

Fold-out User Guide to the analysis of governance, situations of human rights violations and the role of stakeholders in relation to land tenure, fisheries and forests, based on the Guidelines

The Tenure Guidelines use technical language, which is not always easy to understand for those who are not used to reading this kind of text. Grassroots communities, organisations and social movements have different ways of expressing themselves. They use different vocabulary and at times they have a different vision of the commons. However, it is important for them to become familiar with the document and to take ownership of the language. It is not about replacing their own language and ways of expressing themselves with the technical language used at some international forums, but rather about understanding and being able to handle this kind of language. This can be helpful when it comes to using the Guidelines and other instruments more effectively in order to back their demands, claims and proposals.

The Tenure Guidelines address many issues related to the management and use of land, fisheries and forests. At times it can be difficult and frustrating to have to read through the whole document if the reader is looking for the parts most relevant to a specific situation or problem. For this reason, the following table aims to provide guidance and help in reading and using the Tenure Guidelines. The table is based on some of the most important topics that were identified while drafting the manual. It points out the Guidelines sections and paragraphs that relate to specific topics. It is worth highlighting that not all Guidelines paragraphs are quoted, which does not imply that the parts that are not mentioned are not important or may not be useful. The intention is simply to provide general guidance in order to make it easier to read the Guidelines.

For example, if paragraph 15.1 is highlighted in the context of agrarian reforms, the reader can also read paragraph 15.2 and 15.3 etc. and thus realise that they have addressed their specific problem more widely.

Most paragraphs mentioned are relevant for the analysis of the 9 cases set out in Chapter 2 in light of the Guidelines.

In the third column, the table mentions other international documents that address these issues. It was decided not to add too many links to human rights documents, as they make up the reference framework to the Guidelines.

USER GUIDE



Topic	Relevant sections of the Guidelines	Further relevant documents
Rights to land, fisheries and forests and Human Rights	<p>Paragraph 1.1 establishes that the Guidelines form part of the duties incumbent on a state under international human rights law, and specifically mentions the Universal Declaration of Human Rights.</p> <p>Paragraph 1.1 establishes that the Guidelines form part of the duties incumbent on a state under international human rights law, and specifically mentions the Universal Declaration of Human Rights.</p> <p>Furthermore, it states that the aim of the Guidelines is to improve the governance of tenure of land, fisheries and forests for the benefit of all stakeholders, but with a specific focus on marginalised groups. Specific aims of the Guidelines are to achieve food security, the progressive realisation of the human right to adequate food for all, eradication of poverty, social stability, rural development and protection of the environment.</p> <p>Paragraphs 3B1 to 3B10 set out the principles under which the Guidelines are to be applied, as well as stating some of the key principles of human rights, including human dignity, non-discrimination, equity and justice, gender equality, a holistic and sustainable approach, the rule of law, accountability and continual improvement.</p> <p>Paragraph 3.2 deals with the responsibilities of non-state actors, including private companies, in respecting human rights and legitimate tenure rights. It also highlights the responsibilities states have in ensuring that private companies do not abuse human rights or tenure rights, and in protecting individuals from such abuse. This applies especially to state-owned enterprises, enterprises controlled by the state, or enterprises which receive support from state organs. Additionally, this paragraph makes specific reference to the home State of the company (the country where the companies are headquartered) when foreign or multinational companies are involved.</p> <p>Chapter 4 focuses on rights and responsibilities relating to tenure and highlights that land, fisheries and forests are crucial in achieving human rights, food security, poverty eradication, sustainability of livelihoods, social stability, housing and rural development (paragraph 4.1).</p> <p>Paragraph 4.8 reaffirms that human rights are universal, indivisible, interdependent and interrelated, and states that the governance of tenure of land, fisheries and forests should take into account all civil, political, economic, social and cultural rights. Moreover, it underscores the need to respect and protect the civil and political rights of human rights defenders, and especially the human rights of indigenous peoples, peasant farmers, fisherfolk, pastoralists and rural workers.</p>	<p>- International Covenant on Economic, Social and Cultural Rights (ICESCR)</p> <p>- International Covenant on Civil and Political Rights (ICCPR)</p> <p>- Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security</p>
Recognition of rights to land, fisheries and forests, including ancestral, traditional or informal rights. Community-based systems of self-governance.	<p>The Guidelines introduce the concept of “legitimate tenure rights”, which covers those tenure rights not officially recognised and/or registered, but which nevertheless are deemed legitimate. Chapter 3A defines the general principles of the Guidelines and states that States should identify, register, recognise and respect all legitimate tenure holders and their tenure rights, and safeguard those rights from threats and violations, including protecting the rights holders from forced eviction. Furthermore, the responsibility for States to provide access to justice is underscored, in order to deal with cases of violations of legitimate tenure rights.</p>	

