

TOWARDS AN ASSESSMENT OF THE IMPLEMENTATION OF THE GUIDELINES ON TENURE OF LAND, FISHERIES AND FORESTS: A TOOL FOR SOCIAL MOVEMENTS' STRUGGLES

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*“A word says nothing
and yet hides everything
just as wind hides water
and flowers hide in the mud.”*

Una Palabra, Carlos Varela (Cuban singer and songwriter, 1963)²

The *Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (Tenure Guidelines or TGs), adopted by the UN Committee on World Food Security (CFS) in 2012 following a long participatory process,³ are becoming a fundamental tool for the struggles of social movements and indigenous peoples worldwide. However, the Tenure Guidelines are also being turned into an indisputable reference for all hegemonic, neutral and counterhegemonic groups of actors. This article provides a preliminary assessment of the implementation of the TGs from the perspective of social movements and organizations four years after their adoption.

USING THE TENURE GUIDELINES AS A TOOL FOR STRUGGLES OVER NATURAL RESOURCES

We, the organizations participating in the Land and Territory Working Group of the International Planning Committee for Food Sovereignty (IPC), have taken on the responsibility of supporting the implementation of the Tenure Guidelines by using them as another tool in our struggles. To this end, in a joint effort with different constituencies (peasants, indigenous peoples, fishers, pastoralists) from the whole world, we developed a People's Manual for capacity-building.⁴ Our People's Manual is an ingenious popular education tool that brings an otherwise difficult document to read closer to the people and to grassroots communities. Developing such a tool was a learning curve and an exercise of solidarity, as the aim was not to present specific situations, but rather to find universal elements that are common to different situations. The People's Manual is currently being translated into local and indigenous peoples' languages. Based on the People's Manual, capacity-building workshops with grassroots members of social movements were organized in fifteen countries on all continents.⁵ A capacity-building curriculum for learning and capacity-building was developed, using our own methodology, and it has had much resonance. At the same time, we have strengthened our commitment to forge alliances and foster the convergence of our struggles. Based on this capacity-building work, we have developed processes to influence public policies on governance of land, fisheries and forests in seven countries, thus opening spaces of dialogue and negotiation with governments, local authorities and regional bodies,⁶ and improving our proposals and arguments by employing the language of the Tenure Guidelines. In some countries we

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2 Carlos Varela's song is originally in Spanish (*“Una palabra no dice nada / y al mismo tiempo lo esconde todo / igual que el viento esconde el agua / como las flores que esconde el lodo”*).

have achieved new laws and policies that are in line with the spirit of the TGs,⁷ and we have also made progress in land-related conflict-resolution in several countries.

By engaging with the Tenure Guidelines and incorporating them into our lives, we have widened our horizon and deepened our understanding of public policies and the governance of natural resources. As social movements and indigenous peoples, we now have more elements with which to analyze, develop, put forward and defend our public policy proposals. The implementation of the TGs in our countries has also brought back to life the spirit of other pertinent human rights instruments, such as the UN Declaration on the Rights of Indigenous Peoples and the ILO Convention 169 on Indigenous and Tribal Peoples. In addition, we have managed to strengthen the FAO's recognition of social movements and indigenous peoples as actors who play a key role in the process of implementation of the TGs. Moreover, governments and the FAO are increasingly acknowledging us as experts on an equal footing with other experts.

SOME WORRYING TRENDS

We oppose current attempts to misuse the Tenure Guidelines to turn them into a Corporate Social Responsibility instrument, as promoted by some donor governments and NGOs in order to legitimize or promote grabbing of natural resources. Large corporations, such as Coca Cola, Pepsi, Cargill, Nestlé, Unilever, Ilovo and philanthropic organizations such as the Bill & Melinda Gates Foundation, claim to be implementing the TGs.⁸ We insist that the TGs are primarily addressed to states and that by adopting them, states have committed to apply them according to their paramount objective: to contribute to the realization of the human right to adequate food and nutrition by improving the governance of tenure for the benefit of vulnerable and marginalized people and communities.⁹ This means that all efforts must center on the rights and needs of the most marginalized communities and groups, and not on private business interests.

