

Governing land *for* women and men

A technical guide to support the achievement of responsible
gender-equitable governance of land tenure



for **Governing land women and men**

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gender-equitable governance land tenure



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Foreword

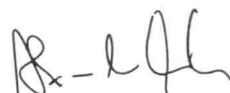
On 11 May 2012, the Committee on World Food Security endorsed the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (the Guidelines). Based on the principles of sustainable development and in recognition of land's centrality to development, these Guidelines are intended to contribute to global and national efforts towards the eradication of hunger and poverty by promoting secure tenure rights and equitable access to land, fisheries and forests.

This technical guide on *Governing land for women and men* aims to assist implementation of the Guidelines' principle of gender equality through the achievement of responsible gender-equitable governance of land tenure.

Preparation of this guide included substantive research and consultation, leading to the production of an FAO working paper in February 2011, *Governing land for women and men – gender and voluntary guidelines on responsible governance of tenure and other natural resources* (FAO, 2011a). The working paper analysed and identified the main themes and issues to be covered by this guide.

To help identify good practice for responsible gender-equitable governance of land tenure, a technical workshop was held in May 2011 at FAO Headquarters in Rome. "Governing Land for Women and Men – a Workshop on Gender-Equitable Governance of Land Tenure" brought together land sector practitioners from government, civil society and the private sector around the world to share practical, hands-on experiences and approaches to improving gender equity in land tenure governance. The outcomes of this workshop have contributed immensely to enriching this guide.

After endorsement of the Guidelines, the drafting team finalized this technical guide through a process that included peer review.



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Introduction

Gender-equitable governance of land tenure

“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 recognize women’s tenure rights are implemented and enforced. ... 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.”

(Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, from paragraphs 5.4 and 5.5).

What is this guide about?

This technical guide on *Governing land for women and men* aims to assist implementation of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (FAO, 2012b) by providing guidance that supports the Guidelines’ principle of gender equality in tenure governance. At the beginning of each module, reference is made to the relevant provisions in the Guidelines.

The guide focuses on equity and on how land tenure can be governed in ways that address the different needs and priorities of women and men. It moves away from long-standing debates about gender equality in access to land, towards the mainstreaming of gender issues to achieve more gender-equitable participation in the processes and institutions that underlie all decision-making about land.

Gender equality is one of the ten core principles for implementation of the Guidelines and is closely tied to three others – human dignity, non-discrimination, and equity and justice (Box 1).

Gender relations determine differences in the relative status and power of women and men. Gender and gender roles shape the opportunities and constraints that women and men face in securing their livelihoods, including their access to land, decision-making about land, and

BOX 1:
The Guidelines’
principles of
implementation
relevant
to gender equity
and equality

adapted from FAO (2012b)

3.B.1 Human dignity: recognizing 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: recognizing 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 marginalized people, within the national context.

3.B.4 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 where 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.

the institutions that administer land and other productive resources (FAO, 2003a).

Gender-equitable governance of land tenure ensures that women and men can participate equally in their relationships to land, through both formal institutions and informal arrangements for land administration and management (Table 1).

TABLE 1:
Definitions

TERM	DEFINITION
Gender	The social and political identity attached to a person's biological sex and physical body – what it means to be a woman or a man, which may differ in different places. Gender relations are the relations between women and men, based on the social identity attributed to each sex within a society (MacKinnon, 1987; Moore, 1994).
Land tenure	The relationships between people and land, defined legally or customarily – the rules invented by societies to allocate property rights over land, grant access to the use and control of land, and define the associated responsibilities and restraints. Land tenure systems determine who can use what resources for how long and under what conditions (FAO, 2002b; 2007).
Governance	The process of governing – managing society and reconciling competing priorities and interests of different groups. It includes formal government institutions and informal arrangements, and is concerned with how citizens participate in decision-making, how government is accountable to its citizens, and how society obliges its members to observe its rules and laws (FAO, 2007; 2009b).

What are the scope and limitations of this guide?

Gender analysis helps to identify the needs and priorities of women and men, clarifying the relevance of gender across different age, wealth, caste, race, ethnic, religious and other groups (FAO, 2003a). However, this level of detailed analysis is not systematically possible in a guide such as this one, which instead aims to be broadly applicable and relevant to all the national and local government officials, civil society groups, administrators, technicians and professionals working in the land sector worldwide.

