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ANTI-CORRUPTION  
CONFERENCE

**MOBILISING PEOPLE:  
CONNECTING AGENTS OF CHANGE**

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## **Long Session Report: Global Solutions**

**Session Title:** Governance of tenure of land, fisheries and forests. Making a difference with global governance frameworks.

**Date & Time:** Thursday 08 November 2012, 17.30-19.30

**Report prepared by:** Anni Arial, Land Tenure Officer, Food and Agriculture Organization of the United Nations; Leila Shamsaifar, Associate Professional Officer, Food and Agriculture Organization of the United Nations

### **Experts:**

Bastiaan Philip Reydon, Professor, Universidade Estadual de Campinas

Rima Al-Azar, Senior Operations Officer, World Bank

Paul Ndungu, Partner, Ndungu Njoroge & Kwach Advocates

**Moderated by:** Anni Arial, Land Tenure Officer, Food and Agriculture Organization of the United Nations

**Session coordinated by:** Leila Shamsaifar, Associate Professional Officer, Food and Agriculture Organization of the United Nations

### **Summary of Panellists' Contributions & Discussion Points (please be as detailed as possible)**

The systems of tenure of land, fisheries and forests face stress as increasing demand is confronted by a decreasing supply of these resources. The world's growing population requires food security, and at the same time environmental degradation and climate change reduce the availability of land, fisheries and forests. This problem is exacerbated by weak systems of governance and by corruption.

Corruption has a social, environmental and economic cost for countries as a whole, and further marginalizes the poor who lack the political force to influence decisions, and they lack the money to protect their tenure rights – including by bribing corrupt officials.

The workshop analysed how the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and other international initiatives, such as the Land Governance Assessment Framework developed by the World Bank, can further shape activities and engage actors to collective efforts to remove corruption from the tenure sector.

The panellists of the workshop are involved in activities related to governance of tenure at local, national and global levels. They shared insights on the role of international frameworks in improving the governance of tenure, mobilising actors for collective action, making people accountable and empowering the poor. Through these interventions the objective was to analyse the governance challenges in the tenure sector, identify the potentialities of international instruments, and analyse means to create strong partnerships to shape governance of tenure agendas at all levels.

**Anni Arial**

**Land Tenure Officer, Food and Agriculture Organization of the United Nations**

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security are a response to the threats caused by weak governance and increasing competition over resources. They promote food and nutrition security, sustainable development and management of the environment by improving secure access to land, fisheries and forests and by protecting the legitimate tenure rights of people. They set out principles, recommendations and internationally accepted practices for a range of areas affecting the prevalence of corruption and guide the development of policy, legal and organizational frameworks.

The Guidelines recommend that States should endeavor to prevent corruption in all forms, at all levels, and in all settings. They also recognize that transparency, namely clearly defined and widely publicized policies, laws, procedures and decisions in all applicable languages and in formats accessible to all, is essential to contribute to responsible governance of tenure of land, fisheries and forests.

Anti-corruption principles and measures are overarching and mainstreamed in the Guidelines. They are clearly present in most of the technical sections dealing for example with policy and legal frameworks, delivery of services, allocation of tenure rights, different forms of tenure, markets, redistributive reforms, expropriation and compensation, record of tenure rights, valuation, taxation, spatial planning and resolution of disputes.

The Guidelines are the first global soft law instrument on tenure of land, fisheries and forests and were officially endorsed by the Committee on World Food Security on 11 May 2012. Their implementation is encouraged in the outcome documents of the latest G8, G20, G77 meetings and Rio+20.

The Voluntary Guidelines were developed in a most participatory way, through consultations and negotiations by governments, Civil society organizations, private sector and academia from all regions of the world. There is a strong sense of ownership of the Guidelines by all actors involved and there is a momentum to work on the responsible governance of tenure.

**Paul Ndungu**  
**Partner, Ndungu Njoroge & Kwach Advocates**

Under colonial rule legitimate tenure rights were often neglected, legitimate tenure right holders were evicted from their lands and the newly established legal structure for the management and administration of land was not adapted to the local context. After independence some countries retained their land laws leading in some instances to adverse power relations in the land sector and creating room for abuse.

By initiating an investigation into the illegal allocation of public lands, the Kenyan government has proven the importance of transparency in fighting corruption. A Commission was assigned with this task and it was given full access to all government documents and was therefore able to detect most irregularities in the allocation of public lands. The report established by the Commission provides a set of recommendations with the objective of informing national land policies. However, it takes time to integrate the recommendations to the legal, policy and institutional frameworks.

