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Promoting inclusive land governance through multi-stakeholder platforms for successful land policy reforms in Africa

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ABSTRACT

Context and background:

Multi-stakeholder platforms (MSP) for inclusive people-centred land governance are increasingly recognized as central mechanisms for countries to find sustainable solutions to complex land tenure issues. MSPs create an inclusive forum where actors can discuss problems and propose solutions to improve governance of tenure and provide better access to natural resources. The establishment of MSPs to address land tenure issues are also key recommendations expressed in normative frameworks on land tenure at regional, continental or international levels. These include the Framework and Guidelines on Land Policy in Africa (F&G) adopted in 2009, and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) adopted in 2012. Over the past decade, several countries in the continent have successfully adopted new land legislation.

Goal and Objectives:

The goal of this paper is to demonstrate how MSPs can contribute to inclusive and participatory land reforms processes in view of securing tenure rights especially for the most vulnerable. It also contributes to address the challenges faced by these platforms in engaging key actors including the government, private sector and the most vulnerable constituencies at community level, towards addressing land issues systemically and achieve transformative change.

Methodology:

This paper is the result of a light qualitative ex-post evaluation of the approaches developed by the Food and Agriculture Organization of the United Nations (FAO) and the International Land Coalition (ILC) and other partners in the field of land governance over the last 15 years. The paper also builds on desk/literature review that helped gathering needed information on land policy issues and processes.

Results:

MSPs have contributed to the adoption and implementation of ground-breaking policies and laws, including the National Land Policy of DRC (2021), the Community Land Rights Act (2022) and the National Land Commission Act (2022) in Sierra Leone; the Land Code (2018) in Togo, the Land Rights Act in Liberia (2018). MSPs provide a constructive space for dialogue, coordination, capacity building and collective action to link up efforts from grassroots to national level. They also contribute to addressing power imbalances and strengthening capacities and accountability of government and private actors.

Keywords:

Multi-stakeholder platforms; governance of tenure, land policy reform, inclusivity, F&G in Africa, VGGT

1. INTRODUCTION

Many tenure-related challenges are crosscutting and affect today several sectors and groups. Consequently, decision-making must identify shared needs behind different perspectives and interests. As part of the efforts to find sustainable solutions to complex land tenure issues, multi-stakeholder platforms (MSPs) can be inclusive fora where actors discuss problems and propose solutions to improve governance of tenure and provide better access to natural resources. MSPs are indeed increasingly used and promoted as an approach to policy dialogue on land and natural resources governance. While their use in a variety of sectors is not new, their importance in political terms over the last years is unprecedented, with many of the most globally relevant policy documents and frameworks urging national governments and development actors to adopt this approach. These include: the 2030 Agenda for Sustainable Development, under SDG 17¹, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT); the AU Declaration on Land Issues and Challenges in Africa²; and the Framework and Guidelines on Land Policy in Africa (F&G) that “promotes the need for a shared vision among all stakeholders of a comprehensive and coordinated land policy as a major factor in national development”³.

This paper discusses how MSPs can contribute to land reform processes by analyzing their potentials, functioning as well as challenges. The paper closes with some perspectives on how MSP can contribute to the implementation of the Protocol on Trade in Services of the Agreement Establishing the African Continental Free Trade Area adopted in Kigali by the Heads of State and Government or duly authorized representatives of the Member States of the African Union in March 2018. They can among other contribute to building the capacities of their members and other stakeholders on the monitoring the implementation of the AfCFTA, or support the development of regulatory regimes especially for land related services. Multi-stakeholder platforms bring together representatives from different interest groups to discuss shared challenges, opportunities, policy actions and advocacy strategies (Warner 2005). According to the Food and Agriculture Organization of the United Nations (FAO), an MSP to be thoroughly representative must consist of at least three stakeholder groups/sectors such as governments, ministries and agencies, Civil Society Organization (CSOs), non-governmental organization (NGOs), academia, local authorities, private sector, professionals, notaries, etc. (FAO, 2020: 5). MSPs definition cover for partnerships, platforms, coalitions, alliances or networks (Stern et al, 2015) in place to coordinate activities on land. Their nature can be formal and institutionalized by ministerial decree like in the case of Niger and Chad, or informal like the examples in Senegal and Togo.

1.1 Methodology

1.1.1 Light qualitative ex-post evaluation

This paper is the result of a light qualitative ex-post evaluation of the approaches developed by the Food and Agriculture Organization of the United Nations (FAO) and the International Land Coalition (ILC) and other partners in the field of land governance over the last 15 years. An ex-post evaluation is defined as a performance or impact evaluation that examines a strategy, project, activity, or intervention at least one year after it has ended. Ex-post evaluations can help determine if a policy

¹ The Sustainable Development Goals (SDGs) promote the principle of inclusion through the «*Leave no one behind*» approach.

