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Taking stock after three years of adoption: Experiences and strategies for implementation and monitoring of the UN Voluntary Guidelines on Tenure (VGGT)[☆]

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Editorial notes

This discussion is edited from a dialogue session of the third Global Soil Week 2015 (globalsoilweek.org). The Global Soil Week is a collective process and a multi-stakeholder knowledge platform to raise awareness and foster exchange on sustainable soil management and responsible land governance worldwide. It brings together different knowledge communities such as high-level policy-makers, scientists, NGOs, CSOs, farmers, artists, international organizations, and the private sector. The Global Soil Week 2015 “Soil. The Substance of transformation” was held from 19 to 23 April 2015 in Berlin. The session, on April 20, 2015, discussed the topic of “Taking stock after three years of adoption: Experiences and strategies for implementation and monitoring of the UN Voluntary Guidelines on Tenure (VGGT)”.

The session “Three years of VGGT – Experiences and strategies for implementation and monitoring” was jointly hosted by the UN Food and Agriculture Organization (FAO), the German Institute for Human Rights (DIMR) and the Institute for Advanced Sustainability Studies (IASS). Alexander Müller (IASS) and Michael Windfuhr (DIMR) moderated the session. Facilitation and reporting was done by Charlotte Beckh and Elisa Gärtner (IASS).

Abstract

The competition for increasingly scarce soil and land resources warrants responsible land governance which protects the needs and rights of the world's most vulnerable and marginalized people. Many rural poor depend

[☆]Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) (CFS, 2012). <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.

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directly on natural resources for their livelihoods (“GDP of the poor”). Local power asymmetries translate in many cases to reduced access to land for marginalized communities, and the increased risk of food shortages and poverty. The situation is further destabilized through insecure tenure, population growth, land degradation, and climate change.

To transform these patterns of hunger and poverty and achieve the Sustainable Development Goals, it is crucial not only to advance technical measures of soil rehabilitation, but also to implement a human rights-based approach of soil and land governance. This means to recognize, respect and secure both individual and collective tenure rights to land and other natural resources of local communities, including those with customary tenure systems, and Indigenous Peoples.

There is now an international consensus and agreed normative standard for what responsible, human rights-based land governance should look like – the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT). The strength of these guidelines rests not only on the unanimous adoption by the Committee on World Food Security (CFS) in 2012 and their subsequent broad international recognition and support, but also on the unique and inclusive process that preceded the negotiations. The VGGT emphasize human rights and by this the obligations of states and the responsibilities of the private sector. At the same time, they acknowledge the crucial role of participation and call on states to support civil society activities in order to realize the implementation of the VGGT in practice. Increasing the uptake of the VGGT and exchanging on the question of how to translate human rights based land governance into lived social practice has been a central objective of the Global Soil Week since its first conference in 2012.

Some states have started to create technical guides to monitor their work with regard to land and resource rights at home and abroad. Others have started to review existing national laws and policies. Civil society actors have embarked on raising awareness, creating support material and strengthening monitoring mechanisms. And financial institutions, governments, and private sector actors have started to build partnerships to increase the transparency of land-related investments. Three years after the endorsement of the VGGT by the Committee on World Food Security it is time to take stock of experiences in implementation and monitoring and to discuss strategies and incentives to increase the uptake of the VGGT in policy and practice. This is what 51 actors from government, civil society, the private sector and science did for the first time at the dialogue session. The outcomes of this session were then brought back into the Closing Plenary “The way forward” of the Global Soil Week.

Summary of discussion

The session hosts acknowledged the high commitment by many governments, communities, civil society organizations, businesses and research institutions to implement the VGGT at different levels, but also emphasized the need to take further bold action.

Paul Munro-Faure (FAO) opened the session with a review of the importance of multi-stakeholder processes in the development and implementation of the VGGT. Henry P. Pacis (Department of Environment and Natural Resources, Philippines) shared his experiences with implementing the VGGT in law, policy and administrative procedures. Philip Seufert (FIAN, Germany) and Ramesh Sharma (Ekta Parishad, India) provided insights from a civil society perspective in supporting and monitoring the VGGT implementation. Lessons from applying the VGGT in financial institutions were presented by Claudia Eckhardt (KfW, Germany) and Christiane Rudolph (DEG, Germany). Willi Zimmermann (Land policy advisor) shared his view on the implementation and monitoring of the VGGT in the context of contributing to achieve sustainable land and soil management. The session included a break out in three different working groups on “Strategies and incentives for government actors” chaired by Ghati Horombe (Care International, Tanzania) and Yefred Myenzi (Hakiardhi, Tanzania), on “Strategies for civil society organizations” chaired by Marion Aberle (Welthungerhilfe, Germany) and on “Strategies and incentives for financial institutions and private sector actors” chaired by Duncan Pruett (Oxfam, The Netherlands).

