognising the inherent dignity and the equal and inalienable human rights of all individuals.
3.B.2 Non-discrimination	No one should be subject to discrimination under law and policies as well as in practice.
3.B.3 Equity and justice	Recognising that equality between individuals may require acknowledging differences between individuals, and taking positive action, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests, for all, women and men, youth and vulnerable and traditionally marginalised people, within the national context.

gender-sensitively acting land institutions (6.1) and land administration and management results (7.1, 7.4, 11.6, 20.3).

The following paragraph gives an idea of the VGGT understanding of the state’s role to ensure gender equality regarding tenure rights:

“States should consider the particular obstacles faced by women and girls with regard to tenure and associated tenure rights, and take measures to ensure that legal and policy frameworks provide adequate protection for women and that laws that recognise women’s tenure rights are implemented and enforced. States should ensure that women can legally enter into contracts concerning tenure rights on the basis of equality with men and should strive to provide legal services and other assistance to enable women to defend their tenure interests. States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset [...]” (5.4 and 5.5, also compare 9.10).

In almost all 26 chapters, either women and girls are explicitly referred to or a gender-sensitive approach is promoted. In chapters that do not specifically address women, they are included in more comprehensive terms such as “all legitimate tenure rights holders”, “affected owners”, “affected parties”, “the country and its people”, “local communities”, “the poor and most vulnerable”, “farmers”, small-scale food producers”, “smallholder family farms” etc. As there is continuous reference to women (and girls), it is evi-

dent that these general terms also include them.²³ A good example, which is extremely relevant for women fighting for their land rights, is the implementation principle on 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” (VGGT 3.B.6). For the interpretation and application of the VGGT, women are sufficiently referred to. It is absolutely clear that all paragraphs apply to men as much as to women. However, from an advocacy perspective this is not sufficient. A gender-responsive approach would explicitly spell out whenever girls, women and elderly women are concerned. Only when they are explicitly mentioned, can it be ensured that everybody is aware that they are included among the people referred to. It would be particularly useful if women were explicitly referred to more often in the section on investments as well as in regard to customary tenure.

The main shortcoming of the VGGT with regard to gender is the recurrent limitation of a supplement referring to the “national context”. This restriction was added during the VGGT negotiations, not only in regard to gender issues, but regarding all topics that the negotiators could not agree to endorse as being applicable in all countries. The “[...] within the national context” supplement was a compromise that ensured that the claim as such remained in the document.

However, the corresponding paragraphs have been weakened by it. One particularly serious example is the definition of the implementation principle “equity and justice” (VGGT 3.B.3). A similar effect has been reached with two other supplements that were also inserted during the negotiations and refer to “the extent that resources permit” and “taking into account the capacity to implement” (see VGGT 5.5 and 6.1). Another shortcoming is that the VGGT promote gender-sensitive and not gender-responsive approaches. The latter would indicate in a stronger way that measures to empower women need to be planned and budgeted. There is also no language on the need for affirmative action to ensure women’s equal access to land. Finally, no recommendations are provided in the VGGT on how to deal with potential resistance from certain parts of the society or even societal conflicts that arise from strengthening women’s land rights. One

should be aware that gender-sensitive policy and law-making need to be conflict sensitive. This does not mean not to vote for strengthening women’s land rights, but to accompany such measures by additional actions ensuring that such a societal transformation runs smoothly.

Overall though, the VGGT address women’s land rights in a very comprehensive manner. The guidelines provide a very good base for the advocacy of women’s land rights. There is no other comparable international instrument that provides this much details on it. A particular strength of the VGGT is that they constantly refer to human rights. This facilitates their application using binding human rights law such as CEDAW.

Box 2: VGGT in Sierra Leone: Women’s organisations engaging in land issues

The FAO and the German government supports a process of implementation of the VGGT in Sierra Leone. Sierra Leone is still affected by the impact of the civil war and more recently by the Ebola crisis. With regard to land, large parts are already under concessions for large-scale projects by international companies. Land policies in Sierra Leone are not comprehensive and require updating. Women’s rights and customary tenure for communities are two aspects which have to be urgently considered. Much of the land is subject to customary law which places land ownership in the hands of families. In most areas, women are denied land ownership. The customary system discriminates against women. They are underrepresented in the political sphere. Gender-based violence is common and widespread.

A specific context and actor analysis for the land sector in Sierra Leone commissioned by Bread for the World and a group of partner organisations and consultants showed that there are many civil society organisations working in the land sector.

There are organisations dealing with land for agriculture, organisations dealing with land for mining, organisations dealing with urban land and women’s organisations. Two women’s organisations address land rights for women at the national level with a focus on awareness building and information on land issues and land deals. The strengthening of women’s rights on land is on the agenda of many organisations and is not considered to be a demand of women’s organisations only. Still, there is no overarching permanent platform on land to promote women’s land rights and other important issues regarding land policies. A further weakness of civil society is a lack of knowledge regarding customary and statutory land laws, land policies, land deals and international initiatives as the VGGT. With regard to the pilot process of implementation of the VGGT in Sierra Leone, the FAO should encourage and actively support the establishment of a multi-stakeholder forum which integrates the different segments of civil society organisations working in the land sector and puts emphasis on securing women’s land rights.

VGGT recommendations concerning women's land rights

The VGGT include more than two dozen references to women or gender. These are fundamental recommendations mainly for states but also for non-state actors, including customary authorities and business enterprises.

