Land Governance

Global Soil Week 2019 Outcome Report

Responsible land governance is fundamental for SLM. Land governance "concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which decisions are implemented and enforced, and the way that competing interests in land are managed."[1] Land governance thus provides the framework that guides land tenure systems. This, in turn, is essential for agricultural productivity, reducing poverty resulting from lack of access to land and minimizing conflicts over land.[2] Further, responsible land governance can ensure that benefits derived from land and natural resources are equitably distributed and that they are managed sustainably.[3]

The link between land tenure security and soil conservation has long been recognized.[4] However, SLM remains difficult where secured ownership of, access to and use of land is weak or lacking. For instance, SLM measures require investments that generally manifest in the medium- to long-term,

while implementation costs are mostly allocated in the short term. Farmers who fear losing their land through insecure tenure have little incentive to invest in soil protection measures. Therefore, tenure security, secured access and use rights to land are central for land users to sustainably manage land.[5] Land ownership is further often a requirement to receive benefits generated from SLM, sustainable agriculture and/ or natural resource management (NRM). SLM projects often operate in a context where smallholder farmers, women and other vulnerable and marginalized groups face insecure access to, use of and ownership of land. This provides neither the necessary incentives to employ SLM techniques, nor does it ensure that these groups receive benefits for SLM practices where these are being promoted.

Although recognizing, respecting and protecting legitimate tenure rights that encourage SLM is key, communal land tenure systems that are supporting SLM practices are increasingly coming under pressure. Pastoralism, for instance, can provide an effective rangeland management mechanism. It is often recognized as increasing productivity and food security and conserving wildlife and ecosystem services.[6] In Eastern Africa

1. Palmer, D., Fricska, S., Wehrmann, B. (2009). Towards Improved Land Governance. Land Tenure Working Paper 11. Food and Agriculture Organization of the United Nations.
2. Espinoza, J., Kirk, M., Graefen, C. (2016). Good Land Governance: Between Hope and Reality. Working Paper 11. Food and Agriculture Organization of the United Nations.
3. Espinoza, J., Kirk, M., Graefen, C. (2016). Good Land Governance: Between Hope and Reality. Working Paper 11. Food and Agriculture Organization of the United Nations.
4. See for instance: Holden, S. and Ghebru. H. (2016). Links between Tenure Security and Food Security in Poor Agrarian Economies: Causal Linkages and Policy Implications. CLTS Working Papers 7/16, Norwegian University of Life Sciences, Centre for Land Tenure Studies.; Kabubo-Mariara, J., Linderhof, V. and Kruseman, G. Does land tenure security matter for investment in soil and water conservation? Evidence from Kenya. AfJARE 4(2): 123-139.; Lovo, S. 2016. Tenure insecurity and investment in soil conservation. Evidence from Malawi. World Development, 78. pp. 219-229. ISSN 0305-750X

5. Meinzin-Dick, R., Markelova, H. and Moore, K. (2010). The role of collective action and property rights in climate change strategies. CGIAR CAPRi Policy Brief No. 7. IFPRI: Washington.
6. Neely, C. and S. Bunning. (2008). Review of Evidence on Dryland Pastoral Systems and Climate Change: Implications and opportunities for mitigation and adaptation. FAO – NRL Working Paper. Rome,

and the Sahel region, pastoralist communities contribute significantly to the economies of their countries. However, pastoralists increasingly face socio-political and economic barriers that hinder their mobility and make the sustainable management of rangelands, grasslands and dry lands increasingly difficult. These barriers include the erosion of common property regimes through land privatization, competing land uses and policies encouraging the reduction of livestock numbers.[7] These aspects are exacerbated by the increasingly palpable effects of climate change.

These examples reflect the challenges that persist in the nexus of land governance, SLM and climate-resilient agriculture. During the GSW 2019, opportunities to create an enabling environment that strengthen secure access to, use of and ownership of land, in particular for vulnerable and marginalized communities (e.g. landless famers, women, pastoralists), were analysed.

Experiences from projects presented at the GSW showcase innovative processes to secure access and use rights for farmers, and especially vulnerable groups, that have been developed at the community level with recognition by local authorities. The discussions during the GSW underscored that these social innovations need to be mainstreamed at a broader scale and integrated into legal and regulatory frameworks for their recognition at

municipal and national level and their sustainability in the long run. The strategies listed below have evolved from these workshop discussions, each of them focusing on a particular aspect of an enabling environment for responsible land governance in the context of a sustainable and climate-resilient agriculture.

