TOOLS FOR GENDER RESPONSIVE LAND GOVERNANCE IN THE IGAD REGION

PEACE, PROSPERITY AND REGIONAL INTEGRATION

A Gender-Responsive Prototype National Land Policy for the IGAD Region

A TOOL FOR NATIONAL ADAPTATION

Sweden
Sverige

Disclaimer

The findings, interpretations, and conclusions views expressed in this collection are those of the authors and do not necessarily reflect the views and policies of the Inter-Governmental Authority on Development (IGAD), or the governments it represents. IGAD does not guarantee the accuracy of the data included in this publication and accept no responsibility for any consequence of their use. By making any designation of or reference to a particular territory or geographic area, or by using the term 'country' in this document, IGAD does not intend to make any adjustments as to the legal or other status of any territory or area. Nothing herein shall constitute or be considered to be a limitation upon or waiver of the privileges and immunities of IGAD, all of which are specifically reserved.

Inter-Governmental Authority on Development 2020

This publication has been made possible with the financial support of the Embassy of Sweden Addis Ababa.

PEACE, PROSPERITY AND
REGIONAL INTEGRATION

DEVELOPING A GENDER RESPONSIVE PROTOTYPE NATIONAL LAND POLICY:

A Policy Brief[1]

2020

Sweden
Sverige

1 Dr. Frank F.K. Byamugisha (Lead consultant) & Ms. Selam G. Beyene (Gender Expert)

ACKNOWLEDGEMENTS

Effective and equitable land reform implementation may strengthen or even secure the rights of women and marginalized groups, assuring benefits streams to resource users and fostering incentives for sustainable land use and management. This Compendium is a review of existing gender guides on mainstreaming gender in land sector reforms to identify key issues and gaps that policy makers should be aware of and as such improve gender mainstreaming and the application of gender transformative approaches in land governance.

The development of the IGAD Tools for Gender Responsive Land Governance was supported under the Swedish Project – Improving Land Governance in the IGAD Region – with funding from the Embassy of Sweden in Addis Ababa. This product was developed under the unprecedented trying conditions imposed by COVID-19 and associated lockdowns in Member States. We are grateful to the Lead Consultant, Dr Truphena Mukuna, with contributions on Gender provided by the second consultant (and Gender Expert) Griphase Vande Masinde, who worked relentlessly in the preparation of this product. The preparation process was guided by a participatory approach through extensive consultations with the IGAD Land Governance Unit led by Esther Obaikol. We are grateful to the IGAD Directors of Lands Platform, particularly Mr. Augustine Masinde, Mr. Tigistu Gebre-Meskel, Mr. Richard Oput, Mr. Grace Kagoro, Mr. George Riti, Mr. Abdullahi Ahmed Abukar, Special gratitude is owed to the IGAD Senior Management for the support throughout the preparation process. We are grateful to Phoeneixdesignaid for the copy editing and design of this publication.

EXECUTIVE STATEMENT

This Gender Responsive Prototype National Land Policy (NLP) for the IGAD was drafted in July 2020 and submitted to the IGAD for validation by focal points from Member States and representatives of key stakeholders. Due to disruptions to travel by COVID-19, the validation workshop could not be held. Instead of a workshop, the report will be validated by applying the prototype to the formulation of South Sudan's National Land Policy and updating the prototype NLP taking into consideration the findings from the South Sudan experience.

South Sudan already has a draft National Land Policy, but it is outdated in content and in the context in which it is planned to be implemented. Financial and technical assistance arrangements have already been committed by the IGAD to support the review and updating of the draft National Land Policy, using the Gender-Responsive Prototype NLP as a reference. The consultants who drafted the prototype NLP are leading the IGAD TA team that will support South Sudan in the review and update of the National Land Policy which will commence in a few weeks.

After successfully applying the prototype NLP to the South Sudan National Land Policy formulation process and updating it, the final version of the prototype NLP will help Member States of the IGAD to expedite the formulation and adoption processes while also improving the quality of the NLPs, building on past experiences of Member States and on global best practices. It would also help them meet their commitment to develop comprehensive land policies in line with the 2009 African Union (AU) Declaration on land policy issues and challenges. Within the IGAD, only 2 of the 8 Members States have formulated and adopted NLPs. The formulation and adoption processes took them more than 10 years.

