



eVA's perspective on VGGT

(**V**oluntary **G**uidelines on the **R**esponsible **G**overnance of **T**enure of Land, Fisheries and Forests in the Context of National Food Security)

In 2022, FAO prepared a document called *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT) (which we hereafter call the Guide). This Guide was frequently mentioned in the Civil Society Organizations Panel (CSO Panel) at the 15th Conference of the Parties (COP15) of the United Nations Convention to Combat Desertification (UNCCD), held in the same year.

As EVA, while examining the Panel documents, we wondered what was intended to be said in this frequently cited VGGT, so we translated it into Turkish. If you would like to read the whole thing, you are welcome to visit our page <https://eva.org.tr/>. But this is too long, if you think you should make a summary for us, we decided to leave a summary here for you.

Guide consists of **7** chapters: introduction, general issues, legal recognition of tenure, transfer, management, disasters and monitoring and evaluation. There are a total of **25** articles and **171** sub-articles in these sections. The Guide, which addresses the issue of land tenure governance, has been prepared to provide guidance on tenure rights governance in the context of food security.

However, if we had to make a criticism before starting, we could not understand the preference for the trio of **land, fisheries/aquaculture and forest**, both in the name of the Guide and in the Guide itself. Let's explain why we think so by looking at the definition of land. **Land**; It is a limited resource consisting of soil, water, minerals, plants and animals. UNCCD defines land briefly as the terrestrial system. The **terrestrial system** is a system that includes soil, vegetation and other living things and also includes ecological and hydrological processes. This terrestrial area is the area that encompasses the entire nature of the biosphere just above and below the surface. Near-surface climate, soil and surface forms, surface waters (shallow lakes, streams and swamps), near-surface sedimentary layers and associated underground water reserves, plant and animal populations (biodiversity), human settlements, artificial structures (water tanks, canals, roads, buildings) also includes. In other words, there are different types of use within the land, such as agricultural areas, forests and aquatic areas. Since the land is not used only as a forest, we cannot understand why this Guide took only the forest into consideration. However, we could not understand why it only considered fisheries or aquaculture as activities and did not take into account other activities related to the land such as grazing and food production. We wondered if it had taken into account the part of the land that was outside the title deed. We were not sure about this idea due to two issues. One was that land was included in this trilogy, and the other

was that the document included issues related to food production, that is, agricultural activities, farmers and private property. Therefore, as EVA, we preferred to use the word **land** in general for the trio of **land, fisheries/aquaculture and forest**.

Let's take a look at the concept of **tenure** and then move on to what the Guide says. The concept of **tenure (mülkiyet)** covers both rights, responsibilities and duties regarding a natural resource. It is a shorthand way of saying the rights and obligations one has over land. These rights and obligations may be created legally by document or by tradition. In fact, when we talk about our rights regarding land, we also mean **ownership** and **use**. These rights cover ways such as purchasing, renting, building a house, settling, and leaving an inheritance, as well as the use of a wide range of areas, from land through agricultural activities, to cultivation, animal husbandry, grazing, hunting, and even tourism and cultural activities. In the concept of **tenure rights**, there is no requirement to own the natural resource. The resource can be used for any purpose, such as collecting products from land or water that it does not own, or grazing animals. It includes the use of a land, lake, river or forest owned by another person or group for a purpose, such as hunting or fishing. Therefore, the subtle difference here is; when talking about land tenure rights, not only documented ownership but also undocumented, that is, traditional use over the years, should be discussed.



Let's come to what remains on the sieve when we sift the Guide

- The Guide emphasizes that countries should **establish** or **improve** land tenure governance/management systems for **food security, poverty eradication, livelihood sustainability, social stability, housing, security, rural development, and social and economic growth**.
- In the Guide, the system to be established or the improvements to be made to the existing system regarding tenure governance are discussed in terms of **policy**, law, **institutional framework**, **service** delivery, **allocation** of land, **measures** to be taken, **public** land, the situation of citizens with **traditional** tenure rights, unofficial right of use, transfer of rights and responsibilities, **market** control, **investments**, land **consolidation**, **restitution**, expropriation and **compensation**, **record** keeping, **valuation**, **taxation**, spatial **planning**, transboundary issues, **disaster** management, **climate** change, **conflicts**, **disputes**, promotion, **information**, **monitoring** and evaluation procedures are explained in articles, brought to the attention of the countries.
- How tenure management will be done has been explained, from **policy** preparation to receiving **opinions**, points to be considered in **investments** to be made, **judicial** affairs, **record** keeping, **capacity** development, promotion, **announcement**, **monitoring** and evaluation. The **principles** to be taken into consideration at each stage of these are frequently emphasized.
- These principles are stated as **11** principles: **the right to human dignity, non-discrimination, equality, justice, gender equality, holistic and sustainable approach, participation, rule of law, transparency, accountability and continuous development**. It