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	<p>Paragraphs 4.4 and 4.5 call on States to legally recognise those legitimate rights which are yet to be officially recognised and/or recorded, and to ensure that people are not subject to arbitrary expulsion.</p> <p>Paragraph 5.3 underscores the need for States to ensure that the policy, legal and organisational framework for the governance of tenure recognises and respects legitimate tenure rights. In particular, this applies to legitimate customary tenure rights which do not currently benefit from legal protection.</p> <p>The paragraph continues stating that States should facilitate, develop and protect the assertion of tenure rights.</p> <p>Paragraph 7.1 stipulates that States should protect secondary tenure rights, such as the right to collect.</p> <p>Paragraph 7.3 emphasises that States should identify all existing rights and rights holders prior to recognising or assigning tenure rights. It continues by saying that indigenous peoples and other communities with traditional tenure systems, as well as farmers, fisherfolk and pastoralists, should be involved in the consultation process.</p> <p>Paragraph 8.2 underlines that States should recognise, respect and protect the legitimate tenure rights of individuals and communities, including communities which have traditional tenure of public land, fisheries and forests.</p> <p>Chapter 9 deals with the recognition and protection of the tenure rights of indigenous peoples and other communities with traditional tenure systems, specifically those with rights to ancestral land. Paragraph 9.2 looks at the self-governance of land, fisheries and forests.</p> <p>The entirety of chapter 10 is devoted to looking at informal tenure and highlights that, amongst other activities, States should promote policies and laws in order to recognise informal systems and rights, and that a participatory process should be employed to achieve the recognition of informal systems and rights.</p> <p>Paragraph 16.1 calls on States to recognise all the legitimate holders of rights, in particular those who are vulnerable or marginalised.</p> <p>Paragraphs 11.5 and 24.3 and chapter 17 state that States should create transparent registers and ensure access to all tenure documentation. Paragraph 17.2 explicitly mentions the register for tenure rights for indigenous peoples and other communities with traditional tenure systems.</p>	
Land, fisheries and forests, which are public or controlled by the public sector, including natural resources which are collectively used and managed (the commons)	<p>Paragraph 1.1 sets out the aim of the Guidelines as being the improvement of governance of tenure of land, fisheries and forests with a particular focus on marginalised groups who therefore should benefit from public land, fisheries and forests.</p> <p>Chapter 8 deals with public land, fisheries and forests (defined as those owned or controlled by States). As part of their obligations, States should:</p> <ul style="list-style-type: none"> - determine their use and control in accordance with the broadest social, economic and environmental aims (paragraph 8.1); - recognise, respect and protect individuals’ and communities’ legitimate rights (paragraph 8.2); - recognise and protect public land, forests and fisheries which are collectively used and managed (also referred to as the commons) (paragraph 8.3); 	