It would be counter-productive to rank these recommendations or to identify those that are most impor-

tant as they all complement each other. Some are about the core of the topic: Ensuring equal tenure rights. Others focus on how this should be done: What should be included in policies and laws, how should these policies and laws be developed, how should the final procedures look like, how should implementing agencies implement them etc.

Ensuring equal tenure rights

- “States should ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights. Such State actions should be consistent with their existing obligations under relevant national law and legislation and international law, and with due regard to voluntary commitments under applicable regional and international instruments” (4.6).
- “States should ensure that women and men enjoy the same rights in the newly recognised tenure rights, and that those rights are reflected in records” (7.4).
- “Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems” (9.6, also compare 9.2).
- “Whenever States provide legal recognition to informal tenure, this should be done through participatory, gender-sensitive processes, having particular regard to tenants” (10.3).
- “States should establish safeguards to protect the legitimate tenure rights of spouses, family members and others who are not shown as holders of tenure rights in recording systems such as land registries” (11.6).
- “In particular, safeguards should protect women and the vulnerable who hold subsidiary tenure rights, such as gathering rights” (7.1).

Gender-sensitive policies and laws

- “States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset. Policies, laws and procedures should take into account the capacity to implement. They should incorporate gender-sensitive approaches, be clearly expressed in applicable languages, and widely publicised” (5.5).
- “Policies and laws that ensure tenure rights should be non-discriminatory and gender-sensitive” (4.4).
- “States should provide frameworks that are non-discriminatory and promote social equity and gender equality” (5.3).

“The process of establishing these policies and laws should be participatory, gender-sensitive and strive to make provisions for technical and legal support to affected communities and individuals” (10.1).

“States should develop through consultation and participation, and publicise, gender-sensitive policies and laws on regulated spatial planning” (20.2).

“States should develop gender-sensitive policies and laws that provide for clear, transparent processes for restitution [...] Claimants should be provided with adequate assistance” (14.4).

Gender equitable implementing agencies

“To the extent that resources permit, States should ensure that implementing agencies and judicial authorities have the human, physical, financial and other forms of capacity to implement policies and laws in a timely, effective and gender-sensitive manner. Staff at all organisational levels should receive continuous training and be recruited with due regard to ensuring gender and social equality” (6.1).

Gender-sensitive technical procedures

“States should strive to ensure that everybody is able to record their rights and obtain information without discrimination on any basis” (17.3).

“Official records of tenure rights should be protected against destruction and theft in order to provide evidence for subsequent processes to address such violations and facilitate possible corrective action, and in areas where such records do not exist, the existing tenure rights should be documented as best as possible in a gender-sensitive manner, including through oral histories and testimonies” (25.4).

“States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages” (8.9).

“States should establish strategies for readjustment approaches that fit particular local requirements. Such strategies should be socially, economically and environmentally sustainable, and gender sensitive” (13.5, also compare 13.6).

“Redistributive reforms should guarantee equal access of men and women to land, fisheries and forests” (15.3, also compare 15.5 and 15.6).

“States should ensure that regulated spatial planning is conducted in a manner that recognises the interconnected relationships between land, fisheries and forests and their uses, including the gendered aspects of their uses” (20.3).

“In situations of conflicts, whenever possible or when conflicts cease, States and other parties should ensure that tenure problems are addressed in ways that contribute to gender equality and support durable solutions for those affected. [...] Procedures for restitution, rehabilitation and reparation should be non-discriminatory, gender sensitive and widely publicised” (25.5).

Legal and technical assistance for women

“States should consider providing non-discriminatory and gender-sensitive assistance where people are unable through their own actions to acquire tenure rights to sustain themselves, to gain access to the services of implementing agencies and judicial authorities, or to participate in processes that could affect their tenure rights” (4.7).

Gender targeted information/communication

“States should implement redistributive reforms through transparent, participatory and accountable approaches and procedures [...] All affected parties, including disadvantaged groups, should receive full and clear information on the reforms, including through gender-targeted messages” (15.9).

Gender-sensitive investments

“Contracting parties should provide comprehensive information to ensure that all relevant persons are engaged and informed in the negotiations, and should seek that the agreements are documented and understood by all who are affected. The negotiation process should be non-discriminatory and gender sensitive” (12.11).

Gender-sensitive monitoring

“States should monitor the outcome of allocation programmes, including the gender-differentiated impacts on food security and poverty eradication as well as their impacts on social, economic and environmental objectives, and introduce corrective measures as required” (8.11).

“States, with the participation of the involved parties, should monitor and evaluate the outcomes of redistributive reform programmes, including associated support policies [...] and their impacts on access to land and food security of both men and women and, where necessary, States should introduce corrective measures” (15.8).

Gender equitable dispute resolution

“States should provide access through impartial and competent judicial and administrative bodies to timely, affordable and effective means of resolving disputes over tenure rights, including alternative means of resolving such disputes, and should provide effective remedies and a right to appeal. Such remedies should be promptly enforced. States should make available, to all, mechanisms to avoid or resolve potential disputes at the preliminary stage, either within the implementing agency or externally. Dispute resolution services should be accessible to all, women and men, in terms of location, language and procedures” (21.1).

“Where appropriate, States may consider using customary and other local mechanisms that provide fair, reliable, gender-sensitive, accessible and non-discriminatory ways of promptly resolving disputes over tenure rights to land, fisheries and forests” (25.3).

Gender-sensitive VGGT implementation, monitoring and evaluation

“This process should be inclusive, participatory, gender sensitive, implementable, cost effective and sustainable” (26.2).