We are also concerned about the fact that very few governments have undertaken initiatives to implement the TGs via processes that respect the participatory and inclusive standards set out in the instrument, and that parliaments remain largely unaware of them. Capacity-building of governments and local authorities on implementing the Tenure Guidelines remains a challenge. Yet it is also essential that states improve their capacity to monitor conflicts and the tenure situation at country-level, and that they step up the actual prosecution of cases of abuse and crimes committed by companies and investors.

MAKING HEADWAY

It is still early days to reach a conclusive assessment of the Tenure Guidelines, as only four years have passed since their adoption. Improving the governance of tenure is a complex and lengthy process, in which the key is to find ways to resolve social and political conflicts.¹⁰ On our path to food sovereignty and justice, we continue to incorporate the TGs and other human rights instruments into our struggles. We, the social organizations, give normative and social value to these instruments. It is our words that forge, create, invent, disarm and organize. Those who wish to hear: listen. Those who wish to see: look. We have learnt from our teachers—the wise men and women from the mountains, rivers, seas, forests and gorges—that our words walk,

- 3 FAO. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012. Available at: www.fao.org/docrep/016/i2801e/i2801e.pdf. Please also see: Monsalve Suárez, Sofía. "The Recently Adopted Guidelines On The Responsible Governance Of Tenure Of Land, Fisheries And Forests: A Turning Point In The Global Governance Of Natural Resources?" *Right to Food and Nutrition Watch* (2012): 37–40. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2012/R_t_F_a_N_Watch_2012_ena_web_rz.pdf#page=37. Please also see the following interview: Strappazzón, Ángel. "A Stepping Stone to a New Civilization." *Right to Food and Nutrition Watch* (2012): 42–43. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2012/R_t_F_a_N_Watch_2012_ena_web_rz.pdf#page=42.
- 4 Land and Territory Working Group of the IPC. *People's Manual on the Guidelines on Governance of Land, Fisheries and Forests*. March 2016. Available at: www.foodsovereignty.org/peoplesmanual.
- 5 Argentina, Nepal, Mozambique, Nicaragua, Panama, Peru, Colombia, Paraguay, South Africa, Guatemala, Myanmar, Mali, Senegal, Niger, India, Italy and Belgium, among others.
- 6 Mali, Senegal and Myanmar, among others.
- 7 For a specific example, please see: "Land and Peace in Myanmar: Two Sides of the Same Coin", in this edition of the *Right to Food and Nutrition Watch*.
- 8 For more information, please see: The Coca-Cola Company. *The Coca-Cola Company Commitment: Land Rights and Sugar*. 2013. Available at: assets.coca-colacompany.com/6b/65/7f0d386040fcb4872fa136f05c5c/proposal-to-oxfam-on-land-tenure-and-sugar.pdf. Please also see: Cargill. *Does Cargill support global standards that respect and strengthen local communities and farmers' rights to land?* 2014. Available at: www.cargill.com/news/issues/agricultural-development/land-rights/index.jsp and Nestlé. *Nestlé Commitment on Land & Land Rights in Agricultural Supply Chains*. 2014. Available at: www.nestle.com/asset-library/documents/library/documents/corporate-social-responsibility/nestle-commitment-land-rights-agriculture.pdf.
- 9 For more information, please see the international statement made by different civil society organizations and social movements: *The Guidelines on the Responsible Governance of Tenure at a Crossroads*. December 10, 2015. Available at: www.fian.org/fileadmin/media/publications/2015_TG_Statement_final_EN.pdf.
- 10 For an example of this process, please see insight box 2.1 "Family Farming and Governance of Land and Natural Resources in Portuguese-Speaking Countries" below.

and lead, our words forge and touch yet touch and forge: our words create. The Tenure Guidelines have been developed with those very words, while the People's Manual encourages us to engage with them, by providing us with keywords that help us to understand. Thus, the words in the Tenure Guidelines and in the People's Manual not only walk, they take on a new life because we, the people, are an intrinsic part of them: our lives, our achievements, our victories and our defeats. We shape them, and they shape us.