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	<ul style="list-style-type: none"> - determine which public land, fisheries and forests will be attributed to other actors, for example, private companies (paragraph 8.5); - develop policies concerning the use and control of these resources which promote an equitable distribution of profits, through a process of consultation with all stakeholders who could be affected by the use of these public resources (paragraph 8.6); - ensure that the policies used for attributing tenure rights to public natural resources are in line with the broadest social, economic and environmental aims; and include local communities who have traditionally used the land, fisheries and forests when tenure rights are reassigned (paragraph 8.7); - oversee the outcome of allocation programs, focussing especially on the impact per gender in relation to food security and poverty eradication, as well as any consequences for social, economic and environmental aims, and introduce the necessary corrective measures. (paragraph 8.11) 	
Access to land, fisheries and forests	<p>Paragraph 3B2 establishes non-discrimination as a fundamental principle of the Guidelines. This includes discrimination for financial reasons.</p> <p>Chapter 8 deals with public land, fisheries and forests, including their allocation (see "Public land, fisheries and forests").</p> <p>Chapter 11 looks at access to land, fisheries and forests via sale and lease markets. Amongst other important aspects, the importance of the market being fair and transparent is highlighted (paragraph 11.1), as well as the need to regulate the markets so as to avoid any negative impacts on local communities, indigenous communities, and vulnerable groups, which may result from speculation or the concentration of land. It is further stated that States should ensure that small-scale producers and poor or marginalised groups are not discriminated against or excluded (paragraphs 11.3 and 11.8).</p> <p>Paragraph 13.2 refers to the creation of land banks.</p> <p>Chapter 14 deals with the restitution of land, fisheries and forests (see "Restitution").</p> <p>Chapter 15 deals with redistributive reforms (see "Agrarian reform").</p>	<p>FAO Resolution 5/89 "Farmers' rights": plant genetic resources are a common heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations.</p> <p>Recognition of the role of unnumbered generations in their conservation and improvement.</p>
Restitution	<p>Chapter 14 focuses on the restitution of lost tenure rights to land, fisheries and forests.</p>	<ul style="list-style-type: none"> - United Nations "Principles on housing and property restitution" - Principle 16, paragraph 16.1: The Rights of tenants and other non-owners : States should ensure that the rights of tenants, social-occupancy rights holders and other legitimate users of land and property are recognized within restitution programmes. To the maximum extent possible, States should ensure that such persons are able to return to and repossess their housing, land and property in a similar manner to those possessing formal ownership rights. - "Basic Principles and Guidelines on the Right to a Remedy and Reparation for

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		<p>Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" - United Nations: Access to Justice and Redress for suffering, especially via restitution or compensation, non-discrimination</p>
Agrarian reform	<p>Paragraphs 15.1, 15.2 and 15.3 recommend that States carry out redistributive reforms of tenure rights to land, fisheries and forests. They should be carried out for social, economic and environmental reasons, and should be seen in the context of high concentration of tenure rights and significant levels of poverty. Equal access for men and women should be guaranteed.</p> <p>Paragraph 15.5 underscores the need to clearly define the aims of any reform programme and the intended beneficiaries. In this context, the following categories are mentioned: families seeking homegardens, informal settlement residents, pastoralists, historically disadvantaged groups, marginalised groups, youth, indigenous peoples, gatherers, and small-scale food producers.</p> <p>Paragraph 15.6 emphasises that States should ensure that policy and laws regarding agrarian reform help beneficiaries (communities, families or individuals) to obtain an adequate standard of living from the land, fisheries and forests that they receive.</p> <p>Paragraph 15.8 highlights the need to ensure that all necessary support measures are made available to the beneficiaries of the reform so as to allow people the possibility to work.</p>	
Promotion, implementation, monitoring and evaluation of the Guidelines	<p>Paragraphs 5.8 and 8.11 call on States and other actors to periodically revise and maintain oversight of the framework of attribution policies and programmes.</p> <p>Paragraphs 26.1 and 26.5 encourage States to create platforms of stakeholders at local, national and regional levels in order to support the implementation, follow-up and evaluation of these Guidelines. Development partners, UN specialised agencies and regional organisations are also encouraged to support this process.</p> <p>Lastly, all stakeholders are encouraged, including civil society organisations and the private sector, to promote and apply these Guidelines, in accordance with national contexts and priorities.</p> <p>Paragraph 15.8 underlines that the CFS should assess the progress made in implementing these Guidelines, their impact and their contribution to the improvement of the governance of tenure.</p>	
Participation of individuals, communities and social organisations in decision making processes	<p>Paragraph 1.1 establishes that the Guidelines form part of the duties incumbent on a State under international human rights law and sets out the aim of the Guidelines as being the improvement of governance of tenure of land, fisheries and forests with a particular focus on marginalised groups. Information and effective participation in decision making processes is one of the core principles of human rights.</p> <p>Paragraph 3B6 sets out an international standard on how to bring individuals into decision making processes which affect them. It explicitly mentions that this requires consideration of</p>	