² This document states that Regional Economic Communities are invited to “convene periodic regional platforms to facilitate experience sharing, lessons learnt and dissemination of best practices in land policy formulation, implementation and monitoring based on members states experiences”

³ AUC-ECA-AfDB, Framework and Guidelines on Land Policy in Africa. Land Policy in Africa: A Framework to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods, 2010, p. 24

intervention has reached the objectives it was aimed to achieve and, if not, for what reasons. This in turn can provide useful lessons for the better design of future interventions. Such assessments also provide greater transparency about the work undertaken by policy institutions and allow successes to be measured and communicated. FAO and ILC have been supporting the MSPs since the adoption of the VGGTs in 2012 and more than a decade after, these experiences are documented enough for a light ex-post evaluation. The ex-post evaluation in this paper is not comprehensive but gives some indication on what we have learnt from MSPs contribution to land policy reforms over the last 15 years: Lessons learnt, including success and challenges to be addressed. The data come from the author's first-hand observations during project implementation, note-taking, interviews, and informal exchanges with participants of dozens of workshops, field missions and capacity development activities undertaken in 11 countries: Sierra Leone, Niger, Liberia, Malawi, Togo, South Africa, Chad, Guinea, Mali, Mauritania, and the Democratic Republic of Congo (DRC). While other countries in Africa may also pursue land reform and may have established a multi-stakeholder platform or committee, these above-mentioned countries are the focus of this paper, from where examples will be drawn. The eleven focus countries all established a multi-stakeholder platform or committee, which in some way or another contributed to a land reform process aiming to improve governance of tenure.

1.1.2 Literature review

As the paper was mainly developed through desk reviews, literature review was critical to gathering needed information on land policy issues and processes. The contribution of MSPs to land policy reforms in Africa is documented in various publications including projects', organizations' and platforms' reports, case studies, and good practices from different sources. On the one hand, FAO's and ILC's rich bibliography provides the basis to understand the context of the emergence of MSPs, their functioning, as well as the global and national land governance environments. Web-based secondary literature searches allowed to identify relevant literature on MSPs and the context of land policy reforms in the region. These searches identified literature from peer reviewed journals as well as publications from research organizations, NGOs, donors and consultancy companies on key land governance concepts and issues including secure property rights, women and youth access and ownership over land, inclusion and land policy reforms. Special attention was paid to gathering and reviewing relevant documents related to country land policy processes. These included especially studies on key national land issues and land policies, which were developed and adopted after the adoption of the F&G and the VGGT. At the country level, major interest was granted to identifying specific initiatives and data geared toward strengthening of women's land rights. On the other hand, the review has helped understand better the African Continental Free Trade Area (AfCFTA) that connects 1.3 billion women and men across 55 countries. With the potential to lift 30 million people out of extreme poverty by 2035, its full success will largely depend on putting in place significant trade facilitation measures and policy reforms, including land policies.

1.2 Results

1.2.1 Land reforms in Africa: history review of the need for inclusive land reforms

The African continent is experiencing rapid transformation in various areas. Such transformations include demographic growth, urban development, rush of investors interested in African farmlands. Most experts consider that if the population growth continues at the current rate, Africa's population will double by 2050, reaching 2.5 billion people⁴. Some of the questions raised by the population boom in Africa include how will the continent feed such a population? The 'youth bulge', with about 60% of the population in Africa under the age of 25 is seen as an opportunity - if young people have opportunities to contribute constructively to the economy - but also a very serious challenge and

⁴ Population Reference Bureau, World Population Data Sheet (2018), <https://www.prb.org/wp-content/uploads/2018/08/2018-World-Population-data-sheet.pdf>

threat to social stability – if work and opportunities cannot be created for the youth⁵. Will the pressure on natural resources exacerbate the negative effects of climate change and therefore, poverty and migration? The demand by foreign and domestic investors for African rural lands, forest and mining concessions are of high concern especially for African CSOs, due to negative effects such as the marginalization of poor rural communities, especially poor African women and pastoral communities (Agunyai & Amusan, 2023). Recent reports have confirmed that this demand for land by investors is continuing, but these investments are failing to deliver the promised and expected results even for many of the investors themselves and often bringing no benefits for local communities. Rather in too many cases, they have led to displacement of local farmers and pastoralists, conflicts with communities and environmental damage⁶. Many other issues including land tenure insecurity, unplanned urban development, non-effective land administration systems and poor capacity to settle land related conflicts, prevent African land resources from being fully and sustainably utilized for development (Wegerif & Ouedraogo, 2022:22).

The endorsement of various international frameworks has provided an impetus to engage land policy reform processes in Africa. For example, the adoption of the Sustainable Development Goals, which has specific land indicators and provisions on land ownership and use, provides a momentum to address land governance issues at various levels. Specific instruments are put in place to guide the land sector towards a holistic approach in addressing land and land governance. These include at the global level the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) and, at the continental level, the “Declaration on land issues and challenges in Africa” adopted in 2009, the Framework and Guidelines on Land Policy in Africa (F&G). Other instruments focus on specific aspects of land governance such as: the Guiding Principles on Large-Scale Land-Based Investment in Africa; the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, the United Nations Declaration on the Rights of Indigenous Peoples, and the recent Agreement establishing the African Continental Free Trade Area (AfCFTA) with its related Protocol on Trade in Services. The below table provides examples on the evolution on land policies, legislations and frameworks in some African countries in Sub-Saharan Africa since the adoption of the “Declaration on land issues and challenges in Africa” in 2009 and the F&G in 2011.