FAO introduced their activities to support the implementation of the VGGT, including awareness raising, capacity development, support to countries, partnerships, and monitoring. Based on the various implementation experiences (see part 2 “Field experiences reported by dialogue participants”), the discussion in the session underlined that priority in implementation and monitoring should be given to the following strategic points and incentives:

Part 1: Incentives and strategies for implementation

Inclusive multi-stakeholder processes

FAO, IASS and others highlighted that inclusive multi-stakeholder processes are *the* important tool to obtain the buy in for the committed implementation and monitoring of the VGGT. To create inclusive multi-stakeholder processes means to create partnerships beyond silos of disciplines and the application of a transdisciplinary approach to trigger broad movement.

Incentives and strategies to mobilize political will

Session participants who work closely with governments emphasized the openness of many policy-makers to implement the VGGT if they receive (1) information on the value that the VGGT add, for example to policies that the government is interested in, (2) indication on entry-points for including the VGGT principles in, and hence revising existing policies, laws and administrative processes, (3) prioritization of principles to be addressed in the course of the implementation and hence indication on feasible work packages, and (4) policy recommendations based on case study results from similar contexts to on which to base their efforts.

To create incentives for the uptake of the VGGT, participants shared some experiences, such as: (1) Donors target states with regional influence to become champion states for the successful VGGT implementation (GIZ); (2) National elites are approached to become VGGT advocates and convince decision-makers (GIZ); (3) The role for academia may be to develop stakeholder maps to analyze who moves forward on the matter and why/why not (IFPRI).

Translate the VGGT to local context and ensure common understanding

The increase in demand for more, better and context-specific information on the VGGT requires the translation of the VGGT into different languages and visualizations adapted to local contexts. This will help to increase the understanding of terms and meanings and make the VGGT accessible. It also requires the need for a platform for publishing and sharing information, existing tools as well as good and bad practices. In addition, capacity building and empowerment are needed for the implementation of the VGGT. It was also suggested to financially support grassroots organizations, to train lawyers and facilitators between the government, investors and communities, to support coordinated social movements, and to use the expertise of local communities. But who is responsible for what type of information and to build what kind of empowerment? And what does capacity mean and for whom? – Open questions looking for answers. FAO's leading role as a focal point and knowledge hub to facilitate exchange and ensure quality of information was acknowledged and emphasized. At the same time, participants recommended to communicate this more broadly to allow for others to find their respective roles for implementing the VGGT.

VGGT as standard for responsible land-based investments

The VGGT are a crucial standard which the private sector and financial institutions should apply to ensure sustainability and social responsibility of their operations, lending practices and investments in the land sector. To raise awareness on the costs and risks along the supply chain when the principles of the VGGT are not respected, research and data on the costs of inaction are urgently needed. While many studies already prove and justify incentives for the private sector, and civil society organizations are putting on a lot of pressure, the question which arises is how to get the message across and get companies to act? The discussion revealed that the state of interest varies. While some need incentives to trigger action, others already wish for facilitation to implement the VGGT. Facilitation means, for example, to have a platform for exchange and discussion on how to do it and make it possible to act according to the VGGT. Examples and experiences will inspire companies and set the stage. It also means to ensure facilitation between the investors and the government as well as affected communities. It is further crucial to build local capacity in and for the private sector and to support the government and communities to be empowered and capacitated for negotiations. Of course, the private sector is not alone to ensure the implementation of the VGGT, the role of the state and its responsibility for effective regulation is still a priority.

Monitoring: implementation must be a matter of quality rather than speed

FAO's experiences with the 3-year young VGGT implementation process which has just started are positive so far. FAO stressed that it is quality not speed which should determine the VGGT implementation in order to ensure a

common understanding and that all stakeholders are involved. Overall, there is a need to discuss and understand what implementation or adoption of the VGGT actually means. The VGGT Technical Guides are only a first step in this direction.

The question of monitoring and review also needs more attention and progress has to be made. It will be crucial to identify what exactly needs to be monitored, how and by whom. Many participants emphasized the responsibility of FAO and the UN Committee on World Food Security (CFS) to ensure an inclusive monitoring and review process. It was also suggested that social movements should embark on evaluation and develop a strategic plan for monitoring while linking it back to the CFS. Overall, it will be important to exchange perspectives and to clarify and manage expectations on the roles and responsibilities of FAO, the CFS and all other stakeholder groups.