This guide focuses on gender-equitable governance of land tenure; it therefore does not embrace the full scope of the Guidelines, which also cover governance of tenure of fisheries and forests. However, the broad principles of gender-equitable participation to governance processes are applicable to fisheries and forests as well (particularly as these interface with land) and interesting lessons can be drawn for wider use.

The guide provides advice on mechanisms, strategies and actions that can be adopted to improve gender equity in the processes, institutions and activities of land tenure governance. It does not include an in-depth discussion of all the outcomes of these processes and institutions, but provides useful recommendations as basic guidance.

Why a technical guide on gender-equitable governance of land tenure?

Gender equity has to be mainstreamed into the governance of land tenure to ensure that the interests and needs of all people – women and men – are addressed, and that the processes and institutions for land tenure are transparent, consultative and participatory.

Mainstreaming of gender equity in land tenure governance is also essential for achievement of Millennium Development Goals (MDGs) 3 – promoting gender equality and empowering women; and 1 – eradicating poverty and hunger. As *The State of Food and Agriculture 2010–2011* argues, gender inequality must be addressed to increase the overall global performance of the agricultural sector (FAO, 2011b). Mainstreaming is supported by firm internationally endorsed principles of non-discrimination by gender, as most clearly set out in the 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (Box 2).

BOX 2:
CEDAW
provisions
supporting
gender-equitable
governance
of land tenure

Other important international and regional instruments that uphold principles of non-discrimination by gender and are relevant to the pursuit of gender-equitable governance of land tenure can be found in the *Resources and references* section at the end of this guide.

Articles 13 to 15: Women to have equal rights with men to conclude contracts and in the administration of property, including equal access to mortgages and equality in procedures before courts and tribunals, with restrictions to the legal capacity of women deemed to be null and void.

Article 14: Women to receive equal treatment in land and agrarian reforms, and in land resettlement schemes and housing.

Article 16: Women to have the same rights in marriage as their spouses with respect to ownership, management, enjoyment and disposal of property, including on divorce.

What key issues do the modules cover?

This guide consists of five modules, plus this introduction and a concluding section listing resources and references. Table 2 outlines the themes and contents of these modules.

Gender-equitable participation in land policy-making processes is a first step towards responsible gender-equitable governance of land tenure. All implementation activities should therefore be rooted in the core principles of human dignity, non-discrimination, equity, justice and gender equality. *Module 1* addresses gender-equitable participation in land policy-making processes, considering the issues for different sets of stakeholders and different levels of governance.

A second step is translating policy into law. In many countries, the presence of different tenure systems creates confusion when different laws and customary norms and practices conflict. In other cases, good land laws may not be applied because regulations, procedural manuals and implementation strategies are lacking. *Module 2* addresses legal issues, such as the drafting of laws, access to justice, land dispute resolution and legal support.

TABLE 2:
Contents
of this guide

MODULE	THEME	SYNOPSIS
1	Policy-making	Building gender-equitable participation into land policy-making processes
2	Legal issues	Legal pluralism, legal drafting, access to justice, land dispute resolution, legal support
3	Institutions	Gender-equitable participation and representation in the institutions of land tenure governance
4	Technical issues	Gender equity in land administration activities, technologies and systems, and women's participation in land administration
5	Getting the message across	Communication strategies and methods to support responsible gender-equitable land tenure governance

Women are often excluded from participation in the day-to-day processes of land tenure governance at all levels, and have limited capacity to influence decision-making. *Module 3* addresses strategies for facilitating the representation and participation of all women and men in the institutions of land tenure governance – including customary institutions – and for developing the capacities of these institutions.

Technical issues of land administration also need gender-sensitive approaches, methods and technologies. *Module 4* addresses two issues: *i)* how adequately land administration activities are designed to take into account and address women's needs, interests and concerns; and *ii)* how women can participate equally with men in land administration activities, as target groups and clients.

Good communications are vital to responsible gender-equitable governance of land tenure. *Module 5* considers the most effective communication strategies and methods and addresses key issues in getting the message across, including gender sensitization, awareness raising, advocacy, legal literacy and long-term change in values and attitudes.

The concluding section provides sources of further guidance and information. Users of this guide wishing to improve their understanding of the analytical issues are also encouraged to refer to the wider literature on gender and land. FAO's *Governing land for women and men – gender and voluntary guidelines on responsible governance of tenure and other natural resources* provides a background analysis of all the themes and issues covered in this guide, including obstacles and bottlenecks to achieving gender-equitable land tenure governance (FAO, 2011a).