Photo by Francis Dejon/IISD

STRATEGY 1: Investing in equitable benefit sharing of Payment for Ecosystem Services receipts for the inclusion of landless households who are often left out if benefits are linked to land ownership

Means and ways to achieve equitable benefit sharing:

- *investments in community infrastructure, e.g. equal access to water (ensured through community mapping); construction of schools (Projet Équateur)*
- investing in income generating activities for landless households, such as beekeeping, poultry farming (Projet Équateur)
- *securing land access for SLM farmers through intra-household tenure arrangements to enable farmers to receive carbon benefits (The Kenya Agricultural Carbon Project)*

Italy.McGahey, D., Davies, J., Hagelberg, N., and Ouedraogo, R., 2014. Pastoralism and the Green Economy – a natural nexus? Nairobi: IUCN and UNEP.
7. Neely, C. and S. Bunning. (2008). Review of Evidence on Dryland Pastoral Systems and Climate Change: Implications and opportunities for mitigation and adaptation. FAO – NRL Working Paper. Rome, Italy.

Receipts generated from Payment for Ecosystem Services (PES) schemes are often tied to individual land ownership. During the workshops, PES projects presented approaches to ensure that landless households also benefit from PES receipts. Workshop participants recognized the importance of a broad range of actions to include landless households in PES schemes, such as facilitating the formalization of land lease agreements and intra-household tenure arrangements, investments in communal infrastructure, and the promotion of alternative livelihoods (e.g. honey production, non-timber forest products (NTFP) such as mushrooms, poultry raising, promotion of fruit trees and medicinal plants).

To further support vulnerable groups, workshop discussants suggested that a fixed percentage of the project benefits could be used to support vulnerable and marginalized groups (e.g. indigenous forest dwellers). This approach should be supported by policies that emphasize the protection of vulnerable and marginalized groups.

To ensure coherence of approaches pertaining to this strategy across PES projects, monitoring and evaluation (M&E) systems in terms of implementing the strategy and the associated actions must be developed. The data generated from M&E should then be accessible to all stakeholders involved at different politico-administrative levels (i.e. community, local, sub-national and national).

STRATEGY 2. Securing land access and use rights for women through intra-family tenure agreements

Means and ways to secure land access and use rights for women:

- *investing in sensitising men, educating men and women on women's socio-economic rights to foster a common understanding of the importance of improving women's access to land to build the basis for land leasing agreements on the household level. Men understand the necessity and benefits for women to and importance of women's ability to decide over land use. Land use agreements recognized by customary leaders (Improving traditional systems of soil fertility)*
- *awareness raising on the economic benefits of women's secure access to land; granting men decision-making power over terms and conditions of tenure arrangements when this is necessary to get their buy-in into the process; supporting women in negotiating more rights (if necessary) (Land-access for women through intra-household agreements)*
- *negotiating with Elders to allow women to use designated area of group ranch for permaculture project; men see the benefits of granting women access to land through productivity gains/ yield increase (Laikipia Permaculture Centre)*

Participants highlighted the importance of women's secured access to land through tenure agreements within the family to enable women to invest in soil protection and restoration in the long run. In all cases discussed at the workshops, sensitisation of men and traditional leaders was key to building the foundation for land right transfers from men to women within the household/ family. Civil society (or community-based) organisations facilitated this process and moderated negotiations in land allocation. These organisations played a key role in achieving this aim (see Land Governance, Strategy 6).

Necessary foundations for these tenure agreements are social acceptance (i.e. within the family and community) and validation by local authorities, such as the municipal administration, to make the process legitimate (see Land Governance, Strategy 4). To make these tenure agreements effective in the long-run, formalisation and institutionalisation (e.g. coherence with regulatory and legislative frameworks) are crucial. Again, civil society organisations (CSO) play a key role in advocacy with policy makers.

Furthermore, it was noted that tenure arrangements should not only cover land-use rights but also access to land. Land-use agreements need to provide clarity regarding the time duration of the agreed terms. Secondly, ensuring secured access to land for women on the household level should not be an end in itself. To ensure that women's secured access to land beyond the ties of marriage is taken into account, tenure agreements should be made not only on the household but also on the family level. For example, in the case of Land-access for women through intra-household agreements, women may lose their land use rights in case of divorce.