Large land transactions for investments in agriculture may often raise big hopes, but they also entail large risks and serious concerns. Agricultural investments in land, if carried out responsibly and paying due attention to their implications for the livelihoods of the most vulnerable actors, can create opportunities, as they may bring capital, know-how, jobs, market access and infrastructure development. On the other hand people may lose their land and livelihoods when investors do not deliver on their promises. Issues such as lack of transparency, lack of consultation and consent of local communities, weak land institutions and disregard for environmental concerns may further deteriorate such situations. A possible relocation of communities for the overall good of society and determination of compensation levels is only responsible when taking place in a fair, participatory and transparent manner following the principles of free prior and informed consent.

At the global level the Voluntary Guidelines on the Responsible Governance of Tenure may prove to be a very useful instrument when mainstreamed into government policies. The Guidelines inform about the areas in which transparency and participation by all actors is necessary. They provide a framework and best practices that States can use when developing their own policies, rules and regulations according to their own national context. Most importantly the Guidelines can be seen as an instrument that helps Civil Society to enter into dialogue with governments.

**Rima Al-Azar**  
**Senior Operations Officer, World Bank**

Corruption in land, fisheries and forests makes less headlines than it does in other sectors, since the victims tend to reside in remote areas, be less literate and poorer and projects are difficult to monitor. Corruption in land, fisheries and forests, however has an immediate impact on food security and the livelihoods of people. It should therefore be addressed adequately.

Illegal logging is not only about cutting trees but has a range of environmental, climate-related, food security and livelihoods, physical, budgetary, economic, political and governance implications.

The examples drawn from the illegal logging sector demonstrate the complexity of corruption and its rooting into a chain of activities such as the regulatory, licensing, timber supply and enforcement chains. A range of actors are included in corrupt practices which makes it difficult to track all responsible individuals. When corruption is widespread people may feel that they cannot take any effective action against it, for example they feel they have no alternative but to pay a bribe in order to obtain the services requested. Finally, the involvement of many proves to be a barrier in reporting incidents of corruption for the individual person, as those involved might be too important or have a personal relationship with the individual.

Therefore making a difference requires collectively engaging in change. A number of international and bilateral frameworks on illegal logging already exist, concentrating on the question of legality of logging. While many of them generally help increasing transparency and accountability from a legal perspective they may further challenge the situation if they are not collectively applied. Certification schemes for instance are a very valuable instrument in informing about the origin and production process of a certain product. If not applied with care and with the participation of a large number of producers they may result in unjust outcomes, when those applying them end up having lower profits than those continuing with irresponsible practices.

The Voluntary Guidelines on the Responsible Governance of Tenure complement certification, trade- and anti-corruption initiatives on illegal logging. They define acceptable practices and provide framework against which States can develop their own strategies or policies, hence making their implications applicable to a whole sector of interest. They provide guidance on how to address tenure rights and take into account the impacts of illegal logging on gender, food security, livelihoods of people and the considerations of people who might be affected by illegal logging. The Guidelines look at tenure in the upstream of illegal logging and propose a rights-based approach – no tenure right is absolute, all tenure rights are limited by the rights of others. They address also customary and subsidiary rights, such as gathering rights and emphasize transparency.

**Bastiaan Reydon**  
**Professor, Universidade Estadual de Campinas, Brazil**

The institutional settings for land governance in many countries were established for territorial occupation and for the development of agriculture on idle land. Increased global demand for land has created competition over land by different users and uses in urban as well as in rural areas. Adapted country-level land policies are therefore required in order to protect long-held rights, facilitate land access and address any constraints that land policy may pose.

Thereby, adequate, coherent and viable institutional settings should be developed; land and natural resource institutions strengthened in capacities and resources;

institutions protected from political interference in order to stay neutral; management decisions should be made transparent, i.e. documented and published; clearly defined standards for official decisions should be developed; decisions should be equitable, consistent and predictable; independent prosecution forces and investigation agencies should be developed to improve transparency and accountability; and access to justice should be improved.

There have been several attempts to change the institutional settings towards more transparent land governance systems that would make land markets clearer and less vulnerable to corruption. The newly endorsed Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forest can provide a framework and best practices for countries to reform their institutions according to their own context. The Land Governance Assessment Framework, developed by the World Bank provides a useful tool to assess land governance in country contexts as well as to clarify the institutional settings in order to detect and address those aspects which require the most attention. The Land Governance Assessment Framework takes into account the broad range of issues that land governance encompasses covering five main areas for policy intervention namely, legal and institutional framework; land use planning, management and taxation; management of public land; public provision of land information and dispute resolution and conflict management. Some of the areas it can be used include assessing illegal properties or the rate of deforestation.

Brazil is currently implementing the Land Governance Assessment Framework. In addressing the challenges posed by corruption the country has particularly benefited from a general increase in transparency through greater availability of public information and illustration of processes in land related institutions.