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	<p>existing power imbalances between different parties (namely between communities, private companies, state bodies, etc.). The Guidelines also explicitly mention consultation as an element of responsible governance in the chapters on:</p> <ul style="list-style-type: none"> - the recognition of different forms of tenure rights (paragraphs 4.4 and 4.10); - the development of policy, laws and procedure (paragraph 5.5); - the use and allocation of public land (paragraphs 8.6 and 8.7); - the recognition of informal tenure systems (paragraph 10.3); - investments (paragraphs 12.5, 12.9, 12.10 and 12.11); - redistributive agrarian reform (paragraphs 15.4 and 15.6); - evictions (paragraph 16.2); - spatial planning (paragraph 20.2); - negotiation and implementation of climate change mitigation or adaptation measures (paragraphs 23.2 and 23.3). <p>Paragraph 9.9 reaffirms the principle for indigenous peoples of free, prior and informed consent.</p> <p>Paragraph 26.2 calls on States to set up or to use existing national multi-stakeholder platforms to implement, monitor and evaluate the impact of the Guidelines on tenure, food security, the realisation of the right to adequate food, and sustainable development.</p>	
Small-scale food producers, local production systems and agro-ecology (Food Sovereignty)	<p>Paragraph 1.1 sets out the aim of the Guidelines as being the improvement of governance of tenure of land, fisheries and forests with a particular focus on marginalised groups.</p> <p>Paragraph 10.3 calls on States to pay special attention to small-scale food producers and tenants when recognising informal tenure.</p> <p>Paragraph 11.2 calls on States to ensure that markets function in such a way as to promote the sustainable use of land, fisheries and forests and environmental conservation, as well as the fair and equitable use of genetic resources associated with land, fisheries and forests, and to increase participation by the poor.</p> <p>Paragraphs 11.8 and 12.2 recognise the importance of small-scale food producers for food security, nutrition, poverty reduction, and environmental resilience.</p> <p>A number of paragraphs call for specific protection for small-scale food producers and their tenure rights in the following contexts:</p> <ul style="list-style-type: none"> - recognition and allocation of tenure rights (paragraph 7.3) - tenure transactions via market operations (paragraph 11.8) - investments involving large-scale transactions (paragraph 12.10) - climate change mitigation and adaptation measures (paragraphs 23.1 and 23.3) <p>Paragraph 12.2 calls on States to support investments made by small-scale food producers. Moreover, it encourages States to support small-scale producer sensitive investments.</p> <p>Paragraph 12.3 states that transactions in tenure rights should be consistent with sustainable human development, focusing on small-scale food producers.</p> <p>Paragraph 12.4 defines responsible investment, which should, amongst other objectives, support local communities, contrib-</p>	<p>Code of Conduct for Responsible Fisheries (1995), paragraphs 6.18, 9.1.4 and 10.1.3: Recognising the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure livelihood, as well as access to fishing grounds, taking into account traditional practices.</p>

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	<p>ute to rural development, promote and guarantee local food production systems, drive sustainable economic and social development, and diversify livelihoods.</p> <p>Paragraph 15.5 calls on States to define the beneficiaries of redistributive agrarian reforms and specifically mentions families seeking allotments, women, informal settlement residents, pastoralists, historically disadvantaged groups, marginalised groups, youth, indigenous peoples, gatherers and small-scale food producers.</p> <p>Paragraph 20.5 states that spatial planning should be a factor in the sustainable management of land, fisheries and forests, including agro-ecological approaches, to deal with the challenges of climate change and food security.</p> <p>Paragraph 20.3 stipulates that States should reconcile and prioritise varied interests in spatial planning and ensure that the needs of different uses - rural, agricultural, nomadic, urban and environmental - are provided for.</p>	
Indigenous peoples and communities with traditional tenure systems	<p>Paragraph 1.1 sets out the aim of the Guidelines as being the improvement of governance of tenure of land, fisheries and forests with a particular focus on marginalised groups.</p> <p>Chapter 9 is devoted to the tenure systems of indigenous peoples (which includes indigenous fishing communities, peasant farmers and pastoralists) and other communities with customary tenure systems. Paragraph 9.5 highlights the recognition of the rights of indigenous peoples to their ancestral land and their protection against forced eviction (paragraph 9.5). Paragraph 9.8 calls on States to work on documenting and disseminating information regarding the characteristics and location of land, fisheries and forests used and controlled by communities in order to avoid conflicting claims. Paragraph 9.9 reaffirms the principle of free, prior and informed consent.</p> <p>The chapter contains various extracts from the United Nations Declaration on the Rights of Indigenous Peoples. It also refers to the International Labour Organization Convention (No 169) and the Convention on Biological Diversity.</p>	<ul style="list-style-type: none"> - International Labour Organization Convention (No 169) concerning Indigenous and Tribal Peoples - United Nations Declaration on the Rights of Indigenous People
Gender equity and women's rights	<p>Paragraph 3B4 emphasises the importance of gender equality in tenure rights. It specifically guarantees equal rights for women and men. Furthermore, States must ensure that women have the same tenure rights and access to land, fisheries and forests, independent of their civil or marital status.</p> <p>The Guidelines also contain detailed provisions on different aspects of tenure where it is key to introduce gender issues and equal rights for women and men, namely:</p> <ul style="list-style-type: none"> - rights and responsibilities related to tenure (paragraphs 4.6 and 4.7); - policy, legal and organisational frameworks, as well as participation in designing them (paragraphs 5.3, 5.4 and 5.5); - protection of women who hold subsidiary or secondary rights, such as gathering rights (paragraph 7.1); - the allocation of public land, fisheries and forests and the impact on food security and poverty reduction (paragraph 8.11); - indigenous women (paragraph 9.10); - the recognition of informal tenure rights and systems (paragraphs 10.1 and 10.3); 	<ul style="list-style-type: none"> - Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