In this regard, we will continue to strengthen our alliances and our arguments, and to build supportive tools, while using our own means of communication to challenge the mass media. The Tenure Guidelines convey a powerful message: natural resources are a right of peasants, small-scale fishers, pastoralists, indigenous peoples, the landless, rural workers, food consumers, youth, men and women; natural resources are a right of peoples and humanity as a whole. Yet, even though we have the right to land, we, together with peoples and civilizations of the Americas, boldly say that land does not belong to us, but rather we belong to her.

INSIGHT 2.1 Family Farming and Governance of Land and Natural Resources in Portuguese-Speaking Countries

*Francisco Sarmiento*¹¹

Within the framework of the Council of Food and Nutrition Security of the Community of Portuguese-Speaking Countries (CONSAN-CPLP), a Working Group on Family Farming (GTAF) was created in 2012 in order to implement the Food Security and Nutrition Strategy (ESAN-CPLP).¹²

This ad hoc working group consists of multiple actors, whose mandate is to formulate public policy proposals (for approval by CONSAN-CPLP) to support family farming. One of the group's first proposals was the development of the *Guidelines in Support of Family Farming in CPLP Member States*.¹³

In the latest version, currently under discussion, several areas have been prioritized for potential cooperation between CPLP member states. Emphasis has been particularly placed on the improved governance of land and natural resources. In fact, this was the main objective expressed by states at the UN Committee on World Food Security (CFS) with the adoption, in 2012, of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (hereinafter the Tenure Guidelines or TGs).¹⁴

Ongoing participation of civil society, academia, parliamentarians and the private sector in the CONSAN-CPLP may allow for an agreement on a set of principles and actions for the improved governance of land and natural resources. This agreement shall include, among others, the implementation of existing land laws, the updating of land registries and agro-ecological zoning, the effective regulation of private investment and the coordination of these measures with potential support programs for family farmers. This process is one of the main challenges faced by the ESAN-CPLP.

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12 The CPLP Food Security and Nutrition Strategy (ESAN-CPLP) was drawn up on the basis of an online consultation for all stakeholders, member states, civil society and the private sector. ESAN-CPLP was approved by member states in 2011 and presented in October of the same year at the 37th session of the UN Committee on World Food Security (CFS) in Rome, Italy.

13 The Version 1.0 of the *Guidelines in Support of Family Farming in CPLP Member States*, which was open to public consultation between April 1 and June 15, 2016, is available in Portuguese at: esancplp.wix.com/diretrizes-af-cplp.

14 FAO. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012. Available at: www.fao.org/docrep/016/i2801e/i2801e.pdf.

FAMILY FARMING

The only CPLP member state where family farming is legally recognized as a category is Brazil. In other member states, most family farmers are not necessarily accounted for in existing statistical classifications, such as, 'independent sole holder' (Portugal), 'small farmers' (some African countries and East Timor) or 'peasants' (most African countries). They are, however, on the whole, very important players. They cultivate areas of small to medium relative size (between 0.20 and 18 ha), using technology of different levels, and are responsible for 70% to 100% of food production. They employ between 60% and 84% of the workforce (with the exception of Cape Verde and Portugal).¹⁵ Their identification and recognition is important for the implementation of various public policies, including ensuring access to and control over land. This recognition is closely linked to the commitment made by states, including those of the CPLP, to the progressive realization of the human right to adequate food and nutrition in various international instruments.

CONTEXT OF CONFLICT

This discussion is taking place amidst an international context of renewed interest in land and natural resources. Brazil, despite recent progress, continues to have one of the world's most unequal land tenure systems. In East Timor, with the due differences, there are frequent conflicts over land ownership. In São Tomé and Príncipe, despite the agrarian reform of the 1980s, a sharp fragmentation is found in family properties posing new challenges to the sustainability of these production systems.¹⁶ It is important to note that in Portugal, the only European Union country, young men and women farmers face serious limitations in accessing land and remaining on it, due to an increasingly concentrated food system.