Table N°1. New land legislation and frameworks in SSA countries since the AU Declaration and F&G. Source: Authors (Essimi and Gaarde, 2023)

#	Country	Date	Denomination	Links
1	Benin	May 2017	Loi n° 2017-15 modifiant et complétant la Loi n° 2013-01 du 14 août 2013 portant code foncier et domanial en République du Bénin.	https://faolex.fao.org/docs/pdf/Ben174252.pdf & https://www.droit-afrique.com/upload/doc/benin/Benin-Code-foncier-domanial-2013.pdf
2	Botswana	Aug 2015	Botswana Land Policy	https://faolex.fao.org/docs/pdf/bot196817.pdf
		April 2022	Tribal Land Act (Amendment of August 2018 Act)	https://www.botswanalaws.com/Botswana2018Pdf/1of2018.pdf
3	Burkina Faso	June 2009	Loi 034/2009 portant régime foncier rural au Burkina Faso	https://ouagadougou.aics.gov.it/wp-content/uploads/2021/07/Loi-034-2009_AN-compressed.pdf

⁵ <https://mo.ibrahim.foundation/news/2019/africas-first-challenge-youth-bulge-stuck-waithood>

⁶ <https://landmatrix.org/resources/land-matrix-analytical-report-iii-taking-stock-of-the-global-land-rush/>

4	Burundi	Aug 2011	Loi n° 1/13 du 9 août 2011 portant révision du code foncier du Burundi	http://www.droit-afrique.com/upload/doc/burundi/Burundi-Code-2011-foncier.pdf
5	Congo (the Popular Republic)	June 2018	Loi n° 21-2018 du 13 juin 2018 fixant les règles d'occupation et d'acquisition des terres et terrains	https://www.sgg.cg/10/2018/congo-jo-2018-25.pdf
6	Democratic Republic of Congo	Nov 2021	Document de politique foncière nationale	https://medd.gouv.cd/wp-content/plugins/download-attachments/includes/download.php?id=7452
7	Gabon	Aug 2012	Loi n°3/2012 du 13 août 2012 portant ratification de l'ordonnance n°5/2012 du 13 février 2012 fixant le régime de la propriété foncière en République gabonaise	https://www.mays-mouissi.com/wp-content/uploads/2015/03/Loi-regime-proprietee-fonciere-Gabon.pdf
8	Ghana	Dec 2020	Land Act	https://faolex.fao.org/docs/pdf/gha208918.pdf
9	Ivory Coast	Jan 2017	Déclaration de politique foncière rurale de la Cote d'Ivoire	https://faolex.fao.org/docs/pdf/IVC169735.pdf
		Oct 2019	Loi n° 2019-868 du 14 octobre 2019 modifiant la loi n° 98-750 du 23 décembre 1998 relative au domaine foncier rural, telle que modifiée par les lois n° 2004-412 du 14 août 2004 et n° 2013-655 du 13 septembre 2013	https://lexterra.ci/data/domaine/foncier%20rural/01%20Loi%20DFR/2019-10-14%20L2019-868%20publi%C3%A9%20au%20I.O.pdf & https://lexterra.ci/data/domaine/foncier%20rural/01%20Loi%20DFR/1998-12-23%20L98-750%20DFR%20modifiee%202004.pdf
10	Kenya	Aug 2009	National Land Policy	http://extwprlegs1.fao.org/docs/pdf/ken163862.pdf
		Aug 2016	Community Land Act	http://kenyalaw.org/kl/fileadmin/pdffdownloads/Acts/CommunityLandAct_27of2016.pdf
		Oct 2017	National Land Use Policy	https://www.lands.go.ke/wp-content/uploads/2018/06/SESSIONAL-PAPER-NO.-1-OF-2017-ON-NATIONAL-LAND-USE-POLICY.pdf
11	Lesotho	June 2010	Land Act	https://faolex.fao.org/docs/pdf/les119080.pdf
12	Liberia	May 2013	Land Rights Policy	https://www.land-links.org/wp-content/uploads/2013/05/Land-Rights-Policy-Draft-4.14.13-Version-for-Pres-Cabinet-May-17-0.pdf
		Sept 2018	Land Rights Act	https://faolex.fao.org/docs/pdf/lbr182407.pdf
13	Madagascar	July 2022	Loi n° 2022 - 013 portant refonte des règles fixant le régime juridique de la propriété foncière privée non titrée	https://www.assemblee-nationale.mg/wp-content/uploads/2022/08/Loi-n%C2%B0-2022-013-propri%C3%A9t%C3%A9-priv%C3%A9-non-titr%C3%A9.pdf
14	Malawi	Sept 2016	Land Act	https://faolex.fao.org/docs/pdf/mlw170885.pdf

