

The Tenure Guidelines on Governance of Land, Fisheries and Forests

Introduction

In May 2012, in a landmark decision, the Committee on World Food Security (CFS) endorsed, at its thirty-eighth (special) session, the first international instrument on the global governance of tenure: the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. With these guidelines, an unprecedented 3-year process marked by inclusiveness and participation came to an end. The document includes significant proposals from civil society organizations and gives more visibility to the rights of peasants, pastoralists and fisherfolk to land, fisheries and forests.

For social movements and CSOs engaging in this initiative was an opportunity to further advance the demands for equitable and sustainable access to and control over natural resources they had called for in the last decades. Indeed, they had been paving the way towards a common vision at people's forums for years: at the World Food Summit in Rome, 1996; at the World Forum on Agrarian Reform in Valencia, Spain, 2004; at the International Conference for Agrarian Reform and Rural Development (ICARRD) in Porto Alegre, 2006; at the International Forum on Food Sovereignty (Nyéléni) in Mali, 2007; and at the World People's Conference on Climate Change and the Rights of Mother Earth in Bolivia, 2010.

Achievements and Shortcomings

The final text of the Guidelines is the outcome of a negotiation process, agreed ultimately by governments. Although it does not necessarily include all CSO proposals, it contains key components¹:

¹ For a more detailed account, see: Monsalve Suárez, Sofia, 2012, "The recently adopted Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests: a Turning Point in the Global Governance of Natural Resources? In: Right to Food and Nutrition Watch, 2012.

- The Guidelines' main objectives include the improvement of the governance of tenure of land, fisheries and forests for all, with an emphasis on marginalized people, achieving food security and the realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development.²
- The Guidelines are anchored in States' existing obligations under international human rights law and establish principles of implementation, such as human dignity, non-discrimination, equity and justice, gender equality, a holistic and sustainable approach to the management of natural resources, and consultation and participation.
- They remind States of their obligations to respect and protect the civil and political rights of human rights defenders, including those defending the rights of peasants, indigenous peoples, fishers, pastoralists and rural workers, and to guarantee their access to justice and right to appeal (including restitution, indemnity, compensation and reparation).
- They reiterate the rights of indigenous peoples enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and include a series of provisions which uphold the equal tenure rights of women.
- The Guidelines call on States to provide legal recognition of legitimate tenure rights -particularly customary, and informal tenure rights which are not protected by law currently, and of tenure security that guarantees legal protection against forced evictions. They also call for the recognition and protection of commons, including related systems of collective use and management.

Some of the shortcomings of the Guidelines are:

- they do not include water and minerals;
- they apply mainly to the issue of tenure and not to the use and management of natural resources;

² FAO, 2012, Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, available at http://www.fao.org/fileadmin/user_upload/newsroom/docs/VGsenenglish.pdf

- they accept the large-scale transfer of tenure rights, in other words, land grabbing;
- they have not further consolidated the rights of indigenous peoples, as enshrined in UNDRIP and other international instruments, in the context of tenure. A number of governments have tried to water down the UNDRIP provisions and opposed the inclusion of those related to restitution into the text of the Guidelines; and
- the right to return in post-conflict situations was not reaffirmed.

Way Forward

To face the growing privatization and commodification of nature, it is urgent to strengthen and broaden legal frameworks at national and international level that recognize, respect, protect, and guarantee individual and collective access to natural resources for marginalized social groups: the references to the international human rights instruments in the Guidelines add legal weight to the document and make it an important tool in the struggle towards realizing the right to adequate food and nutrition at national and international level.