4. Tools to apply the VGGT principle on gender equity

The VGGT provide an overarching framework, principles and guidelines, but do not enter into the description of specific tools and methodologies providing more specific guidance on how to implement gender-equitable

governance of land tenure. However, the tools that are in line with the VGGT philosophy can be used to apply the VGGT principles in practice.

4.1 The FAO Governance of Tenure Technical Guide on gender-equitable

responsible governance of land tenure and capacity development programme.

The FAO (2013) Governance of Tenure Technical Guide “Governing land for women and men. A technical guide to support the achievement of responsible gender-equitable governance of land tenure” aims to assist the implementation of the guidelines’ principles of gender equality. For this purpose, the guide provides advice and examples for national and local government officials, civil society groups, administrators and other professionals on mechanisms, strategies and actions that can be adopted to improve gender equity in the processes, institutions and activities of land tenure governance. In five modules, the guide addresses policy-making, legal issues, institutions, technical issues and communication with the objective to make them gender-equitable. Each module is clearly linked to the VGGT through the highlighting of relevant paragraphs. The vast number of checklists provides useful guidance on specific issues. At present, this is the most comprehensive guide providing practical guidance to improve governance of tenure from a gender perspective, addressing women’s practical and strategic needs in regard to land tenure.

To facilitate the use and uptake of the Technical Guide, a Learning Programme on “Governing land for women and men” has been designed. It consists of two components: an e-learning course and a blended learning programme. The e-learning course for free public use is based on the Technical Guide and has a modular design which allows learners to build specific skills depending on their particular work-related responsibilities and tasks, and/or interests. The blended learning programme has been developed for actors from various sectors (government representatives, CSO, producers’ organisations, women’s groups, private sector and academia). The phases of this process are on-line facilitated course, face-to-face workshop and mentoring phase. The blended learning programme will initially be implemented in four countries: Ethiopia, Mongolia, Nepal and South Africa.

4.2 Other tools

Over the years, different organisations have published material on women’s access to land. Most of the literature is about a) why gender is an issue in access

to land, b) the status quo and c) some general guidance on the role of different actors.

a) Publications on the relevance of the topic, providing guidance for land administration professionals

A very useful publication in this context is:

- **“Gender and access to land” which was published as a FIG²⁴ publication as well as Issue 4 of FAO Land Tenure Studies (FAO 2002).**

The study explains in detail why gender is an issue in access to land and provides guidance on monitoring and evaluating gender-related access to land. It further reflects the role of development organisations as well as of land administration professionals. Finally, it includes recommendations for development organisations on how to improve the environment and opportunities for gender inclusiveness and for land administration professionals on how to include all sectors of the population and remove the barriers preventing access to information, address the obstacles to participation and work with local communities.

b) Case studies that derive (some) practical guidance from the analysis

Most publications on the status quo are based on one or several case studies. Only a few of them derive some practical guidance from the case studies. These include the following publications:

- **A policy makers’ guide to women’s land, property and housing rights across the world (UN-HABITAT 2007).**
“The guide is intended for policy makers in the field of land, property housing and women’s rights from within and outside governmental agencies who directly or indirectly contribute to the making and implementation of land policies [...] It is aimed at supporting stakeholders efforts and particularly women’s agency in empowering themselves through security of tenure. The guide provides a series of recommendations on how to respond to [...] problems and gaps [identified in a research series on urban land and housing policies and gender commissioned by UN-Habitat], as well as effectively implement the innovative proposals with respect to women’s security of tenure” (UN-HABITAT 2007; p: 7). The main focus of the guide is to document the status quo of those countries that have been included in the research.
- **“Implementing land rights for women. Revitalising rural communities through just agrarian reforms and rural development” (ActionAid et al. 2006).**
This case study documents lobbying and advocating activities in India with the objective to ensure equal access to, control and ownership of land and resources for women.

c) Guides

The number of publications providing practical guidance in form of step-by-step guides is rather limited. UN-Habitat, Global Land Tool Network (GLTN) and other partners have developed a number of useful guides and training packages that can be used to improve women’s access to land, to secure their land rights and to achieve equal tenure rights. Among these tools, the following deserve to be highlighted:

- **A global overview on shared tenure options for women (UN-HABITAT 2005).**
This describes a broad range of joint and shared tenure forms and explains the role of different organisations, including governmental organisations, community-based organisations, legal organisations, labour organisations, NGOs and network organisations and coalitions in promoting shared tenure.
- **A guide to mechanisms for gendering land tools (GLTN/UN-HABITAT 2006).**
The publication explains why “gendered tools” are necessary and provides detailed methodology for the development of such tools based on eight steps or phases.
- **Gender evaluation criteria for large-scale land tools (UN-HABITAT et al. 2008)**
They provide a flexible framework to test the extent to which land tools are responsive or non-responsive from a gender perspective. This is based on six key criteria, which include equal participation, capacity building, sustainability, legal and institutional, social and cultural as well as economic considerations in regard to women’s and men’s access to land and can be adapted to different land tools and contexts. The tool also includes 22 evaluation questions and indicators, for designing new, or evaluating existing, land tools from a gender perspective. All criteria, questions, indicators and possible information sources are presented on one poster, making it easy to apply them.
- **Do No Harm in Land Tenure and Property Rights—designing and implementing conflict sensitive land programmes (CDA 2013).**
This tool is intended to assist in the process of designing and implementing land tenure and property rights interventions that are conflict-sensitive. It is aimed at technical specialists working on land interventions of all types who have to see their work not only as being technical or legal but become aware of potential impact on contexts of conflict. In seven steps, the guide takes the user through the process

of a do-no-harm analysis as it relates to interventions in the land sector. The guide is relevant for gender-responsive land governance as it helps to identify, analyse and constructively manage potential (societal) conflicts arising from any activities to improve women's land rights.