			Customary Land Act	https://faolex.fao.org/docs/pdf/mlw170882.original.pdf
		April 2018	Customary Land Regulations	https://faolex.fao.org/docs/pdf/mlw187966.pdf
15	Mali	Dec 2020	Ordonnance n°2020-014/PT-RM du 24 décembre 2020 portant Loi domaniale et foncière	https://faolex.fao.org/docs/pdf/mli206289.pdf
16	Mozambique	Nov 2022	Política de Terras e a Estratégia de sua Implementação	https://faolex.fao.org/docs/pdf/moz214718.pdf
17	Namibia	June 2012	Flexible Land Tenure Act	https://www.lac.org.na/laws/2012/4963.pdf
18	Niger	September 2021	Politique foncière rurale du Niger	https://faolex.fao.org/docs/pdf/ner208998.pdf
19	Rwanda	June 2013	Organic Law n° 03/2013/OL of 16/06/2013 Repealing Organic Law n° 08/2005 of 14/07/2005 Determining the Use and Management of Land in Rwanda	https://faolex.fao.org/docs/pdf/RW A132027.pdf
			Law n°43/2013 of 16/06/2013 43/2013 Governing land in Rwanda	
		June 2019	National Land Policy	https://faolex.fao.org/docs/pdf/rwa195925.pdf
20	Senegal	Oct 2016	Document de politique foncière (Draft, Version définitive)	http://extwprlegs1.fao.org/docs/pdf/Sen182115.pdf (Not adopted yet)
21	Sierra Leone	Aug 2015	National Land Policy	http://extwprlegs1.fao.org/docs/pdf/sie155203.pdf
		Sept 2022	Customary Land Rights Act	https://www.parliament.gov.sl/uploads/acts/THE%20CUSTOMARY%20LAND%20RIGHTS%20ACT.%202022.pdf
			National Land Commission Act	https://www.parliament.gov.sl/uploads/acts/THE%20NATIONAL%20LAND%20COMMISSION%20ACT.%202022.pdf
22	South Africa	2017	The National Land Reform Framework Bill	https://www.parliament.gov.za/storage/app/media/Pages/2017/october/High Level Panel/Commissioned reports for triple challenges of poverty unemployment and inequality/Illustrative National Land Reform Framework Bill of 2017 with Land Rights Protector.pdf
23	South Sudan	April 2023	National Land Policy	https://paanluelwel.com/wp-content/uploads/2023/08/South-Sudan-National-Land-Policy-April-2023.pdf
24	Tanzania	2016	National land policy (1995) Reviewed in 2016 ⁷	http://www.tzonline.org/pdf/nationallandpolicy.pdf
25	Togo	June 2018	Loi n°2018-005 du 14 juin 2018 portant Code foncier et domaniale	https://faolex.fao.org/docs/pdf/Tog182170.pdf

⁷ To be confirmed whether the 2016 Draft land policy was adopted.

26	Uganda	Feb 2013	National Land Policy	http://extwprlegs1.fao.org/docs/pdf/uga163420.pdf
27	Zambia	May 2021	National Land Policy	https://www.mlnr.gov.zm/?wpfb_dl=127

1.2.2 The role of the F&G and the VGGT

Through a participatory and inclusive process, the African Land Policy Center (ALPC), formerly known as the Land Policy Initiative (LPI), successfully developed the Framework and Guidelines on Land Policy in Africa (The F&G) adopted by the African Heads of States and Governments in 2011. The F&G is neither a model land policy nor a binding instrument for all African countries. It is rather a set of principles resulting from experiences and lessons (positive or negative), learnt across Africa in the field of land policy development, implementation and monitoring. The F&G was endorsed by the African Heads of State and Government through the adoption of the AU Declaration on land issues and challenges in Africa in 2009. The F&G encourages African countries to build common national visions and consensus on land, through comprehensive land policies developed in a participatory manner. Such land policies should constitute the basis for effective land reforms, including improvements in land laws and land administration systems, aligned with the policy. The F&G also calls for monitoring and evaluation of land policies with a view to allowing proper identification of successes and offering opportunities to timely redress of inadequacies and continuous learning for all stakeholders. In their declaration on land, African Heads of State and Government committed to prioritize the development and implementation of appropriate national land policies that meet the peculiar needs of African countries. To this end, they decided to allocate adequate budgetary resources for national land policy development and implementation processes. Among key commitments made by African leaders, is the decision to pay specific attention to strengthening the land rights of African women. The African Heads of State and Government called upon the Regional Economic Communities (RECs) to convene periodic platforms, with a view to exchanging experiences on land governance among their member states, and to sharing best practices.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) is the first global reference guide to improve the governance of tenure of land, fisheries and forests. It was developed between 2009 and 2012 based on consensus and the broad participation of a wide range of stakeholders including government, civil society, the private sector and academia. The VGGT promote responsible governance of tenure of land, fisheries and forests, with respect to all forms of tenure: public, private, communal, indigenous, customary, and informal. Their overarching goals are to achieve food security for all and support the progressive realization of the right to adequate food in the context of national food security. While supporting efforts towards the eradication of hunger and poverty, the Guidelines are also intended to contribute to achieving sustainable livelihoods, social stability, housing security, rural development, environmental protection, and sustainable social and economic development. The Guidelines are meant to benefit all people in all countries, although there is an emphasis on vulnerable and marginalized people. They also serve as a reference and set out principles and internationally accepted standards for practices for the responsible governance of tenure. They provide a framework that governments, civil society, the private sector and other citizens can use when developing their own strategies, policies, legislation, programmes and activities.

With these new frameworks, around 25 countries (see Table 1) have adopted new land related policies and legislations, taking into consideration their national peculiarities. More and more countries in all sub-regions of the continent are in the process of developing their national land policies with a view to specifically upgrading the policy provisions to the standards of the AU Agenda on Land (Wegerif & Ouedraogo, 2022:22). For instance, Chad and Guinea are examples of currently ongoing inclusive lands policy reforms where the MSPs play a central role in the formulations of

VGGT inspired National Land Policies. Data related to land policy processes are available, but they are not centralized in a dedicated repository to make them easily accessible. An increased number of national land policy documents are being developed through participatory and inclusive approaches. This is in conformity with a key principle outlined in the F&G, as well as in the VGGTs.