In the case of the largest African CPLP countries (Mozambique, Angola and Guinea-Bissau), land occupation processes for large-scale private investments are common, resulting in many conflicts over land. The so-called ProSavana program is a case in point.¹⁷ The governments of Brazil, Mozambique and Japan launched this cooperation program in 2011 to develop farming in the Nacala Corridor, which spans 19 districts in northern Mozambique.

Civil society has expressed its concern over violations of the rights of communities and local peoples in occupations that may jeopardize the access of family farmers to quality land. It has also expressed concern over the state support provided to the widespread expansion of a production model that is based on the intensive use of agricultural inputs, leading to negative environmental externalities. The No to ProSavana Campaign in Mozambique is an example of a more organized form of civil society.¹⁸ In addition, grassroots organizations linked to the Catholic Church are further deepening the debate on this issue. At the time of writing this article, a meeting of representatives of various grassroots organizations of the Catholic Church of all CPLP countries is taking place in Mozambique to discuss a joint position and strategy.

During the last CONSAN-CPLP meeting held in November 2015 in East Timor,¹⁹ informal discussions between the various actors involved signaled the private sector's concern over providing land security and lower transaction costs in the ongoing investments. Private sector representatives also expressed the desire to have clarity on the areas available for new agricultural investments. Some governments have ex-

15 FAO. *Situação da governança da segurança alimentar e nutricional e papel da agricultura familiar nos países da CPLP*. Rome: FAO, 2013. Available in Portuguese at: www.fao.org/3/a-ar430o.pdf.

16 For more information, please see: Rocha Dias, Joana. "The 'Lab Island': Governance and Sustainable Agriculture in São Tomé and Príncipe and in the Countries of the Portuguese-Speaking Community." *Right to Food and Nutrition Watch* (2015): 58-60. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=58.

17 For more information on ProSavana, please see: www.farmlandgrab.org/post/view/26158.

18 An open letter to urgently halt the ProSavana program was sent to the governments of Mozambique, Brazil and Japan in 2013. Available in Portuguese at: www.verdade.co.mz/vozes/37-hora-da-verdade/37359-carta-aberta-para-deter-e-reflectir-de-forma-urgente-o-programa-prosavana. Additionally, an open letter was sent to the President of the Republic of Mozambique in 2015. Available in Portuguese at: www.verdade.co.mz/vozes/37-hora-da-verdade/53904-selo-carta-aberta-a-sua-excelencia-presidente-da-republica-de-mocambique-por-sociedade-civil.

19 In the launch meeting of their facilitation mechanism for participation in CONSAN, private sector representatives pointed out as a priority, the identification of land available for investment in all countries. They opened an informal discussion on the topic at the last CONSAN-CPLP meeting in November 2015.

pressed concerns regarding conflicts over land and their need for capacity building in the implementation of land laws, management of land registries and updating of agro-ecological zoning (which mainly only indicate potential productive characteristics).

CHALLENGES ON THE SHORT AND MEDIUM TERM

Without underestimating the conflicting interests at stake and existing challenges, it is believed, based on the verified preliminary discussions, that the possibility of negotiating an agreement between the various actors is within the reach of the CONSAN-CPLP.

However, on the medium term, its materialization is perhaps the biggest challenge for this innovative institutional arrangement of the CPLP. The complexity of the subject, the lack of experience and means of the CONSAN-CPLP and the recent closure of the Ministry of Agrarian Development in Brazil (the main driver of the Working Group on Family Farming in the CPLP) are all factors that have to be taken into account.

The strengthening of family farmers in the CPLP thus involves identifying and recognizing them, their guaranteed access to land and other natural resources, and the implementation of appropriate public policies. This means that in order to strengthen family farming, improving land governance should be an integral part of the CONSAN-CPLP's agenda.

At a time when we are looking to strengthen, on an international level, the monitoring of the implementation of the Tenure Guidelines,²⁰ it is important that the CPLP countries take advantage of the next meeting of CONSAN-CPLP to discuss and agree on a set of commitments and the criteria and means for their monitoring at a national and regional level.

²⁰ *Supra* note 14.