d) Training packages

- **A training package on designing and evaluating land tools with a gender perspective (UN-HABITAT/GLTN et al. 2011)**

This provides guidance on how to evaluate whether a land tool (e.g. a land use planning guide, an e-learning course on land administration etc.) is gender responsive. It consists of two parts: one (the thematic context) provides the contents of the course and the other (the trainer's guide) provides guidance on how to conduct training on these issues, including course objectives, outcomes, activities and handouts. The second part of the guide can also be studied if readers want to learn how to carry out such an evaluation.

e) Gendered GLTN Tools²⁵ include²⁶

Instead of developing guides that only focus on gender issues with regard to all the different activities related to land tenure, land administration and land management, the GLTN and others placed their focus on "gendering" tools, i.e. tools that adequately respect gender issues without focusing exclusively on gender.

- Social Tenure Domain Model
- Participatory Enumerations
- Transparency in the Land Administration Training Package
- Grassroots Mechanism

- Continuum of Land Rights
- Participatory and Inclusive Land Readjustment (PILaR)
- GGG training (A training package: improving gender equality and grassroots participation through good land governance)
- Youth Responsiveness Criteria Tool
- Non-State Actors Tool

Furthermore, the following gendered GLTN tools are currently in development:

- Islamic mechanism (gender and land)
- Post-2015 land indicators (Global Land Indicators Initiative)
- Pro-poor land records
- Land use planning for tenure security
- Multiverse of women and tenure options²⁷
- Land tools for food security

Gendered land tools

It is well recognised that implementation of women's land, property and housing rights is often frustrated by the lack of effective gendered land tools. Every existing tool must therefore be gendered and the challenge thereby is threefold: to genderise existing land tools and those under development; to evaluate and upscale existing gendered tools and to create new gendered tools in response to identified "gaps".

Source: GLTN 2015²⁸

5. Key actions to ensure women's secure access to land

It would go beyond the scope of this paper to present a comprehensive overview on activities that can improve women's access to land and ensure secure and equal tenure rights for women. This section, therefore,

concentrates on some key actions that build upon the recommendations provided by the VGGT, suggesting how this can be done in practice using mechanisms that have already worked.

5.1 Measures to render land administration and management more gender-responsive

Gender-responsive policies and laws:

- Planning and budgeting specific measures to ensure that policy and law-making include women and respect their land rights and that the resulting policies and laws are gender-responsive.
- Policy and laws to be based on gender disaggregated data and gender analyses.
- Committees, boards, platforms to include women from each stakeholder group.
- Awareness raising and information on gender issues related to responsible governance of tenure for government officials, including parliamentarians to increase their understanding of why certain aspects are included in new laws and policy to be endorsed.
- Capacity strengthening of land bodies including formal and informal traditional systems of land governance to enforce and promote gender sensitive and responsive approaches that safeguard women's land rights.

Gender equitable implementing agencies

- Planning and budgeting targeted measures to ensure that staff members at all levels are at least in part female and well trained in gender issues relevant for land administration and management.
- Recruitment of female staff.
- Training on gender-responsive procedures and power relations in land governance and management for all staff; religious and traditional bodies charged with responsibility in land governance.
- Academic and other curricula to include lectures on women's tenure rights, respective international standards, relevant national policies and laws and gender-responsive administrative and technical procedures.
- Promotion of organisation and coordination of agencies working on land governance and management at local, national and international level, including grassroots women's organisations.

Gender-responsive technical procedures

- Planning and budgeting measures to ensure that all procedures are gendered and that staff members are adequately trained.
- Revision of laws, by-laws, administrative procedures and guides to ensure gender-responsive procedures (for a specific example see below).
- Training of officials and professionals in order to familiarise them with the new legislation and/or procedures allowing women to own property and to adapt their way of working accordingly.
- Women to take part in all participatory processes such as identification and delimitation of boundaries, land use planning, land readjustment and consolidation, restitution and redistribution etc. Officials and professionals should be trained accordingly. This may imply separate consultations for women to ensure that they can speak openly and discuss issues that the men in the community may not be responsive to.

Legal and technical assistance for women

- Planning and budgeting measures to be able to provide legal and technical assistance for women in regard to land rights.
- Training of lawyers, paralegals and traditional leaders on gender issues related to land tenure (see example of Mozambique).
- Creation of awareness of new laws, policies and guidelines on land and property rights, mainly at the grassroots level.

Gender targeted information/communication

- Planning and budgeting specific measures to target women when disseminating information on land matters.
- Dissemination of information in local languages, in oral ways, at times and places where women will receive them.
- Creation of platforms for local engagement among stakeholders on rights of women to land and other property rights through dialogues and or community conversation approaches.

Box 3: Good practice on legal assistance for women in Mozambique

In its three-year *Gender and Land Rights* project in Mozambique, the FAO started paralegal training courses and field support on gender in 2010 with Norwegian support, for civil society, the public sector and community leaders. A training programme with judges, lawyers and police officers, that was in operation since 2000, had made it clear that it was necessary to bring information about the new land laws to a variety of other actors, in both local government and civil society who work directly with rural populations. After five years of running paralegal courses, the project then started addressing gender issues more closely in 2010. A new gender module was developed, and now the project actively tries to work with men,

and not only women, on gender issues, by means of paralegal courses, district seminars for judges, prosecutors and police chiefs, a field technical support programme and community sessions in 16 communities. Additionally, the project raises awareness on women's land rights and gender equality through a national advocacy campaign. Messages are disseminated widely in all four main national languages through various means, including T-shirts, clothing with gender equality messages printed on them, banners, calendars, comic books, videos, community theatre, radio messages and other media. Importantly, the gender project is now producing a textbook which will be incorporated into the broader course material of paralegal and law programmes.