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	<ul style="list-style-type: none"> - the involvement of women in negotiations for investment projects (paragraph 12.11); - the restitution of land, fisheries and forests (paragraph 14.4); - redistributive agrarian reform (paragraph 15.9); - spatial planning (paragraph 20.2); - access for women to dispute resolution mechanisms and services (paragraph 21.1); - conflict situations and procedures for restitution, rehabilitation and reparation (paragraphs 25.4 and 25.5); - establishing national dialogue platforms (paragraph 26.2). 	
Youth	<p>Paragraph 1.1 sets out the aim of the Guidelines as being the improvement of governance of tenure of land, fisheries and forests with a particular focus on marginalised groups. In certain local and national contexts, youth can be especially discriminated against and marginalised. Consequently, particular attention needs to be paid to this issue.</p> <p>Paragraph 3B3 establishes equity and justice as key principles for the application of these Guidelines. It emphasises the fact that the recognition of equality between individuals may require the acknowledgement of differences between individuals, and the adoption of positive measures, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests for all, including youth.</p> <p>Paragraph 15.5 calls on States to identify the beneficiaries of redistributive agrarian reforms and mentions, among other groups, the youth.</p>	
Protecting those who act in defence of rights to land, fisheries and forests, and access to justice	<p>Paragraph 3A4 highlights that States should ensure access to justice to combat infringement of legitimate tenure rights.</p> <p>Paragraph 4.8 underlines the need to respect and protect the civil and political rights of defenders of human rights, especially the human rights of indigenous people, peasant farmers, fisherfolk, pastoralists and rural workers. Special emphasis is placed on the fact that States should ensure that their human rights obligations are observed in relation to associations and individuals who act in defence of land, fisheries and forests.</p> <p>The Guidelines also affirm that States should facilitate access to judicial and administrative bodies which provide “timely, affordable and effective means of resolving disputes over tenure rights” (paragraph 4.9). States should also consider providing support to individuals who are unable to participate in the judicial process (paragraph 4.7).</p> <p>Paragraph 7.3 underscores that States should facilitate access to justice to those who feel their rights have not been recognised.</p> <p>Paragraph 21.1 deals with access to judicial and administrative bodies when disputes concerning tenure rights arise. The Guidelines also call on States to provide legal support to vulnerable and marginalised people so as to ensure access to justice for all without discrimination (paragraph 21.6). In addition, States may consider creating specialised tribunals to resolve disputes relating to tenure rights (paragraph 21.2).</p>	International Covenant on Civil and Political Rights (ICCPR)

