

The relevance of the FAO ‘*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*’ to the SDC Project ‘*Rights to Land, Information, Networking and Knowledge in Laos*’

Background of Land Governance in Laos

The Lao People's Democratic Republic (PDR) has experienced steady growth rates and significant declines in poverty rates following the opening of its economy in 1986. Increasing regional investment and the government's interest in capitalising on Lao PDR's rich natural resource base have created both opportunities and challenges for sustainable development. The country still possesses vast resources of land. However, as a result of the increasing pressure on natural resources, conflicts and competition over land have risen dramatically in the last couple of years, resulting in food insecurity and poverty, unequal distribution of land, and environmental degradation.

The management of land and natural resources is flawed at various levels: at the local level, there are few mechanisms for rural communities to meaningfully participate in decision-making about land and natural resources. Villagers face difficulties interfacing with Lao PDR's government or investors, compromising their ability to represent their own interests regarding land deals and the conditions placed on land development activities. Within the government, administrative processes and staff capacities need to be strengthened to keep pace with the rapid sectoral changes. At the policy level, decisions are often made without knowledge of local realities.

Challenges to the land governance system in Laos

There are many challenges to land governance in Laos:

- The complexity of land governance and regulatory aspects of land rights makes activities to improve land governance difficult and time-consuming
- Increasing land use conflicts – due to population pressure, government policies regarding relocation, and increasing investments in agricultural development – have had a negative impact on food security and poverty, resulting in unequal distribution of land and environmental degradation
- Local government officials and village leaders lack the capacity, resources, tools, and methods to properly support and implement land management-related activities at the local level
- Farmers and local government officials lack awareness and access to information on land and legal rights and responsibilities and often do not understand their rights and responsibilities
- Participatory processes to improve local governance of land and natural resources are not well documented or tested. The level of institutional and human capacity available is a key determinant of improved land governance structures
- Coordination and harmonisation among donors, government agencies, and international NGOs remains inadequate, which leads to overlapping agendas and initiatives and inefficient use of human and financial resources
- There are few feedback mechanisms and two-way communication channels between the levels of local implementation and policy/planning

The SDC project on ‘Rights to Land, Information, Networking and Knowledge in Laos’

The project’s objective is *to improve stakeholders’ (government, civil society, private sector, local communities particularly women and ethnic groups) capacity, knowledge, and participation in decision-making on land-related issues so that rural communities can exercise their rights to manage the land they use in a sustainable and equitable manner.*

Project outcomes

Outcome 1: Platforms for improving coordination and communication of different actors are established to improve local people’s participation in the governance of land and natural resources.

Outcome 2: Local people including women and ethnic groups have improved their livelihood opportunity, access to information, and are able to seek legal advice on land rights and responsibilities.

Outcome 3: Land and natural resource management issues are addressed in an equitable and transparent way thanks to better knowledge and capacities of government agencies, civil society and the private sector.

FAO Voluntary Guidelines

A number of aspects of the Voluntary Guidelines are relevant to the project in Laos. These aspects are contained in various parts of the Voluntary Guidelines, in particular the following parts:

2. General matters
3. Legal recognition and allocation of tenure rights and duties
4. Transfer and other changes to tenure rights
5. Administration of tenure
6. Responses to climate change and emergencies

The following table summarises the aspects of the FAO Voluntary Guidelines that are thematically related to the SDC project in Laos. The table describes and comments on that relationship.

Comparison of provisions in the FAO Voluntary Guidelines with project elements of the SDC project 'Rights to Land, Information, Networking and Knowledge in Laos'

Part of the Voluntary Guidelines	Sub-chapter	Aspect described in the Voluntary Guidelines	Relation to the SDC project	Remark
Part 2. General matters	3. Guiding principle of responsible tenure governance	a. Demands that states recognise and safeguard tenure rights and take measures to identify, record and respect rights holders	<ul style="list-style-type: none"> (a) supports the project in its activities towards improving the general capacity of partners in land governance, socioeconomic assessment and an institutionalised data and information network 	All suggestions in the VG article 3.4 'General Guidelines' are important because the situation in the project areas is such that land is inhabited by people whose tenure rights are not safeguarded
	3.b. Principles of implementation	a. The VG list 10 principles that are to be considered in good land governance b. The VG mention, in numerous statements, the importance of securing land tenure rights and responsibilities for women	<ul style="list-style-type: none"> (a) 3 of the 10 principles listed are also guiding concepts mentioned in the outcomes of the project. These principles are: (1) communication and participation, (2) women's rights and information and rule of law, (3) equity and transparency, knowledge and capacity (b) The gender aspect is central to the outcomes specified for the SDC project as well 	
	5. Policy, legal and organisational frameworks related to tenure	a. Suggests to develop governance systems in a participatory manner and that reforms to any such system should be based on national consensus b. Publication and information about issues in land governance is a strong suggestion in the VG	<ul style="list-style-type: none"> (a) The process suggested in the VG are central to the project concept and guide project activities towards achieving outcome 1 and 3 (b) Information provision is an important element in all three project outcomes 	
Part 3. Legal recognition and allocation of tenure rights and duties	7. Safeguards	<ul style="list-style-type: none"> Suggests that states should identify and safeguard existing tenure rights 	<ul style="list-style-type: none"> This suggestion is important because Laos' poorly defined tenure structure is subject to increasing pressure from consumption and investment. The suggestion in the VG is also important for the SDC project as regards the safeguarding of customary tenure rights 	
	8. Public land, fisheries and forests	<ul style="list-style-type: none"> Suggests that individual actors and institutions need to be well trained and equipped to carry out an effective role in land governance 	<ul style="list-style-type: none"> Reinforcing human and institutional capacities should be a central role for the project because the VG provisions stipulate that states should carry out that role, if (financial) 	

Part of the Voluntary Guidelines	Sub-chapter	Aspect described in the Voluntary Guidelines	Relation to the SDC project	Remark
			resources permit. Given that financial resources are always scarce in public administration, the SDC project may act as a valuable support instrument	
	9. Indigenous peoples and other communities with customary tenure systems	<ul style="list-style-type: none"> a. All of subchapter 9 deals in detail with the need to identify and grant tenure rights and responsibilities to those holding some form of customary land rights. Participation is a very central element in this suggestion. b. Another suggestion (9.8) actually calls for direct protection of unauthorised use of land that is under some form of customary land law. 	<ul style="list-style-type: none"> • (a) this is relevant for the project because outcome 2 specifically mentions 'ethnic groups' (often holding customary land titles) and the need to improve their via more secure land holdings • (b) this is an interesting suggestion because it assigns the state an active protective legal role in case customary land systems are threatened by external or internal investment pressure 	
Part 4. Transfers and other changes to tenure rights and duties	12. Investments	<ul style="list-style-type: none"> • The chapter considers that investments into natural resources can be beneficial to achieving food security and general development under the condition that smallholder production is not compromised by investments and changes in land use. The VG also suggest defining investment codes to make investment objectives and contexts more transparent. 	<ul style="list-style-type: none"> • Support in defining an investment code could be a relevant activity, under outcome 2 of the project 	
Part 5. Administration of tenure	17. Records of tenure rights	<ul style="list-style-type: none"> • Suggests that tenure rights of all kinds (official, customary, informal) be recorded in a public system and be actively made available 	<ul style="list-style-type: none"> • Corresponds to activities of the project under outcome 1 and 3 (mentioned above) 	
	21. Resolution of disputes	<ul style="list-style-type: none"> • Suggests that, in case of conflicts, alternative forms of dispute regulation, besides the official legal redressal system also be considered. 		