The F&G and VGGT have influenced policy and programme development. They have been a source of ideas and guidance, and due to their adoption at an international level they have lent credibility to inputs that draw on them. The VGGT are explicitly mentioned in some policies and it can be seen that new policies and legislation across the countries have moved towards greater compliance with them. In Uganda, the Land Sector Strategy Plan 2013–2023 states that the VGGT were “central to land sector reforms initiated under LSSP-I”, its forerunner, and that the LSSP-II strategy would continue to be guided by them. In Sierra Leone, the groundbreaking 2022 Acts used the guidelines as a reference point for inputs on the new National Land Policy introduced in 2015. The policy itself states that the VGGT “helped in the making of this comprehensive and substantive land policy reform”. In Malawi, the VGGT were used as a “blueprint” for analysis of the draft land bills of 2016. This included the hiring of a lawyer who worked as part of the legislative drafting team with a focus on aligning the legislative framework with the VGGT principles and recommendations. This helped to ensure that most of the key principles were included. Beyond policy influence, the VGGT were used in awareness-raising and advocacy work at local levels in countries like Malawi, Liberia, Sierra Leone, Senegal, Niger, Benin, Chad, Burkina Faso or Madagascar . The VGGT have also been a reference point in engagements with investors that have been organized by civil society and government. (ILC & Welthungerhilfe: 2023)

Table N°2. Overview of the main content of the VGGT. Source: ILC & Welthungerhilfe: 2023.

Principles	Main guidance on good tenure governance
1. Human dignity 2. Non-discrimination	Delivery of services (General Matters, Section 6)
3. Equity and justice 4. Gender and equality	Part 3: Legal recognition and allocation of tenure rights and duties. Including for women, indigenous people and communities and recognition of informal rights. Safeguards and consultation for and with those affected.
5. Holistic and sustainable approach 6. Consultation and participation	Part 4: Transfers and other changes to tenure rights and duties. Including fair markets, public and private investment with no harm done, land consolidation and expropriation only as needed and with fair process, consultation and compensation. Restitution, redistribution and expropriation where needed for justice and equity.
7. Rule of law	Part 5: Administration of tenure. Including keeping of records, fair valuation and taxation, clear spatial planning and dispute resolution.
8. Transparency 9. Accountability	Part 6: Responses to climate change and emergencies. Including appropriate preparedness, risk mitigation and responsiveness to climate change, natural disasters and conflicts.
10. Continuous improvement	Part 7: Promotion, implementation, monitoring and evaluation

In most of the countries, the new/revised legal frameworks are in line with the first four VGGT principles – human dignity, non-discrimination, equity and justice, and gender equality. Most, *African Journal on Land Policy and Geospatial Sciences ISSN: 2657-2664, Vol.? Issue ? (Month Year)*

however, only prohibit discrimination based on gender, with only a few going further to require affirmative actions to ensure more gender-equitable outcomes. The Rural Land Tenure Law in Burkina Faso calls for actions to improve the position of women and youth and, importantly, sets a target of 30% of developed land going to women and young farmers. A large majority of the countries that have introduced new policies or laws in the past decade have included provisions for a minimum number of women (ranging from 30% to 50%) to be members of local land management structures. Principle 5, on taking a holistic and sustainable approach to tenure governance, is not well achieved in any of the countries. Even where there are good intentions, the challenges that undermine the principle include a lack of coordination across government departments, lack of effective land use planning in most contexts, pressures on land from investors and rapid urbanization.

The principle of the rule of law is written into policy and legislation in most of the countries. Yet, unfortunately this is also one of the principles most widely reported as not being a reality in practice, while corruption and elite influence leave many people in poverty feeling that they could not get justice in the courts if their tenure rights were violated. The realization of the principle of accountability flounders in practice on the same failings as in the justice system. The principles of transparency, consultation and participation are relatively strong in policy and in law across the countries, but with mixed experience in their implementation. Of particular interest are the groundbreaking commitments to free prior and informed consent (FPIC), mentioned above, in Liberia and Sierra Leone. These countries, especially Sierra Leone, have gone further than the VGGT in taking a more expansive approach to FPIC, taking it beyond being applicable only for “indigenous” communities, as it is in the VGGT, to having it apply in more situations where community and family land is affected. If implemented, this will significantly raise the level of meaningful participation in decision-making. Sierra Leone’s new National Land Commission Act also sets fresh benchmarks in relation to transparency by explicitly requiring land structures, from local to national levels, to publish activity and financial reports and to make available and searchable the land registry and cadaster information.

1.2.3 How MSPs have contributed to inclusive land reform processes?

The Framework and Guidelines on Land Policy in Africa (F&G) encourage “*the idea of stakeholder and civil society participation [...] to direct and implement public policy.*” Similarly, Paragraph 26.2 of the VGGT highlights that “*States are encouraged to set up multi-stakeholder platforms and frameworks at local, national and regional levels or use such existing platforms and frameworks to collaborate on the implementation of these Guidelines; to monitor and evaluate the implementation in their jurisdictions; and to evaluate the impact on improved governance of tenure of land, fisheries and forests, and on improving food security and the progressive realization of the right to adequate food in the context of national food security, and sustainable development*”. FAO, ILC and other partners have assisted countries in implementing the F&G and VGGT, including those that decided to establish MSPs following this recommendation in the Guidelines.

The role and leverage of an MSP on the reform process depends on its specific objectives and the political context. In countries with MSPs where reforms have taken place in the past 10 years (see table above), there has been a good level of stakeholder consultation and participation in national processes. In these countries, wide consultations at national and local/community levels took place, and civil society engagement was strong. For the development of the Land Policy in DRC adopted in November 2021, the National Land Coalition with the oversight of the National Land Reform Commission (CONAREF) has conducted between 2019 and 2021 consultations with local communities in 28 provinces of DRC. CONAREF officials were satisfied with the data collected and used it twice to revise versions two and three of the land policy document – in April 2019 and September 2020 respectively. The fourth version of October 2021 integrated the data and the concerns of the last six (6) provinces consulted. This last consultation group benefited from a better

participation, following the collaboration between CONAREF and civil society organizations on the preliminary activities in the territories and during the provincial consultation workshops⁸.