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Territory/Holistic approach/Multiple dimensions and functions of land, fisheries and forests and their use	<p>Paragraph 3B5 highlights the importance of recognising that natural resources and their uses are interconnected and adopting a sustainable and integrated approach to their use.</p> <p>Paragraph 5.3 recognises the social, cultural, economic and environmental importance of land, fisheries and forests and calls on States to ensure that policy, legal and organisational frameworks reflect this fact. It further highlights that these frameworks should reflect the interconnection between land, fisheries and forests and their uses, and an integrated approach should be taken to their management.</p> <p>Paragraphs 9.1 and 9.7 call on States and other actors to recognise that land, fisheries and forests have a social, cultural, spiritual, economic, environmental and political value for indigenous peoples and other communities with customary tenure systems, and to take these values into account when drafting policies and laws.</p>	
Obligations upon States	<p>Paragraph 3.1 specifies that States have the duty to recognise and respect legitimate holders of tenure and their rights; to safeguard legitimate tenure rights against threats and infringement; to promote and facilitate the use of legitimate tenure rights; to provide access to justice in cases of infringement of legitimate tenure rights; and to prevent disputes.</p> <p>Paragraph 3.2 confirms that States also have the duty of effectively regulating business enterprises to ensure they do not violate neither tenure nor human rights, as well as the duty of holding them to account. Furthermore, States, as well as the home States of private enterprises, must provide effective legal protection, access to justice, remedy and reparation to those who have seen their tenure or human rights violated by private enterprises.</p>	
Responsibilities of non-state actors, especially business enterprises Main beneficiary groups	<p>Paragraph 3.2 underscores the responsibility that businesses have to respect legitimate tenure rights and human rights. All businesses should act with due diligence to ensure their activities and operations do not affect legitimate tenure rights and human rights. They should also establish grievance mechanisms for possible infringements of rights.</p>	
Transboundary matters	<p>Paragraphs 1.1 and 1.2.4 indicate the main intended beneficiaries of the Guidelines: indigenous peoples, peasant farmers, fisherfolk, pastoralists, forest users, small-scale producers, rural workers, communities with customary tenure systems, vulnerable and marginalised groups.</p> <p>Where relevant, these Guidelines apply to situations that these groups may be faced with. In certain cases, the Guidelines contain specific provisions to protect these groups. This is the case with chapter 9, which looks at indigenous communities and other communities with customary tenure systems, as it is with fishing and pastoral communities.</p> <p>Paragraphs 22.1 and 22.2 deals with transboundary tenure rights, which are of special importance for migrant fishing and pastoralist communities.</p>	

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	<p>Chapter 22 focuses entirely on matters relating to the governance of land, fisheries and forests which traverse national borders.</p> <p>Paragraphs 22.2 and 22.3 underline the importance of States improving the governance of transboundary tenure, paying particular attention to protecting the livelihoods and rights of pastoralists and fisherfolk. Rangelands and seasonal migration routes of pastoralists are specifically mentioned, as well as the fishing grounds of small-scale fisherfolk. Paragraph 22.3 refers to paragraph 4.8 concerning the protection of all rights linked to the use of and access to land, fisheries and forests, including civil and political rights.</p>	
Evictions and expropriation	<p>Paragraph 4.4 calls on States to provide legal recognition for legitimate tenure rights which are not currently protected by law and to provide all persons with a degree of tenure security, which guarantees them legal protection against forced evictions.</p> <p>Paragraph 7.6 reaffirms that States should prevent forced evictions.</p> <p>Paragraph 9.4 underscores that indigenous communities and other communities with customary tenure systems should not be forcibly evicted from ancestral land.</p> <p>Paragraph 10.6 explicitly stipulates that States should prevent forced evictions of individuals or communities with informal tenure systems and rights, even when it is not possible to provide them with legal recognition.</p> <p>Chapter 16 contains a number of provisions to protect against forced eviction in cases of expropriation.</p> <p>Paragraph 16.1 reaffirms that expropriation is only justified when it is for the general or public purpose, and calls on States to clearly define the concept of public purpose.</p> <p>Paragraph 16.2 highlights the need to inform and consult with all those who will be impacted during each stage of the expropriation process, to consider alternatives to expropriation and evictions, and to be particularly sensitive when the areas hold cultural, religious or environmental interest, or areas which are important for the livelihoods of those affected.</p> <p>Paragraphs 16.7 and 16.8 emphasise that States should avoid evictions and only permit them in cases of general interest, explore alternatives to eviction and involve and consult with the affected communities.</p> <p>Paragraph 16.9 emphasises the need for States to ensure that evictions do not lead to the loss of homes and loss of access to productive resources for the communities affected, nor to put them in a situation where their human rights might be violated.</p> <p>The chapter also highlights the need to provide adequate compensation which can take the form of, for example, money, rights to alternative areas, or a combination of both (paragraphs 16.1 and 16.3).</p>	<p>Basic Principles and Guidelines on Development-Based Evictions and Displacement</p> <p>http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf</p> <p>International Labour Organisation Conventions</p>
Investments/ “land grabbing”	<p>Paragraph 1.1 sets out the aim of the Guidelines as being the improvement of governance of tenure of land, fisheries and forests with a particular focus on marginalised groups. This means that any investments, public or private, should benefit these groups first of all.</p> <p>Chapter 12 focuses in its entirety on investments and has a</p>	