Source: FAO 2013: 43

Gender-equitable (large-scale) land based investments

- Planning and budgeting measures to ensure that women's land rights are respected at all levels of the project and that they include clear measurable gender outcomes.
- Ensuring that those who plan and manage a land-based investment have sufficient know-how on women's land rights and take the necessary action to ensure that these are respected.
- Identification of women's and men's legitimate tenure rights, including customary rights which may be subsidiary or seasonal, as well as those on common or public land, as part of a land tenure impact assessment made prior to any decision on a potential investment project.
- Development of a strategy and an action plan—based on the above assessment—which will ensure that women's land rights are not negatively affected but instead strengthened.
- Effective inclusion of women in all phases of an investment process that ensures that they are informed, understand what the investment is about and what the consequences will be, as well as enable them to negotiate and be involved in the monitoring process.

- Adoption of positive measures to ensure that women and men can equally participate in and benefit from investment opportunities while choosing the business model best suited to promote women's land rights and the rights of indigenous people and communities.

Gender-sensitive monitoring

- Ensuring the collection of gender-disaggregated data on land tenure and related issues.
- Strengthening capacity for land data collection, analysis and management from local to national level and linked to international land data management systems.
- Preparation of a national analysis of women's access to land and tenure rights, including a gender-sensitive review of customary tenure systems.
- Research and case studies profiling the importance of women's land rights.
- Planning and budgeting specific measures to ensure that monitoring is gender-sensitive.
- Gender-differentiated impact monitoring of all land administration and management procedures and implementation of corrective measures that address negative impacts that affect women.

Gender-responsive grievance mechanisms

- Planning and budgeting specific measures to ensure that existing grievance mechanisms are gender-responsive.
- Awareness-raising and training for professionals dealing with grievances.
- Recruitment of female professionals.
- Institutional capacity strengthening for religious and customary mechanisms for land dispute resolution to discharge responsibility in a gender-responsive way.

Gender equitable dispute resolution

- Planning and budgeting measures to ensure that formal and informal dispute resolution is available/accessible for women and that the respective conciliators, mediators, arbitrators etc. are sufficiently

qualified to deal with complaints relating to women's land rights.

- Preparation of a guide and a case digest on legal procedures.
- Awareness raising and training for lawyers, judges, customary authorities settling disputes, mediators and other actors involved.
- Academic and other curricula for (future) lawyers and judges to include lectures on women's tenure rights, respective international standards, relevant national policies and laws and gender-responsive administrative and technical procedures.
- Recruitment of female lawyers and judges.
- Monitoring of the court decision.
- Revision of customary and other local dispute resolution mechanisms to ensure that they apply gender equity when resolving disputes over tenure rights according to national standards.

5.2 Measures for advocacy and empowerment

- Pressure governments to repeal laws that discriminate against women and to adopt new laws that protect women's land and property rights.
- Make the link that land rights for women result in their improved well-being, reduced risk of health problems and domestic violence and increased opportunities for shaping their economic livelihood.
- Conduct an assessment of the power relations between women and men in society, at family and household level, and how they influence decision-making and decisions on land, family income and other productive assets. Distinguish between different types of women according to age, marital status, qualifications, occupation, religion, ethnic group, urban or rural setting, disabled, affected by HIV and AIDS, displaced etc. If a significant share of women or one or several groups/types of women are not adequately involved in decision-making on land issues and their respective interests are neglected, develop a strategy and an action plan to encourage and qualify women to get more involved in decision-making and to change/improve the environment to ensure that women can get more involved in decision-making without fear of disadvantage.
- Ensure that (female) right holders understand their rights and know how to claim them (where possible). This may include training on land tenure as well as legal training.
- Encourage and help women through programmes to assert their equal rights to land and property. Support women's engagement with community justice as it relates to land.
- Participate in community mapping and documentation, which enables grassroots women's organisations to document community knowledge about local land issues and develop projects that lead to advocacy and action planning.
- Undertake a review of available gender-responsive formal and informal grievance and dispute resolution mechanisms. If none or only few are available, develop an action plan. (See 5.1 for measures that such an action plan could include)

6. Recommendations

6.1 Policy recommendations

To secure women's land and property rights de jure and de facto is to make a decisive step towards gender equality. The VGGT contain strong language on gender when it comes to land registration, land administration and land transfers. Therefore, the VGGT provide a very useful tool for fostering gender equality and improving women's land tenure rights. Strong support comes also from resolutions of CEDAW (1979), the UN Economic and Social Commission on the Status of Women (1998) and from a number of resolutions by the UN High Commission on Human Rights (2002-2005) as described in Chapter 2.2.