Critical role of the VGGT to achieve the SDGs and sustainable land management

The VGGT are cross-cutting in nature and their relevance reaches beyond the land tenure world. FAO stresses that the respect and protection of all legitimate tenure rights is, for example, critical for soils. Secure tenure rights are not a sufficient but necessary condition for sustainable soil and land management. In this sense and in the context of the post-2015 development agenda, it is crucial to use the VGGT's potential and analyze how they can contribute to achieve the SDGs and implement the different activities in the SDGs coherently. IASS proposed that Germany should play an important role in the implementation of the SDGs at international and national level, e.g. by and in Germany by using land as an example.

Part 2: Field experiences reported by dialogue participants

Incentives and strategies to mobilize political will

- Ekta Parishad, India, used the VGGT to inform amendments to legislation on recording land rights, and hopes that it will be fed into the Mines and Minerals Act and other land related regulations at sub-national levels. They also want to use the VGGT for the recording of unrecorded rights, e.g. commons over geo-cultural zone (habitat rights under the Indian Forest Rights Act).
- The Malian National Peasants Platform has been using the VGGT as a tool in the negotiations with the government on large-scale land investments and in the advocacy work for a new land law.
- In the Philippines, new land laws have been introduced, but institution building remains the biggest challenge. The Department of Environment and Natural Resources has developed a land sector development framework with a 20-year implementation timeline and identified entry points for mainstreaming the VGGT through a study done by a civil society group. Furthermore, the centralized land titling approach has been replaced by a systematic approach with local government which makes the whole process of titling faster (10–15 years instead of another 50–100 years for the remaining untitled lands).
- Niger, for example, agrees with the VGGT and counter checks its whole legal system and existing laws against this standard. In contrast, some other countries have difficulty in accepting the full range of stakeholder participation that is at the heart of implementation of the VGGT, preferring to take on board only some aspects of the VGGT principles.
- The Madagascar Land Observatory and FAO have developed case studies on responsible large-scale investments in Madagascar and will submit policy recommendations based on the study results to the government to inform a policy change that mainstreams the VGGT.
- Governments which initiate and head multi-stakeholder platforms not only facilitate inclusive and substantive creation of knowledge but also have a direct and legitimate decision-making process to inform reforms, such as happened in South Sudan and Namibia. This can be supported by the creation of stakeholder maps that outline the discourse of different groups.

Translate the VGGT to local context and ensure common understanding

- Translations into pictures, local languages and contexts are important since right holders may be illiterate, or they may not understand the meaning of terms such as “expropriation”, or terms that may not be translatable such as “stakeholder” in Ethiopia. Welthungerhilfe and Green Scenery in Sierra Leone have created a poster on FPIC for

illiterate people. Ekta Parishad translated the VGGT into Hindi and has committed itself that 10,000 more people will know about the VGGT at the next GSW.

- Tools for awareness raising and capacity-building include radio, materials, packages with other instruments such as the Right to Food, the people's manual which provides practical examples for inspiration, an analysis of the VGGT from the gender perspective (Oxfam), FAO's Technical Guides. There is a demand for videos, e-learning, and an open source database on land laws and agreements.

VGGT as standard for responsible land-based investments

- It is important to link the VGGT with development cooperation and lending requirements. The VGGT strengthen the International Finance Corporation (IFC) Performance Standards by providing guidance and more attention to land governance issues. The DIMR and the IASS are currently developing a practical guide to support aligning the lending practice of German Financial Cooperation to the VGGT.
- To convince companies to apply the VGGT, it will be useful to make clear that they may not need to create something entirely new, but to point to concrete entry points, such as adding standards to their audit, etc.
- Responsible land-based investments require that all three actors, the government, the investor and the community, are involved in the negotiations at equal footing. To ensure equal footing and enable realistic risk assessment, investors must be able to understand local complexities and government–community relations. For example, in some cases the government tells the company to not talk to the communities affected by the investment and expropriates the communities. In other cases, companies need the acknowledgment of the government on how to involve local communities in negotiations. In yet another case, the government did not allow the company to pay any compensation because it did not want to set any precedent, fearing that other people would ask for the same compensation. Hence the company had to put their “compensation measures” under its CSR activities. Some international investors have already high standards and cancel investment projects if, for example, communities are opposing.

Concluding statement and outlook

The high interest and strong commitment of the session participants underlines the importance to continue increasing the uptake of the VGGT in policy, practice and science. This includes to raise awareness on the cross-cutting nature of the VGGT and hence their relevance to achieve sustainable soil and land management. It also includes making use of the VGGT's critical role to implement the SDGs in a coherent way, *in* and *by* a country, i.e. implementation in national politics (“in”) as well as with regard to a country's external relations (“by”). The session highlighted the potential of interlinking the implementation processes of the VGGT and SDGs. Transdisciplinary research methods can add value in identifying commonalities and supporting implementation as a process of developing knowledge. Inclusive learning processes which are based on dialogue and exchange between political, practical and scientific knowledge spheres are key for the successful implementation and monitoring of the VGGT.