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	<p>number of recommendations for investments in the form of acquisition of land, fisheries or forests.</p> <p>Paragraph 12.2 calls on States to support investments made by small-scale producers given their importance for food security, nutrition, poverty reduction and environmental resilience. The paragraph also recommends investments to support small-scale producers.</p> <p>Paragraph 12.3 states that all transactions should take place in a transparent manner.</p> <p>Paragraph 12.4 defines responsible investments. Responsible investments should do no harm to the environment, respect human rights and provide guarantees against the loss of legitimate tenure rights. The aims of responsible investments include achieving food security, the sustainable use of land, fisheries and forests, the promotion and safeguarding of local food production systems, job creation and compliance with obligations of the International Labour Organisation.</p> <p>Paragraph 12.6 emphasises that States should provide guarantees to protect tenure rights, human rights, livelihoods, food security and the environment from the threat of large-scale transactions in tenure rights. It specifically mentions the introduction of limits for permissible land transactions and rules about how larger transactions should be authorised. Furthermore, the same paragraph recommends promoting investment models which do not require large-scale transfers of tenure rights to investors.</p> <p>Paragraphs 12.9, 12.10 and 12.11 make specific reference to the consultation process for investments. They highlight, amongst other points, that all parties should have access to all the information.</p> <p>Paragraph 12.10 recommends prior independent assessments to examine the possible positive and negative impacts of investments on tenure rights, food security and the progressive realisation of the right to adequate food, livelihoods and the environment. It is stated that is particularly important when large-scale transactions of tenure rights are being considered, in particular the acquisition of land, fisheries and forests. It also emphasises the importance of identifying, in a systematic and impartial manner, all existing legitimate tenure rights and claims to an area, including customary and informal tenure rights. Additionally, the rights and livelihoods of all those who may be affected by an investment should be taken into account, including for example small-scale producers.</p> <p>Paragraph 12.12 underlines that investments should not contribute to food insecurity or environmental degradation.</p> <p>Paragraph 12.15 calls on States that invest or promote investments overseas to ensure that their conduct safeguards legitimate tenure rights and promotes food security.</p> <p>Further recommendations relating to investments or the acquisition of land, fisheries and forests are contained elsewhere in the Guidelines:</p> <p>Paragraph 3B6 sets out an international standard for consultation and participation, which, amongst other points, emphasises that existing power imbalances between parties (namely between communities, businesses, state bodies etc) should be taken into account.</p> <p>Paragraph 3.2 deals with the responsibilities of non-state actors, including private companies, in respecting human rights and legitimate tenure rights. It also highlights the responsibilities</p>	

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	<p>States have in ensuring that private companies are not abusing human or tenure rights, and in protecting individuals from such abuse. This applies especially to state owned enterprises, enterprises controlled by the state, or enterprises which receive support from organs of the state. Additionally, this paragraph makes specific reference to the home State of the company (the country where the companies are headquartered) when foreign or multinational companies are involved.</p> <p>Paragraph 11.2 underscores the fact that States should protect local communities, indigenous peoples and marginalised groups from speculation and the concentration of land, and that they should regulate land tenure markets in order to protect social, cultural and environmental values.</p> <p>Paragraph 11.8 highlights the importance of small-scale producers for national food security and social stability and calls on States to protect their tenure rights in market transactions of tenure rights.</p>	
Speculation and concentration of land	<p>Paragraph 11.2 underscores the fact that States should protect local communities, indigenous peoples and marginalised groups from speculation and the concentration of land, and that they should regulate land tenure markets in order to protect social, cultural and environmental values.</p> <p>Chapter 15 recommends that States carry out redistributive reforms where there are high levels of land concentration and high levels of poverty (see “Agrarian reform”).</p> <p>Paragraph 19.1 recommends the use of taxation to avoid speculation and the concentration of land ownership.</p>	
Mining	<p>The Guidelines do not specifically discuss mining. Nevertheless, the preface mentions that, if so desired, these Guidelines can be applied to other natural resources linked to land, fisheries and forestry, such as water or minerals.</p> <p>In this way, a large part of these Guidelines can be applied to the mining context when mining affects tenure rights to land, fisheries or forests (eg, chapter 12 on investments and safeguards).</p>	<ul style="list-style-type: none"> - United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles) - Convention relating to the Status of Refugees - Protocol of the Convention relating to the Status of Refugees
Armed conflicts and occupations	<p>Chapter 14 deals with the restitution of lost tenure rights to land, fisheries and forests.</p> <p>Chapter 25 recognises the problems of tenure during armed and other conflicts, including occupation. Paragraph 25.2 makes specific reference to the provisions of international humanitarian law and the Pinheiro Principles on restitution for refugees and displaced persons.</p> <p>Paragraph 25.4 emphasises that States should not recognise tenure rights to land, fisheries or forests which have been acquired through force of violence, and that refugees and displaced persons and others affected by conflict should be settled in safe conditions in ways that protect the tenure rights of host communities. It continues by saying that violations of tenure rights should be documented and subsequently remedied, and by calling for the recognition, respect and protection of the tenure rights of refugees and displaced persons.</p> <p>Paragraph 25.5 deals with restitution and voluntary, safe and dignified return.</p>	<ul style="list-style-type: none"> - The Geneva Conventions and their Protocols