In Sierra Leone, the national MSP was the anchor for the preparation of the land policy document including the full set of VGGT principles. These principles provided a basis to review the land policy, ensuring that the new policy recognizes and respects tenure rights, safeguards and protects against threats, promotes the employment of legitimate tenure rights while providing access to justice and preventing disputes, conflicts and corruption. The principles are all core elements designed to ensure public participation, visibility, accountability and transparency. The MSP also contributed to the design of an implementation plan for the land policy, based on a participatory approach with extensive consultation amongst local authorities and civil society. Finally, the MSP brought together almost 300 stakeholders including government officials, parliamentarians, CSOs, academia, the private sector, traditional authorities, religious leaders, landholding families, the media and development partners to discuss the National Land Policy implementation to promote secure tenure rights in the light of the VGGT (FAO 2020: 9). Also in Niger, the national multi-stakeholder committee was established by ministerial decree to play the leading role in the drafting the rural land policy based on a remarkably inclusive approach. After 4 years of national and local consultations led by the Multi-stakeholder committee, the policy was finally adopted in 2019, with strong reference to the VGGT and the F&G. Chad and Guinea are other recent examples of MSPs playing the key role of the land policy preparation process inspired by the VGGT principles and recommendations.

1.2.4 Strengths of MSPs in supporting inclusive land reforms and enacting change on the ground

1.2.4.1 MSPs as institutional framework for action and learning

MSPs can be an institutional problem-solving mechanism seeking to build sustainable solutions to overriding issues. This includes addressing issues related to access to land and other natural resources, stemming from lack of buy-in at multiple levels. MSPs can be a framework for coordinated action based on clear roles and responsibilities. For instance, in Sierra Leone, stakeholders created an institutional framework, which clearly defines the mandates, roles and responsibilities of each actor. The framework consists of a Multi-stakeholder Technical Working Group, a Steering Committee and an Inter-ministerial Task Force composed of six key ministries. The Technical Working Group follows up on stakeholder commitment and monitors the implementation of recommendations, the Steering Committee liaises with the government and the Inter-Ministerial Task Force (IMTF) establishes high-level political support for implementation of the VGGT (FAO, 2020:11). MSPs are also spaces for action and learning to improve governance of tenure. MSP members often request training to develop tools to address specific issues, such as women's access to land, monitoring and evaluation for improved governance of tenure. FAO and other partners have rolled out a broad range of capacity development training for MSP members aiming to strengthen their capacities on specific topics. This includes training on women's land rights, governance of pastoral lands and Private sector involvement in the MSPs. Training courses on stakeholder mapping, preparation of advocacy plans and methods to address power issues can also nurture continuous learning and strengthen capacities of national stakeholders, especially those most affected by food insecurity to engage in tenure dialogues (Gaarde, 2024-Forthcoming).

MSPs can also have positive impact of inter-regional exchange on issues such as women's empowerment. This was observed during the land reform process in Sierra Leone, where the MSP brought traditional authorities from the North to meet with those from the South: *"In the South, you will find female paramount chiefs, so learning from the South has helped stakeholders learn about cross-*

⁸ More info here <https://africa.landcoalition.org/fr/newsroom/how-ilc-members-helped-design-a-new-land-policy-document-in-dr-congo/>

fitting, where traditional authorities can demonstrate that in the South, women can also be paramount chiefs, a custom we can apply to transfer leadership to women in the North.” (FAO, 2021: 14).

1.2.4.2 MSPs as institutional framework for action and learning

MSPs can be a unique forum that enables women to engage in discussions about improving governance of tenure. While women are the primary contributors to national food and agricultural production, in many countries, women remain excluded from decision-making processes affecting their access to and control of land and livelihoods. MSPs can contribute to empowering women to have an active role in decision-making processes while improving women’s access to land. In some countries the multi-stakeholder nature of MSPs has helped to change the government’s perception of the role of women in improving governance of tenure. For instance, government officials in Niger stated that before the multi-stakeholder committee came together, they were not aware of the role that women’s organizations could play in discussions on the tenure reform process, with women practically absent from this debate. VGGT trainings for members of the national multi-stakeholder committee made women more aware of and confident in speaking about their rights. As a result of the active role women started to play in the tenure debate, the national women’s organization was nominated to hold the Vice-presidency of the multi-stakeholder committee in charge of preparing the land policy. This example shows how an MSP can help women’s empowerment and increase awareness about the role and responsibilities women have in improving governance of tenure. In Mali, the local MSP in Kayes actively contributed to the enforcement of the Agricultural Land Law (Loi Foncière Agricole), which states that 15 percent of land developed for agricultural purposes must be allocated to women and youth organizations located in the region. Moreover, Decree N°2018-0333/PRM states that each village land commission (Commissions Foncières – COFO), established by law to ensure improved land governance, should include at least one woman (FAO, 2021).

1.2.4.3 Linking to the local realities to create positive changes on the ground

The VGGT (para 26.2) encourage the set-up of multi-stakeholder platforms and frameworks at local, national and regional levels to improve and monitor responsible governance of tenure. During the first years of VGGT implementation (2014-2018), MSPs linked to land tenure were mainly established at the national level. More recently (from 2018 onwards), this new multi-actor governance model has been replicated in several countries at the local level, as a solution to local struggles with tenure problems to secure their livelihoods. It is precisely at this level where decisions to improve governance of tenure often need to be taken to improve the daily lives of peoples in rural and urban areas. Whereas the characteristics and objectives of national and local level MSPs as an inclusive space to find common solutions to complex tenure issues are the same, the results at local level are often more “hands on” (FAO 2021: 34).