has been frequently reminded that these principles must be followed in every action from the beginning to the end of the tenure management system.

- While carrying out a national study on tenure systems, attention was drawn to the fact that, in all actions, **internationally binding** agreements to which the party is a party should be taken into account.
- It was emphasized by all parties that no tenure rights, including private property, are **absolute**.
- A striking point in the Guide is that it emphasizes that the right to land tenure cannot be acquired only with the **document** owned, but that those who have traditionally used that land for a long time or benefited from that land in some way also have the right. Therefore, where informal ownership of land exists, it is emphasized that tenure rights should be encouraged through policies and laws.
- It has been stated that land use rights are not only rights directly linked to access and use of land, but also must be managed by taking into account all **civil, political, economic, social and cultural rights**. In other words, it has often been pointed out that land has social, cultural, spiritual, economic, environmental and political value. Although the Guide does not mention the vital **ecosystem services** provided by the land, its emphasis on these values can be interpreted as indicating this. Because, although it is not emphasized much in the Guide, **sustainable land management** and **protection of the environment**, supporting rural residents, contributing to rural development, encouraging and securing local food production systems are also mentioned.
- It is noteworthy that although this Guide, which deals with the governance of land, draws attention to the promotion of good land governance, good practices and rehabilitation in order to prevent and minimize **environmental degradation** and biodiversity loss, it does not mention land degradation. However, it can be thought that environmental degradation also means **land degradation**.
- Land tenure rights should also be addressed in the preparation, prevention and intervention phases of **natural disasters** and in the **spatial planning** phase; in tenure with related to regulations, measures are taken to reduce or prevent the potential effects of natural disasters; providing alternative land and livelihoods to those displaced due to disasters; emphasis was placed on ensuring tenure security in these areas.
- The importance of ensuring easy, affordable and prompt access to **justice** for citizens in land tenure disputes and rights violations, the protection of legitimate land tenure rights and the implementation of judgements guaranteeing that these rights are not abrogated by other parties, the provision of compensation for damages, the prevention of violence, conflict and corruption in disputes were underlined.
- The importance of ensuring effective **participation** and taking all views in order to involve **all interested parties** in the process, including institutions, courts, local authorities, farmers, small-scale producers, civil society organizations, the private sector, academics, commercial enterprises, citizens, villagers, fishermen and farmers' rights, was mentioned. In fact, it was frequently emphasized that all land tenure rights and right holders, whether registered or not, should be identified, and the importance of the **participation** of those with traditional tenure systems, small landowners and others who may be affected.