To further strengthen women as autonomous actors, policies should eventually enable them to access different tenure regimes independently of their status within their household and family, by securing and legally protecting women's tenure rights through land redistribution mechanisms. The outcome of this discussion led to the formulation of an additional strategy:

Give women full authority over land (not only through husbands) and secure and legally protect women's tenure rights through land redistribution mechanisms

STRATEGY 3: Securing land use rights for landless/land scarce households through community-led land lease agreements

Means and ways to secure land use rights for landless/land scarce households:

- *drafting land lease guidelines at community-level, facilitated by a community-based organization, for landless and land-scarce farmers to adopt SLM practices (Community Land-lease guidelines)*
- *supporting lease arrangements between landowners and landless households eligible*

for REDD+ benefits facilitated by the provincial government in collaboration with village leaders (chefs de terre) (Projet Équateur)

- *Land use rights secured by increasingly formalising land lease contracts, with community-validated land lease processes as a first step where other legal structures are missing. Written contracts between landowners and land tenant clarify the terms of the lease, for instance the terms of ownership and payment. This motivates both parties to enter the agreement when official land lease guidelines are lacking (Improving traditional systems of soil fertility)*

Participants of the workshops highlighted the importance of locally developed formal land lease agreements as key for landless and land-scarce farmers to engage in SLM. This strategy is especially important against the background of unregulated lease agreements. Informal lease agreements made without witnesses often lead to landowners breaking contracts and other issues, such as crop theft, damage of crops without compensation, and conflicts over arbitrary changes of boundaries. The development of community-led land lease guidelines that are accessible to smallholder, resource-poor farmers was presented as an innovative response to these issues, especially where national guidelines often are too time and resource intensive. The formalisation of such land lease agreements portrayed by the projects presented at the GSW was crucial in two aspects: 1) to enable landless households to engage in SLM, and 2) to allow farmers to participate and benefit from projects capturing PES.

In developing lease agreements, a bottom-up approach (i.e. community-driven and giving local actors a lead role in design and implementation) is crucial to make them context-specific and legitimate within the respective communities according to workshop participants. In the project experiences presented, this meant to involve the community and other local actors (e.g. village chiefs, extension officers, etc.) when designing these guidelines. Once these guidelines had been drafted, they were endorsed by local authorities (see Land Governance, Strategy 4). Community-based organizations (CBO) played a key role in facilitating the development of such guidelines (see Land Governance, Strategy 6).

For these community-developed guidelines to be sustained, coherence with national legal frameworks is essential. This can be achieved by consulting with legal experts and authorities throughout the design process. Further, the agreements eventually need to be institutionalized and legalized to ensure their sustainability. Participants identified that strengthening the advocacy work of civil society organizations among policy and decision makers at the sub-national and national level is key.

Photo by Francis Dejon/IISD

The discussions further addressed strategies that ensure the inclusion of vulnerable and marginalized groups, such as groups who lack financial resources to lease land. Establishing revolving funds and linking these groups to institutions that can support them are opportunities to strengthen their inclusion in land-leasing processes. Experience from the cases showed that a project that initially targets a specific group of vulnerable and marginalized peoples can be widened in scope to address the entire community once the strategies applied have proven to be successful.

STRATEGY 4: Recognizing community developed/-level land tenure regulations and agreements through endorsement by local authorities

Means and ways to recognize community developed land tenure regulations and agreements:

- *Openly displaying support for the project by community members towards local officials for reopening privatized land (Recommunalization of tenure to secure pastoralist production,*

livelihoods and ecosystem integrity)

- *Official authorities' active participation throughout the process, e.g. mayor chairs important meetings; documentation of land tenure arrangements at municipal office (Land-access for women through intrahousehold agreements)*

- *Strengthening collaboration between local governments, grassroots organizations, and farming communities who serve as drivers of change on the ground; engaging local stakeholders on pertinent issues of land and tree tenure that may hinder adoption of agroforestry with the aim of finding local solutions; linking community to sub-national and national policy processes and commitments (Upscaling Evergreen Agriculture)*

- *legally backing (e.g. through punitive measures) communally agreed SLM bylaws (e.g. the amount of space to leave between crops and stream or agreements on use of vegetative cover to protect soil) at district level to ensure bylaws align with human rights principles and are respected throughout the community (Chia Lagoon Watershed Management)*

- *continuous, intense dialogues throughout the process and involvement of stakeholders in designing the methodological guide for intra-household lease agreements , which builds on local experiences (ownership) (Land access for women through intra-household agreements)*

The discussions on securing land access for

landless men and women reinforced the need of locally developed tenure arrangements being endorsed by local authorities. The discussions showed that land tenure arrangements on the family, household or community level can only be sustained in the long run if they are endorsed by local officials and are aligned with existing policy frameworks. Different strategies have been identified to foster support by local authorities. Amongst others, these included ensuring active participation by official authorities throughout the process by giving them key roles in meetings, strengthening collaboration between local governments, grassroots organizations and farming communities and building an intense dialogue on pertinent land governance-related topics.