National level MSPs normally focus on building inclusive multi-stakeholder dialogues and contributing to national tenure reform processes, while the results at the local level aim mainly to MSPs at multiple levels to solve specific problems faced by people in a local area and context. A few examples worth mentioning are the training of paralegal experts to resolve local land disputes and facilitation of land titling as well as the development of local land charters in Senegal, and the creation of village land commissions (Commissions foncières villageoises) as an instrument for local populations in the management of land in the Kayes region in Mali. While local MSPs mainly focus on solving tenure issues at the local level, these local level experiences can provide input on the land agenda at national level (FAO 2021:11).

MSPs can also play a pivotal role in local conflict prevention and mediation. In many countries in Africa, conflicts between pastoralists and farmers – amongst community members due to the lack of access to land and natural resources – are threatening food security. MSPs can be viable mechanisms for local solutions to enhance peace and mitigate conflicts. For instance, in Mali, the MSP in Kayes

fosters dialogue and trust building between different stakeholder groups, e.g. pastoralists and farmers may reach an agreement on issues such as mobility and corridors. A local MSP supported the establishment of village land commissions (COFOs) in initial land rulings (e.g., a case will be brought to the tribunal only if it cannot be solved by the COFO). This has also been used to change local judges' approach to land tenure conflicts, raising the level of trust between local communities and official legal institutions ((FAO 2021:11). In Senegal, the local MSP in Podor has built strategies and mechanisms to reduce conflicts among community members. For instance, the local MSP supported the setup of a land conflict management committee composed of mayors willing to gather and advise community members on conflict solving (FAO 2020).

1.2.4.4 Multi-stakeholder platforms and the African Continental Free Trade Area (AfCFTA) Agreement

The African Continental Free Trade Area (AfCFTA) agreement is a roadmap which promises to boost the livelihoods of African people. The agreement spans over 54 countries and supports a market of over 1.4 billion people with a combined gross domestic product of USD 2.5 trillion and growing. The AfCFTA recognizes the importance of gender equality and women's empowerment for economic development. The Agreement includes a chapter on gender, which commits signatory countries to promoting women's full and equal participation in the economy, including in trade. While the new free trade area presents an opportunity to boost Africa's share of global trade and achieve the goals of Agenda 2063. Its Implementation of AfCFTA would increase employment opportunities and wages for unskilled workers and help to close the gender wage gap. The continent would see a net increase in the proportion of workers in energy-intensive manufacturing. Agricultural employment would increase in 60 percent of countries, and wages for unskilled labor would grow faster where there is an expansion in agricultural employment (World Bank, 2022:7).

Studies have underlined the importance that the implementation of the AfCFTA needs to be fair and inclusive: gender-based constraints must be removed and women must have an active voice in decision-making processes. Implementing entities and governments must conduct gender analyses and prioritize women's needs and challenges, facilitating their transition to and engagement in increasingly formal markets and value chains. MSPs members, in particular women, may be the direct beneficiaries of the Agreement, with distributional impacts on poverty and employment. Indeed, it is indicated that AfCFTA can lift an additional 30 million people from extreme poverty (1.5 percent of the continent's population) and 68 million people from moderate poverty. MSP may help to support women in overcoming gender-based obstacles in the context of the agreement. For instance, the "Empowering women and boosting livelihoods through agricultural trade: Leveraging the AfCFTA (EWAT) Programme" was developed in 2021 with the objective of promoting women's participation in the AfCFTA, and increasing their access to capacity building and higher-productivity activities, capitalizing on the new opportunities in regional trade created by the AfCFTA agreement, in particular for women agripreneurs to provide innovative solutions to land tenure challenges. MSPs are spaces of dialogue, interaction and capacity building. The MSPs may therefore also play a role when it comes to building the capacities of their members and other stakeholders on the monitoring the implementation of the AfCFTA. Similar to the support these MSPs have provided to land policies reforms across the continent; they may support the development of regulatory regimes especially for land related services.

1.2.5 Discussion: challenges for multi-stakeholder platforms

1.2.5.1 No 'one size fits all' model for MSPs

There is no "one size fits all" in the establishment of an MSP. The leverage of an MSP depends on its specific objectives and the political context. MSPs are also different in nature depending on the composition of the stakeholders and specific country parameters. For instance, in some countries, like Niger, the national multi-stakeholder committee is established by a ministerial decree. This gives

the platform a high and formal profile and in practice means that the organization of meetings requires official invitations signed within the ministry in charge. In other countries, the MSP is not established by a government decree, making the MSP less formalized but in some situations more flexible. In most cases, the MSP is presided by the government (often co-chaired by civil society) and based on common principles and a collective work plan. Despite the different set-up and degree of institutionalization of the MSPs, a common feature that remains is the principles of participation, collaboration and transparency.