International level

- The final draft of the Sustainable Development Goals (SDG) should ensure women's secure and equal access to land and foster equal rights and control over land. Target 1.4 "equal rights to economic resources" and target 5.a "undertake reforms to give women equal rights to economic resources" should be maintained and ambitiously pursued. The proposed indicator on land should track progress in a gender disaggregated manner.
- Donors should make a special effort to improve women's access to and control over land in order to promote gender equality, food and nutrition security and to reduce poverty. Land governance and management programmes should be developed to provide local communities, especially women, with greater opportunities to participate in decision-making and to ensure their meaningful participation in land issues that affect them and their communities independent of the land tenure regime.²⁹ More support should be given to women-focused projects (GG2-projects) in order to empower women and strengthen their capacity to act and make choices.³⁰
 - Donors should pay special attention to land issues in conflict or post conflict contexts. Proper land administration needs to take into account refugees/ internally displaced persons (IDPs), since land is critical to the livelihood of newly-arrived groups. Programmes for return and resettlement have to consider specifically such contexts of conflict with regard to land rights. Women have to be integrated into compensation schemes and reparation and restitution programmes.
 - Women's land rights should feature prominently in the World Bank's Safeguards.³¹
 - It should be ensured that women's interests are defended in consultation processes and that these are considered as central aspects of resettlement planning and implementation.³²
 - Addressing livelihood impacts will require intra-household analysis because women's and men's livelihoods are often affected differently.
 - Women's and men's preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored.
 - The documentation of ownership or occupancy and compensation payments should be issued in the names of both spouses or heads of households, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs.
 - Where national law and tenure systems do not recognise the rights of women to hold property, measures should be adopted to provide women with as much protection as possible with the final objective to achieve equal rights for them.

National level

- Gender-responsiveness planning should be integrated into regular planning and clear outcomes should be defined in budgeting to implement gendered land governance and management.
- Inheritance laws need to ensure that women's rights are equal to their male counterparts, including the rights of daughters, widows, single, abandoned and divorced women.
- Women's land rights should be ensured de jure and de facto. In many countries, women have the same tenure rights as men do de jure, but cannot claim or make use of them de facto. Where the statutory land rights of women place them in conflict with custom, all parties should cooperate to accommodate necessary changes in customary tenure systems. Accompanying measures are needed to address power imbalances, gender stereotypes and discrimination against women in rural areas, and to overcome socio-cultural, patriarchal and customary practices that deprive women of their land rights.
- The promotion of women's right to land (and other natural resources) interferes with power relations in certain societies and often demand the more powerful elements of society, i. e. the men, to withdraw from their positions and to give up power and privileges. This conflict of interests has to be taken up and managed in a constructive and non-violent manner to prevent escalation into violence.
- Experience shows that women's land tenure has often improved when women's advocacy groups were engaged in policy dialogue at a national level. Chances for success increase when (female) parliamentarians are part of such developments.
- Gender sensitisation in regard to women's land tenure policies, laws and procedures is needed for all women and men involved, including land professionals from the public and the private sectors, surveyors, notaries, lawyers, judges and the media. They need to be convinced that gender issues are important.

Special focus area large-scale land based investments

- In the context of regulating large-scale land based investments, women's land rights have to be acknowledged and better protected. Investors and governments have to become aware that comprehensive land tenure assessments are necessary to take into account the sometimes complex and complicated land rights of women, which often include subsidiary rights based on customary or informal tenure.
- The UN's (2011) guiding principles on business and human rights underline the responsibility of corporations to respect human rights. Investing companies must undertake gender-responsive "Human Rights Due Diligence".³³ Risks and impact assessments (related to the environment, society and human rights) must profile gender issues, including the status of women's land rights, in their approach, analysis and reports. Any investments that entrench gender inequality, deny of women's land rights and support other abuses of human rights must be stopped and reconsidered.
- In order to solve land conflicts in the context of large-scale investment in a non-violent manner, gender and conflict analyses are needed before, during and after implementation. Careful monitoring of the investment schemes is necessary, taking into account that they are generally implemented in a patriarchal system through institutions that easily foster inequality.
- In post-conflict contexts, land rights for potential returnees, and especially for women returnees, have to be analysed in advance, and secured and protected in the case of land based investments being under negotiation.
- Women need to participate as equally respected negotiating parties in all negotiations concerning transactions regarding land and its uses. Formats for independent, free and informed participation for women have to be secured.³⁴ Experience has shown this is best achieved through separate consultation sessions with women from respective communities. This approach enables them to speak openly and express issues that the men in the community may not be aware of or in support of.³⁵

6.2 Recommendations for further research/analysis

According to this study and the author's personal experience, it can be concluded that the following areas are still in need of research or analysis:

- Countries that do not (yet) collect gender-disaggregated data on land tenure should start doing so. Such data can enable a countrywide assessment. Recent experience from the Balkans³⁶ shows that even in regions/countries where most people perceive women's (land) rights as being equal, there can still be a huge difference between women's and men's land ownership and access rights. In this context, it is important to distinguish between urban and rural regions, as well as between different regions where different local/traditional land rights, inheritance customs etc. are in practice.
- The interplay between a) improving women's land rights, b) resulting conflicts of interest and potential (violent) conflicts prompted by it and c) conflict sensitivity, conflict resolution and prevention of violence deserves further investigation.

Possible research questions could be:

- To what extent is the empowerment of women through secured land rights gaining legitimacy within a society, in particular in rural communities?
- To what extent are gendered land policies been implemented on the ground and to what extent are emerging conflicts being successfully managed?
- Does this lead to fairer societies?
- Have gendered dispute resolution mechanisms already been tested and have they been successful?
- Is the broad guidance provided by the VGGT sufficient to reach sustainable change? Are additional mechanisms, approaches and policies needed to reach a more sustainable positive impact?

- Another key issue of land governance from the perspective of women is their influence on the use of land. It is long overdue to look at women's perspectives on spatial planning.

Possible research questions could be:

- Who has been involved in the planning process?
- How have decisions been made?
- Who is benefitting from the finally-approved land use plan?
- Which land use would women like to see in the land use plan?
- If women have not been included, why not?