- It was emphasized that actions at all levels of land tenure management should be non-discriminatory, **gender-sensitive** and ensure equal tenure rights for women and men, including the right to inherit and bequeath. In cases where people are unable to participate in processes that may affect their rights, the state should provide non-discriminatory, **gender-sensitive** assistance.
- **Coordination** should be ensured between implementing institutions, local administrations and citizens.
- The importance of providing services quickly and effectively by using appropriate **technology** and preparing informative and explanatory **materials** was emphasized.
- Attention was drawn to taking additional measures for **vulnerable groups** who cannot access administrative and judicial services, such as providing mobile service support for those living far away
- In order to **improve the quality of services** and meet expectations, it was mentioned that regular feedback through questionnaires and focus groups and reviews by independent ombudsmen are necessary for the improvement of the system.
- It was stated that the system would be more reliable and fairer with measures such as limiting the arbitrary use of power through the **distinction of powers**, subjecting the decisions of implementing agencies to administrative and/or judicial review, and holding the relevant personnel accountable for their actions.
- It was pointed out that it is necessary to develop policies for the use and control of **state-owned** lands, to publicize them, to develop policies for the fair distribution of the benefits obtained, to create accessible inventories of usage right information, and to clearly determine which state-owned lands will be protected and which will be given to **other users** and under what conditions. On the contrary, in cases where the land is not needed due to a change of plan, the state should give the first right holders the opportunity to reconstitute these resources.
- Where citizens with customary tenure have legitimate property rights to the ancestral lands on which they live, the state should recognise and protect these rights. Citizens should not be forcibly **evicted** from these ancestral lands. Document drew attention to the need to take measures to protect the land tenure rights, livelihoods and food security of populations that **migrate** in some way while on their own land. It was emphasized that actions in evictions or displacements should be planned so as not to render individuals homeless or vulnerable to human rights violations, and that where those affected are unable to meet their own needs, States should take appropriate measures to provide adequate alternative accommodation, resettlement or access to productive land on a case-by-case basis, resources permitting. Where **evictions** are carried out as a result of land expropriation, the emphasis is on States to treat all affected parties in carrying out such evictions in a manner consistent with their obligations to protect and fulfill, taking into account human rights.
- For land used by more than one citizen, the means to resolve **conflicts** between citizens should be strengthened or improved.
- It was emphasized that policies, laws, **regulatory systems** and institutions should be established to create and facilitate rental **markets** as a means of transferring ownership, to ensure the functioning of the market for land ownership, to provide access and to prevent anti-competitive practices.

- It was underlined that **small-scale producers** are important for national food security and social stability and that the state should pay special attention to this issue.
- The importance of setting and regulating a **land ceiling** for permitted land transactions was emphasized. It was emphasized that where the fragmentation of land into a large number of parcels increases production costs, governments should use solutions such as **land consolidation** or **land banks** to improve the structure of such land; conversely, where fragmentation would provide benefits such as risk reduction or crop diversification, the use of land consolidation should be avoided. It was emphasized that the establishment of land banks could be considered as part of land consolidation programmes, a system whereby **land banks** can temporarily hold parcels of land until they are subsequently allocated to beneficiaries.
- It was emphasized that the state has the authority to raise revenue through **taxation** in order to contribute to the achievement of social, economic and environmental objectives, and that effective financing can be provided through tax policies, but that the relations and uses of spatial planning on land should also be taken into account in taxation.
- In resolving **boundary disputes** between parcels, the importance of having implementing institutions with technical expertise, that decisions should be made in writing and based on objective reasoning, and that there should be a right of appeal to the judicial authorities were emphasized.
- The Guidelines also address the issue of **restitution**, i.e. the return of a person's rights, assets or resources, such as land, that have been unjustly deprived of them in the past, and state that persons who have lost their land or their heirs should be restored to their original parcels or properties by the decision of the competent national authorities, and that in cases where the original parcel or property cannot be restored, all affected persons should be treated equally, and prompt and fair compensation should be provided in the form of cash and/or alternative parcels or properties.
- **Partnerships** should be developed between stakeholders such as government, communities, civil society, private sector, farmer and small-scale food producer organizations, fishers and forest users' organizations.
- Attention was drawn to the establishment of mechanisms such as access to **credit**, product insurance, inputs, markets, technical assistance, support and incentives.
- It is stated that land should be **valued** in accordance with the law, and systems should be used to ensure fair and timely valuation of land tenure rights for the functioning of markets, collateral for loans, investments, expropriation and taxation.
- Countries should ensure that their implementing agencies have the **capacities**, such as personnel, physical, financial and technological capacities. The importance of continuous training and **capacity building** of personnel at all levels involved in land tenure management and ensuring gender and social equality in **personnel recruitment** was emphasized.
- The importance of making **information** easily accessible and understandable to all interested parties at all stages of policy-making, project design, investment or any other action related to the land tenure system was mentioned. It was pointed out that all kinds of measures should be taken on the subject, and that those who use the property should

be **informed** so that they are aware of their rights, obligations and responsibilities regarding this property, whether they own it or not.

- Attention was drawn to the establishment and guaranteeing of a **registry** system (cadastre, license, etc.) that includes information on land registries, in which the land tenure rights of individuals, whether registered or not, will be secured, measures will be taken against violations of rights, and these services will be accessible and available to everyone.



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