1.2.5.2 Challenges of engaging the private sector

Whereas the inclusive nature of MSPs may build stakeholder commitment, one group often remains less represented: the private sector. Private Sector Engagement (PSE) is a strategic approach to planning and programming through which the MSP consults, strategizes, aligns, collaborates, and implements with the private sector for greater scale, sustainability, and effectiveness in achieving people-centred land governance (Nelson V.: 2022). Relationships between civil society and private sector actors can be severely tested by perceived poor/ inappropriate practices and issues such as lack of transparency and corruption. For civil society organizations organized or not around an MSP, engaging with the private sector can be an activity which comes with risks of potential reputational damage, co-optation, and/or wasted efforts. For companies, there may be a lack of trust in CSOs, which have consistently adopted adversarial strategies. PSE could be organized around 5 key steps: (i) Understand private sector engagement; (ii) Consider different broad approaches to private sector engagement; (iii) Select strategic actions in alignment with MSPs principles, approaches, and contexts; (iv) Review platform roles and capacity strengthening priorities; and (v) Develop a strategic action plan.

In Sierra Leone, the MSP successfully broke an impasse between SOCFIN, a company specialized in development and management of oil palm and rubber plantations, and the communities of the Malen Chiefdom. A local level MSP was established in the chiefdom where the company appears to be very gradually opening to dialogue and communication with MAP members. Although a great deal of mistrust continues, more inclusive meetings are now planned, involving decentralized government officers, chiefdom authorities, landowners, the company, media and CSOs.

1.2.5.3 Challenges for sustainability and legitimacy

In some cases, MSPs have faced a lack of clear regulations and agreed procedures for meaningful consultation at community level. In practice, local consultation processes may often reported as being more about forcing through predetermined outcomes than truly involving those affected in decision-making. (Wegerif, 2022:13). Transparency is often limited, especially when it comes to information on mining and large land deals. Positive experiences of meaningful community involvement have tended to come when there are NGOs and international organizations involved. Another main challenge for the MSPs lies in building sustainability beyond the timeline of projects. The MSP overseeing the tenure reform process is a high-level structure that needs constant support whereas Donor-led projects often have 3-4 year timeframe. This makes it important that the MSP is sustained by the country itself - for instance by being included in the Ministry's annual budget - so that the platform is not relying purely on the projects funded by development partners. At the same time, there is risk that the MSP may become a competitive vehicle for funding rather than a strategic platform for dialogue on land governance. MSPs may also risk excluding key actors, if the platform members may not wish to give up space to newcomers. If the MSP is not broad and representative, this may question its legitimacy as a broad inclusive fora.

1.2.5.4 The role MSPs in the implementation and monitoring of reform processes

One challenge for MSP is to continue to be the central inclusive mechanism for the implementation and monitoring of reforms that are long-term processes. Partners may lose interest in supporting MSPs, after the land policy or legal reform process has been concluded. Support to MSPs in the

implementation and monitoring of the reform process. In Niger and Senegal, members of the MSPs suggested the establishment of national land observatories to monitor the ongoing national land reform processes and, more generally, the state of land governance in the country. Land observatories are perceived as a tool to orient and monitor frameworks and policies in place to improve tenure governance. In Niger and Senegal, FAO supported the preparation of a feasibility study, with the objective to analyze the needs and viability of a land observatory in the respective country contexts. The studies were based on participatory methodology with a consultation process to ensure the viewpoints of different key stakeholders were taken into account. Yet, continued support to MSPs in the implementation of land reform processes needs also to be a government priority to ensure sustainability and effective monitoring of the reform processes.

2. CONCLUSION

More than ten (10) years after their adoption, it is clear that the F&G and VGGT have been influential in many countries. They have inspired a number of policy and legal processes, and contributed to raising awareness about the importance of responsible governance of tenure and steps to it from community to national levels. Progress has been made in fields such as recognition and protection of women's land rights and customary tenure rights. The Impact of VGGT is also evident at the local level, thanks to the flexibility of the instrument itself and how it can be used. Especially on the African continent, MSPs are increasingly contributing to shaping the National Land Agenda, including policy, legal and institutional reforms. MSP have supported policy preparation, review of legal frameworks and policy implementation. In line with the principles of the VGGT, the MSPs contribute to building a participatory approach and a holistic vision to address land tenure issues. MSP are learning spaces for increased participation of right holders - those affected by land and food insecurity - in land policy dialogues and decision making on land related decisions that affect their livelihoods.

In countries, where MSPs oversee national reform processes and where improved tenure laws, policies and frameworks are now in place, there is a need to monitor support of implementation and build the bridge between national land reform process and positive change for tenure rights holders. It will be important to ensure mechanisms for documenting and monitoring the impact of what has been done to improve equitable access to land and securing of tenure rights, especially for women, indigenous peoples and other right holders who find themselves in a vulnerable situation. MSPs may also in the future be a space for new themes to be addressed and where people centered data may be collected including related to climate change and trade. With the wealth of experience and lessons learnt from different countries, it is important to document and share lessons learned from the success and challenges faced by the national stakeholders increasingly seeking to promote inclusive land governance through multi-stakeholder platforms for successful land policy reforms in Africa.

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7. ADDITIONAL READING

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8. KEY TERMS AND DEFINITION

“Land governance”: the political and administrative structures and processes through which decisions concerning access to and use of land resources are made and implemented including the manner in which conflicts over land are resolved.

“Land policy”: the set of agreed principles to govern ownership (or access to), use and management of land resources to enhance their productivity and contribution to social, economic, political and environmental development and poverty alleviation.

“Land reform”: a process which involves comprehensive restructuring or redesign of at least three components of the land system; namely its property structure, use and production structure and the support services infrastructure.

“Land tenure”: the nature of and manner in which rights and interests over various categories of land are created or determined, allocated and enjoyed.