Such analysis could be done for a specific country selecting different recent land use planning procedures in different regions of the country. Alternatively, such a study could be done at a global level.

7. References and further reading

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Annexes

Annex 1: Statistical data on the land ownership of women as compared to that of men

Table 3: Land ownership, by households, women, and men

Country (year)	Household		Women			Men		
	Sample size households	Percentage of households owning any agricultural land	Sample size women	Own any land (sole or joint)	Own any land (sole only)	Sample size men	Own any land (sole or joint)	Own any land (sole only)
Burkina Faso (2010)	14,422	79	17,071	32	12	7,304	54	43
Burundi (2010)	8,589	86	9,372	54	11	4,280	64	50
Ethiopia (2011)	16,693	73	16,503	50	12	14,107	54	28
Lesotho (2009)	9,385	53	7,624	38	7	3,317	34	9
Malawi (2010)	24,818	80	15,399	48	23	na	na	na
Rwanda (2010)	12,540	81	13,666	54	13	6,328	55	25
Senegal (2010–2011)	7,902	47	15,688	11	5	4,929	28	22
Tanzania (2010)	9,592	77	10,137	30	8	na	na	na
Uganda (2011)	9,029	72	8,667	39	14	2,292	60	46
Zimbabwe (2010–2011)	9,756	63	9,171	36	11	7,480	36	22
Total	–	71	–	39	12	–	48	31

Source: Doss et al. 2013

Table 4: Land ownership and access value measures

Country and type of land	Total number of parcels				Total value	Average area			Proportion held		
	Total (sample size)	Women	Men	Joint		Women	Men	Joint	Women	Men	Joint
Malawi (2010–2011)											
Ownership	15,650	6,683	6,062	2,905	662,973	39	44	53	0.39	0.39	0.23
Documented ownership	212	40	80	92	11,732	49	61	56	0.17	0.40	0.43
Management (owned and accessed)	17,987	4,770	13,217	na	758,311	37	45	na	0.23	0.77	na
Management (owned)	15,643	4,152	11,491	na	662,620	38	45	na	0.23	0.77	na
Management (accessed)	2,344	618	1,726	na	95,691	32	40	na	0.23	0.77	na
Niger (2011)											
Ownership	3,816	506	2,162	1,148	1,368,347	132	300	392	0.05	0.59	0.36
Documented ownership	303	24	230	49	127,490	153	290	262	0.03	0.75	0.21
Nigeria (2010)											
Ownership	378	29	349	na	108,354	267	297	na	0.09	0.91	na
Management (owned and accessed)	5,644	1,039	4,605	na	1,729,151	278	317	na	0.17	0.83	na
Management (owned)	382	43	339	na	107,099	347	286	na	0.14	0.86	na
Management (accessed)	5,262	996	4,266	na	1,622,052	275	320	na	0.18	0.82	na
Tanzania (2010–2011)											
Ownership	5,082	1,101	2,149	1,832	6,377,203	1,013	1,327	1,267	0.18	0.45	0.37
Documented ownership	543	104	250	189	1,266,465	2,018	2,288	1,752	0.19	0.50	0.31
Uganda (2009–2010)											
Ownership	3,902	776	1,272	1,854	17,700,000	3,038	4,467	4,563	0.15	0.34	0.51
Documented ownership	799	147	223	429	5,197,525	4,537	7,123	5,440	0.17	0.34	0.49
Management or control of output (owned)	3,842	1,088	710	2,044	17,400,000	2,896	4,916	4,680	0.21	0.21	0.58
Use rights (accessed)	612	118	189	305	738,243	1,118	1,064	1,297	0.17	0.29	0.54
Management or control of output (accessed)	612	172	131	309	741,443	1,135	1,171	1,227	0.24	0.22	0.54