The discussion highlighted examples of approaches to this end such as the importance of enforcing community by-laws that decide over access to or use of land by linking them to the existing legal system or traditional government systems. This requires a thorough understanding by all stakeholders of the nature of the agreements. Existing stakeholder platforms and other structures that bring relevant stakeholders together can provide the basis for a common and thorough understanding of all parties involved.

Ensuring that vulnerable and marginalized groups form an integral part of the agreement requires to include them in the design processes for tenure arrangements from the beginning onwards. However, who is considered vulnerable and marginalized differs from community to community and needs to be determined by the community itself.

STRATEGY 5: Enforcing sustainable management of natural resources through communally developed land use regulations

Means and way to enforce sustainable management of natural resources through communally developed land use regulations:

- *locally trusted leaders sensitizing communities on the requirements for SLM to overcome fears and anxieties and convincing land-owners to give secure land access to SLM practicing individuals; SLM commitment forms signed by land users and their farmer organization which acts as the witnessing and enforcing (monitoring) party (The Kenya Agricultural Carbon Project)*
- *local level governance structures coming to an agreement on land management practices to be observed by the entire community, and these being recognized and enforced by the local government (Improving ecosystem services in degraded dryland areas)*
- *reopening privatized land that has been fenced by (1) relying on traditional decision-making procedures to come to decisions supported by the community as a whole; (2) using pre-existing long standing tradition of communal land governance to ensure sustainable management of the land; (3) strong sentiment within community that collective benefits*

override individual benefits to ensure that individuals accept potential trade-offs; (4) community revoked tenure rights amongst each other and were handed over to an elderly within the community (no written but customary agreement) (Recommunalization of tenure to secure pastoralist production, livelihoods and ecosystem integrity)

- *relying on traditional forms of information sharing (e.g. pass-it-on information sharing), community gathering, and consensual decision-making procedures allows communities to develop land-use plans that are supported and implemented by the community (Recommunalization of tenure to secure pastoralist production, livelihoods and ecosystem integrity)*

- *stakeholder consultations (incl. government departments, CSOs, community representative) to agree on stated zonation of the area; Carrying out sensitization and awareness campaigns, to inform community members about decision on settlement and development zones; signage to show restricted area; and participatory process of undertaking the delineation (Conservation Agriculture)*

Community-led decisions on how to sustainably use land are a key step towards SLM, as they reflect an agreed understanding within the community on which methods, tools and procedures are used in land management practices. It is equally important to include communities in decision-making processes when agreements are being

made at the local level. Landowners and land users both influence the use of land. Therefore, it is not only crucial to come to an agreement on land owning rights, but also on land use rights. The cases highlighted different approaches on how communities can arrive at agreeing on how to use and access land (e.g. by relying on traditional decision-making procedures to decide on how to use land) and on how communities can be included meaningfully in land zoning processes (e.g. stakeholder consultations; participatory delineation processes).

Throughout the discussions, it was particularly emphasized that community developed land-use and land-owning agreements need to be based on participatory approaches. Ensuring that these agreements are implemented and enforced requires their formalization and legalization on the subnational and national level. To this end, local and regional actors need to be engaged in the process early on. Municipalities can support SLM on the community level by participatory public budgeting processes that consider the inclusion of vulnerable and marginalized communities.

Summary of the joint discussion on the implementation of Strategy 4 & 5:

To ensure the endorsement of land tenure and land use agreements, actions that need to be taken include establishing local legal mechanisms, building capacities for communities to conduct monitoring and evaluation of the agreed processes,

capacitating paralegals and carrying out social audits to monitor the extent to which services have been delivered by local service providers.

Key to the longevity of both strategies is to devolve power to local and subnational government actors to support locally developed arrangements on tenure and SLM in order to give local authorities sufficient authority to formalize communally developed agreements on land use, land tenure and NRM.