### **Main Outcomes (include interesting questions from the floor)**

Responsible governance of tenure of land, fisheries and forests is needed to ensure social, environmental and economic sustainability. Secure tenure rights are not only necessary to achieve the most efficient economic allocation of resources but they can also contribute to the eradication of poverty, to political and social stability and to the eradication of corruption and conflicts over those resources.

Governance challenges persist in the tenure sector and the interventions made during the workshop identified some key issues which may create room for corruption. These include the complexity of legislation and unclear institutional roles and responsibilities; lack of institutions for regulation and governance; unclear, incomplete and dispersed information on tenure as well as complex information systems; non-transparent and non-participatory policy and administrative processes; unsustainable land use planning and public land management practices and difficulties encountered in regularizing rapid urban development.

In particular, reference was made to the complexity of systems of corruption. Commonly, corruption includes a range of actors with a variety of different backgrounds and motives for their actions. This creates a challenge in the fight

against corruption and demonstrates the importance of engaging in collective action to connect the agents of change.

It is important to establish a dialogue between all actors involved and develop anti-corruption measures through interactive, participative and inclusive processes. Participatory processes ensure that all voices are heard. Norms and best practices developed in participatory processes infer a strong sense of ownership by all actors involved and may therefore facilitate implementation.

International organizations and global governance instruments are well placed to facilitate this dialogue process. Some approaches have proven to be most effective in bringing people together in order to generate a necessary dialogue between for instance the different institutions on a regional, country or local level that deal with the tenure of land, fisheries and forests and all other stakeholders involved.

In guiding these processes international organizations are moving forward to provide frameworks and best practices at the regional or international level. The Voluntary Guidelines on the Responsible Governance of Tenure allow people to focus on the rules, processes and structures through which decisions are made about access to land, fisheries and forests and their use; the manner in which the decisions are implemented and enforced; and the way that competing interests in land, fisheries and forests are managed. They guide the development of policy, legal and organizational frameworks, and provide a room for multi-stakeholder dialogue. The Guidelines propose international norms which are relevant to regional contexts and allow citizens to judge whether proposed actions constitute acceptable practices. Civil society is in a central position to observe and monitor land and natural resources management practices.

Similarly, the Land Governance Assessment Framework enables dialogue among different actors and provides a useful tool to assess land governance in country contexts as well as to clarify the institutional settings.

## Recommendations, Follow-Up Actions

Reversing weak governance in the tenure sector should be seen as a long-term, continual process of steps that demand political will and engagement. Citizens, civil society organizations and the media need to work with government officials from all relevant institutions and the private sector to find tailored solutions that fit each context. International organizations and the global governance instruments are well placed to facilitate this process and some cases have proven to be most efficient in bringing people together in order to generate a necessary dialogue.

The panellists suggested that governance principles and best practices should inform the formulation of national land policies and legislation. Thereby, adequate, coherent and viable institutional settings should be developed; land and natural resource institutions need strengthening in capacities and resources; institutions need protection from political interference; institutions should stay neutral; management decisions should be made transparent i.e. documented and published; clearly defined standards for official decisions should be developed; decisions should be equitable, consistent and predictable; independent prosecution forces and investigation agencies should be developed to improve transparency and accountability; and access to justice needs to be improved in many instances.

### Highlights (please include interesting quotes)

“Corruption in land, fisheries and forests makes less headlines than it does in other sectors, since the victims tend to reside in remote areas, be less literate and poorer and projects are difficult to monitor. Corruption in land, fisheries and forests, however has an immediate impact on food security and the livelihoods of people. It should therefore be addressed adequately.”

*Rima Al-Azar, Senior Operations Officer, World Bank*

“When all the trees have been cut down, when all the animals have been hunted, when all the waters are polluted, when all the air is unsafe to breathe, only then will you discover you cannot eat money.”

*Cree Indian Proverb*

### Key Insights Recommended to be included in the IACC Declaration

Responsible governance of tenure of land, fisheries and forests is needed in order to ensure social, environmental and economic sustainability. Secure land rights are not only necessary to achieve the most efficient economic allocation of resources but it can also contribute to the eradication of poverty, to political and social stability and to reducing corruption and conflicts over those resources.

Reversing weak governance and corruption in the tenure sector should be seen as a long-term, continual process of steps that demand political will, engagement and dialogue between all parties involved. Citizens, CSOs and the media need to work with governments and the private sector to find tailored solutions that fit each context.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security provide a framework on responsible practices. The Voluntary Guidelines can be used by governments and other actors to develop policy, legal and organizational frameworks to address transparency and anti-corruption measures in the tenure sector.

**Rapporteur's name and date submitted : Anni Arial and Leila Shamsaifar  
15.11.2012**

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