Source: Doss et al. 2013

Notes

- 1 Although the VGGT deal with tenure of land, fisheries and forests, this document refers exclusively to land tenure.
- 2 There is increasing evidence that domestic violence is negatively correlated with the respect of women's land rights. See for instance: <http://www.focusonland.com/countries/land-and-genderbased-violence-experiences-from-rwanda-and-liberia/>.
- 3 When referring to land tenure and housing rights, this includes tenure rights on houses and apartments—rather than on land. This is important to have in mind as in the past many projects with the objective to improve the living conditions of squatters through the formalisation or legalisation of the informal settlements in which they were living failed. Those responsible for such initiatives have not been aware that the squatter are most often informal tenants renting a house or shack from the informal possessors of the land and houses, and that it is only the latter who are generally the ones benefitting from legalising the land tenure. They often sell the now valuable land and force the former tenants to leave. The “right to adequate housing” is also referred to here to provide a link between land tenure rights and the widely recognised human right to adequate housing.
- 4 The exact percentage is unknown due to a lack of data and diverse conceptual challenges for data collection.
- 5 Note that these data only include men and women of reproductive age. Quoted from <http://oxfamblogs.org/fp2p/killer-factcheck-women-own-2-of-land-not-true-what-do-we-really-know-about-women-and-land/> [visited 23/04/2015] based on Doss et al. 2013.
- 6 This refers to the property right to generate income from land. See Annex 1 for some statistical evidence.
- 7 There are different reasons why people's rights are not registered. One is that customary land rights are not considered equal in weight and stature to formally certified land rights. Other reasons are that land administration is weak or procedures are too cumbersome, that restitution claims are open, that several individuals or groups claim ownership etc.
- 8 Relevant human rights include the right to property, the right to adequate housing, the right to food, the right to water and sanitation, the right to health, the right to life, the right to information, the right to effective remedy, freedom of opinion and expression, freedom of assembly and association, the right to enjoyment of just and favourable conditions of work etc. as well as the rights of indigenous peoples.
- 9 Legitimate is used to include both legal legitimacy which denotes rights recognised by law and social legitimacy which denotes rights that have broad social acceptance (Palmer et al. 2009). Legitimate tenure rights therefore include public, private, communal, collective, indigenous and customary tenure rights and can also include informal tenure.
- 10 The distinction between practical and strategic needs of women was first made by Molyneux (1985) and further developed (and circulated) by Moser (1989).
- 11 Teklüve, Maria (1993): Die Sichtbarwerdung der Frauen. 20 Jahre Debatte um die Frauen in der Dritten Welt. In: Geographische Rundschau (1993), H. 5, 308–312.
- 12 World Bank 2001: Engendering Development. A World Bank Policy Research report. Washington.
- 13 <http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>
- 14 These bodies issue „General Comments” which give further detail on the rights contained within various human rights treaties. They are not legally binding but are persuasive and the bodies that issue them will call states to account if they act inconsistently with their interpretation.
- 15 Article 23 U.N. Doc. HRI/GEN/1/Rev.9
- 16 Paragraphs 47, 51, 58, 61, 156, 166, 256, 274.
- 17 See Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3–14 June 1996, Chap. I, Resolution 1, Annex II, para. 40 (b).
- 18 Ibid, Chap. I, Resolution 1, Annex II, para. 78 (b), (e) and (g).
- 19 Report of the United Nations Conference on Sustainable Development, Rio de Janeiro, Brazil, 20–22 June 2012.
- 20 Glossary REDD+SES Version 2 according to Global Gender and Climate Alliance (GGCA) at <http://gender-climate.org/resource/defining-gender-terms/> (visited 04/22/2015).

- 21** UN Women according to Global Gender and Climate Alliance (GGCA) at <http://gender-climate.org/resource/defining-gender-terms/> (visited 04/22/2015).
- 22** Adapted from Eckman, A, 2002, by INSTRAW according to Global Gender and Climate Alliance (GGCA) at <http://gender-climate.org/resource/defining-gender-terms/> (visited 04/22/2015).
- 23** Therefore, in languages that distinguish between male and female forms of professions, terms such as farmers and producers would correctly be translated with both forms, e. g. “[Klein-]Bauern” und “[Klein-] Bäuerinnen”.
- 24** The International Federation of Surveyors (FIG, Fédération Internationale des Géomètres) is a non-governmental organisation of national member associations and covers the whole range of professional fields within the global surveying community. It provides an international forum for discussion and development aiming to promote professional practice and standards.
- 25** “A land tool is a practical way to solve a problem in land administration and management. It is a way to put principles, policies and legislation into effect. The term covers a wide range of methods: from a simple checklist to use when conducting a survey, a set of software and accompanying protocols, or a broad set of guidelines and approaches. The emphasis is on practicality: users should be able to take a land tool and apply it (or adapt it) to their own situation. Land tools may complement each other, or they may offer alternative ways of doing something. For example, one tool may give overall guidance on how to address a land-related issue, while another may give detailed instructions on how to deal with a particular aspect of the same issue, such as checking whether the different needs and situations of women and men are taken into account. For land tools to benefit the poor and disadvantaged, they need to have certain features: affordable, equitable and gender-responsive, governance, subsidiarity, sustainable, systematic and large-scale as well as pro-poor” (GLTN 2015, *ibid*).
- 26** For a comprehensive overview on GLTN Tools and more information about them see: <http://www.gltn.net/index.php/land-tools/cross-cutting-issues/gender>.
- 27** This tool is currently under development and recognises the diversity of women and their tenure situations. It will document the vulnerabilities different types of women all over the world experience with regard to secure tenure and present possible tenure options that will improve their tenure security. It may become a very useful tool to improve women’s land rights.
- 28** <http://www.gltn.net/index.php/land-tools/introduction-to-land-tools> [visited 04/28/2015].
- 29** Oxfam demands free, prior and informed consent (FPIC) of communities whose land will be affected by projects.
- 30** G62 projects target gender equality as a principal objective in accordance with the OECD DAC Gender Policy Marker.
- 31** The same holds true for other multilateral financial institutions such as African Development Bank (AfDB), the Asian Development Bank (ADB) and the Asian Infrastructure Investment Bank (AIIB).
- 32** Oxfam demands that women’s free, prior and informed consent is obtained in consultation processes.
- 33** Human Rights Due Diligence (HRDD) is: “An ongoing risk management process [...] in order to identify, prevent, mitigate and account for how [a company] addresses its adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.” See UN Guiding Principles on Business and Human rights: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. A Human Rights Impact Assessment (HRIA) forms the core element of HRDD. It contains a focus on marginalised and vulnerable groups, including women, direct consultations with affected people and human rights defenders, transparency over process, methodology, outcomes and follow-up actions and a continuous process (ex-ante, ex-post).
- 34** Oxfam demands that women’s free, prior and informed consent is obtained in consultation processes.
- 35** Generally there is an assumption that if land is not acquired, no negative effects will be produced in terms of land rights. However, studies by FAO have shown that this is not the case and that women might lose control of land in certain situations.
- 36** See the FAO/World Bank film „Gender and lands in the Western Balkans” at: <https://www.youtube.com/watch?v=52B1oEIGtCo> [visited: 04/28/2015]

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