Topic	Relevant sections of the Guidelines	Further relevant documents
Corruption	<p>“Paragraph 3A5 calls on States to endeavour to prevent corruption in all forms, at all levels, and in all settings.”</p> <p>Paragraph 6.9 underscores the responsibility of States to adopt and apply measures to fight corruption in relation to governance and tenure rights, such as establishing checks and balances, limiting the arbitrary use of power, resolving conflicts of interest and adopting clear rules and regulations. It also affirms that States should facilitate administrative or judicial review of decisions of implementing agencies. Furthermore, it highlights the importance of transparency and accountability.</p> <p>The Guidelines also specifically highlight the need to prevent corruption in the following areas:</p> <ul style="list-style-type: none"> - review and of the effectiveness of policy, legal and organisational frameworks (paragraph 5.8); - allocation of tenure rights to public land, fisheries and forests (paragraph 8.9); - tenure systems for indigenous peoples and other communities with customary tenure systems (paragraph 9.12); - informal tenure (paragraph 10.5); - markets for tenure rights (paragraph 11.7); - redistributive agrarian reforms (paragraph 15.9); - expropriation and compensation (paragraph 16.6); - records of tenure rights (paragraph 17.5); - valuation of land, fisheries and forests (paragraph 18.5); - taxation (paragraph 19.3); - spatial planning (paragraph 20.4); - resolution of disputes concerning tenure rights (paragraph 21.5). 	<ul style="list-style-type: none"> - United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles) - Humanitarian Charter and Minimum Standards in Disaster Response
Natural disasters	<p>Chapter 23 looks at climate change and states that communities’ tenure rights should be respected and protected from the effects of climate change, particularly those communities who may be displaced as a result.</p> <p>Chapter 24 looks at the governance of land, fisheries and forests when affected by natural disasters. It recommends that States should develop frameworks, which avoid or reduce to a minimum the potential impact of natural disasters (paragraph 24.1). In order to achieve this, adequate prevention, preparation and response measures are necessary. One of the recommendations is to collect information, in a participatory manner, of all existing rights in zones considered to be at risk (paragraph 24.3).</p> <p>Where the resettlement of communities is required (be it temporary or permanent), the Guidelines underscore that States should respect the rights and protect the livelihoods of both the resettled and the host communities (paragraph 24.4).</p> <p>Paragraph 24.5 deals with the reconstruction phase, and states that displaced persons should receive support from the State to voluntarily, safely and with dignity return to their places of origin. The State should also provide means to resolve disputes and use participatory processes if it is necessary to re-establish the boundaries of parcels.</p>	
Climate change	<p>Chapter 23 deals with the respect and protection of tenure rights from the effects of climate change. It explicitly highlights the need to protect family farmers, small-scale producers and</p>	

Topic	Relevant sections of the Guidelines	Further relevant documents
	<p>vulnerable and marginalised persons (paragraph 23.1) and individuals and communities who may be displaced (paragraph 23.2). Moreover, it emphasises the importance of involving everyone affected in the decisions and implementation of mitigation and adaptation programmes, with particular focus on farmers, small-scale producers, and vulnerable and marginalised persons (paragraph 23.3).</p>	
<p>Water</p>	<p>The Guidelines examine the governance of fisheries, but do not deal with water in general. Nevertheless, the preface mentions that, if so desired, these Guidelines can be applied to other natural resources linked to land, fisheries and forestry, such as water or minerals.</p>	