Who is this guide for, and how should it be used?

This guide is a reference tool that provides administrators, technicians and professionals working in the land sector with guidance and examples of good practice – what has worked, where, why and how – for achieving land tenure governance that is gender-equitable.

It also aims to inspire a broader audience, including anyone working in any capacity on issues relating to gender and/or land.

Although the modules in the guide follow a logical sequence – from policy, to law, to implementation – different users in different situations may take different modules as their starting point for introducing change, and each module may be more or less relevant to different types of stakeholder.

Each module is thus designed as a stand-alone section that can be consulted and used separately or in combination with others. Figure 1 indicates which of the five modules may be most relevant for different types of stakeholder.

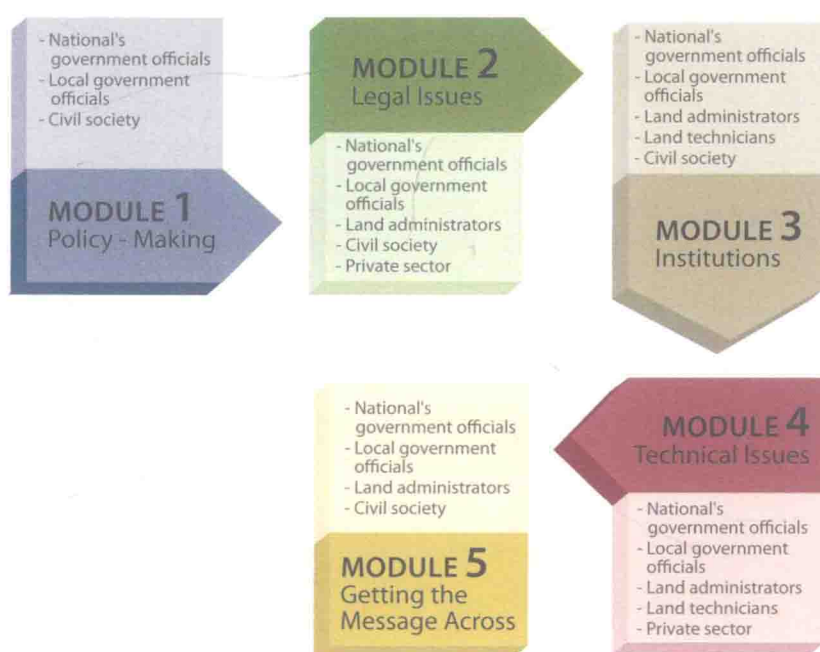


FIGURE 1:
Modules
and stakeholders

The material presented is drawn from existing literature and from approaches and experiences in the field. The information sources used in preparing each module are listed in the references at the end of the module; a comprehensive list of references is also given in the section on *Resources and references*.

- FAO. 2002b. *Land tenure and rural development. Land Tenure Studies 3*. Rome. <ftp://ftp.fao.org/docrep/fao/005/y4307e/y4307e00.pdf>
- FAO. 2003a. *SEAGA Socio-Economic and Gender Analysis Programme macro level handbook*. Rome. www.fao.org/docrep/012/ak229e/ak229e00.pdf
- FAO. 2007. *Good governance in land tenure and administration. Land Tenure Studies No. 9*. Rome. <ftp://ftp.fao.org/docrep/fao/010/a1179e/a1179e00.pdf>
- FAO. 2009b. *Towards voluntary guidelines on responsible governance of tenure of land and other natural resources – discussion paper. Land Tenure Working Paper No. 10*. Rome. <ftp://ftp.fao.org/docrep/fao/012/i0955e/i0955e00.pdf>
- FAO. 2011a. *Governing land for women and men – gender and voluntary guidelines on responsible governance of tenure of land and other natural resources*, E. Daley and C.M. Park. *Land Tenure Working Paper No. 19*. Rome. <http://www.fao.org/docrep/014/ma811e/ma811e00.pdf>
- FAO. 2011b. *State of Food and Agriculture 2010–11: Women in agriculture, closing the gender gap for development*. Rome. www.fao.org/docrep/013/i2050e/i2050e.pdf
- FAO. 2012b. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>
- MacKinnon, C. 1987. *Feminism unmodified: Discourses on life and law*. Cambridge, Massachusetts, USA, Harvard University Press.
- Moore, H. 1994. The divisions within: sex, gender and sexual difference. In *A passion for difference – essays in anthropology and gender*. Oxford, UK, Polity Press.

MODULE

1



Policy-making

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