STRATEGY 6: Involve CSO more effectively in advocacy and lobbying to support tenure agreements on family and community level

Means and ways to involve CSO more effectively in advocacy and lobbying to support tenure agreements on family and community level:

- *CSO having long-standing experience in land governance thanks to less staff fluctuation than high-level government staff; and enjoying democratic space to express opinions (Land-access for women through intrahousehold agreements)*
- *intervening organizations having strong ties in the community/region, speaking the local language; and playing the role of a mediator between different interest groups (e.g. project implementers, farmer organisations, local government) (Land-access for women through intrahousehold agreements)*

Throughout the strategies discussed in the dimension of land governance, the key role of civil society organisations was highlighted. CSOs play a key role in many steps of coming to agreements on access and use of land. They can provide initial support in facilitating decision-making within communities, provide sensibilization training or conduct lobby and advocacy work on the community or local level. Where CSOs played a key role in fostering land use and land access agreements, they had enjoyed long-standing trust within communities and long-standing expertise in land governance issues.

Workshop participants therefore acknowledged civil society organizations as key actors in facilitating land use agreement processes. Involving CSOs in project design from the start and offering more opportunities for partnerships through formal conventions support these organizations in fulfilling this role. Furthermore, inclusive and participatory platforms give CSOs a forum for sharing their important lessons learnt with other actors (e.g. from the public and private sector).

STRATEGY 7: Legal recognition, recording and protection of communal land tenure, use and management rights for pastoral communities

The analysis of cases on day 1 of the GSW emerged into a strategy for the legal recognition, recording and protection of communal land tenure, use and management rights for pastoral communities, based on project experiences of the GIZ global

programme on "Soil protection and rehabilitation for food security", both in the Afar region in Ethiopia and in Madagascar, as well as the project implemented by the Pastoralist Development Network Kenya on the "Recommunalization of tenure to secure pastoralist production, livelihoods and ecosystem integrity". The discussions confirmed that often pastoralist communities are a blind spot in the discussions around vulnerable and marginalized communities.

These projects made a strong case for the need of pastoralist communities to have protected land use and management rights in designated areas legally recognized and delineated by the State. Within these areas, pastoralist communities need to have full decision-making power over land use and management. To strengthen communal land tenure, such as often found in pastoralist settings, participants agreed that communal land tenure rights need to be legally recognized, respected and protected.

Additionally, more often than not, decisions made on national level do not correspond with the realities that constitute the everyday life of pastoralists. An opportunity to close the gap between national legislation and local realities is the incorporation of local by-law into national laws. This also requires that communities need to be informed about existing national legal frameworks.

Furthermore, national legislation should be aligned with existing regional and international

guidelines and frameworks (e.g. the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), the Framework and Guidelines (F&G) on Land Policy). The Transhumance Protocol by the Economic Community of West African States (ECOWAS) and the Intergovernmental Authority on Development (IGAD) further provide a framework of reference on how to enable transboundary movements of pastoralists. The recognition and protection of communal land rights can further be strengthened by collecting data on the positive economic impact of pastoralism.

STRATEGY 8: Integrate local regulatory initiatives into policy, legal and institutional frameworks for their sustainability.

The beneficiaries of intra-household agreements, community agreements, or by-laws on land access, use and tenure are often vulnerable or marginalised groups who have little means of accessing land, and to whom these agreements provide a unique opportunity to have secure access, allowing them to invest in long-term land improvements, including the application of SLM technologies. Protecting and ensuring long-term application of the regulatory frameworks that enable these agreements, is crucial in protecting the agreements themselves, and for allowing these schemes to be upscaled.

Strategy 8 stems from the discussions on day 2 of the GSW which revealed that previously developed strategies shared this common need of ensuring the

long-term sustainability of local land use regulatory frameworks. Participants agreed that in order to achieve this, the frameworks must be aligned with and integrated into sub-national, national and/or international legal and institutional frameworks. To achieve this integration, advocacy must sensitize policy and decision makers to first become aware of existing household- or community-based land tenure agreement frameworks. Policy and decision makers should then be encouraged to take the necessary steps to incorporate these frameworks and agreements into current regulation.

Actors currently working on creating such agreements should also be made aware of the importance of aligning the design of their guidelines and procedures with regulatory frameworks at national and/or international level, so that the negotiated agreements may eventually be recognized legally, thereby ensuring the sustained and secure access, use, and tenure of land by their holders.