The prototype NLP has one additional benefit: it is gender responsive

The prototype NLP has one additional benefit: it is gender responsive. Empirical studies have shown that there are persistent productivity gender gaps in African agriculture, and across the developing world in general, which are an impediment to socio-economic development. It has been shown that improving access of women to productive resources such as fertilizer and land can improve women's agricultural yields by 10 to 30 percent. In Africa, including the IGAD region, women's rights to land and property are limited and often depend on their marital status. Past attempts to address gender inequality in land governance through legal and institutional reforms have not been entirely successful. For example, within the IGAD, while constitutions and land laws mostly provide for gender equality, gender discrimination in accessing and controlling land persists. The interventions, through disparate policy and legal provisions, have not been comprehensive and deep enough to break through the long-standing barriers imposed by customary laws which have locked most women out of landownership. Experience so far suggests that gender discrimination in land ownership is not a standalone matter. Rather, it is a complex issue that needs to be addressed through an integrated approach involving all facets of land governance in order to register success. There is therefore a need to mainstream gender in NLPs and in all instruments of its implementation. This gender-responsive prototype NLP serves as an important tool to meet that need.

INTRODUCTION

Following the launch in 2010 of the African Union Declaration on Land Issues and Challenges in Africa (AU Declaration on Land) and the associated Framework and Guidelines on Land Policy in Africa (F&G), the Land Policy Initiative (now the African Land Policy Centre) and the IGAD decided to embark on developing a regional framework for formulating and implementing harmonized land policies for the IGAD region with funding from the Swiss Agency for Development and Cooperation under the IGAD Land Governance Project which started in 2014. Under the project, a Land Policy Convergence Framework for the IGAD was prepared. The framework seeks to equip Member States with a common reference frame to guide and facilitate the formulation of responsive land policies that guarantee land tenure security, which is indispensable for attaining social peace and sustainable economic development within the region. Overall, the framework would enhance regional integration and development. This Gender Responsive Prototype NLP for the IGAD operates within that convergence framework and provides a tool that the IGAD Member States can use to formulate, on an expedited basis, a gender-responsive NLP that enhances sustainable economic development at Member State level while also promoting regional integration and development.

The framework seeks to equip Member States with a common reference frame to guide and facilitate the formulation of responsive land policies that guarantee land tenure security

UNDERPINNINGS OF THE PROTOTYPE NLP

The prototype NLP has the following main underpinnings:

1. **Vision, principles, and best practices.** The vision, principles and international best practices derive from the African Union (AU) *Framework and Guidelines on Land Policy in Africa (F&G) and the Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forestry* (VGGTs). Together, they form a framework from which Member States can draw to develop their NLPs. The Vision statement, extracted from the AU F&G, puts land policy development at the center of national development, and appeals to African governments to develop land policies in a manner that:

   — is inclusive and responsive to the needs of all land users,

   — contributes to political stability,

   — promotes gender equality,

   — fosters the reduction of conflict,

   — enhances the sustainable development of natural resources,

   — ensures orderly urban development, and

   — puts all stakeholders on the path to higher economic growth and a better quality of life.

Together, the vision, principles and international best practices form a framework from which Member States can draw to develop their NLPs

The **principles**, as articulated in the VGGT, are in two parts: the general principles; and the implementation principles. The **general principles** call on governments to:

— recognize and respect all legitimate tenure rights and the people who hold them,

— safeguard legitimate tenure rights against threats,

— promote and facilitate the enjoyment of legitimate tenure rights,

— provide access to justice when tenure rights are infringed upon, and

— prevent tenure disputes, violent conflicts, and opportunities for corruption.

The **implementation principles** include:

— human dignity,

— non-discrimination,

— equity and justice,

— gender equality,

— holistic and sustainable approaches,

— consultation and participation,

— rule of law,

— transparency,

— accountability, and

— continuous improvement.

This prototype NLP draws from the vision, principles and best practices as laid out in the F&G and the VGGTs as outlined above

This prototype NLP draws from the vision, principles and best practices as laid out in the F&G and the VGGTs as outlined above.

METHODOLOGY

This gender responsive prototype NLP was developed based on an assignment conducted by a team of 2 consultants, a lead consultant, and a gender expert. The methodology used by the consultants was primarily a desk review of literature and analysis of secondary data and previous research on policy reforms to improve land governance. In addition, the consultants consulted with experts from Member States previously involved in the formulation of NLPs, specifically Kenya and Uganda, to learn from their first-hand experiences in land policy formulation processes, especially the application of the principles of consultation, participation, and transparency.

Drafting of the prototype NLP was preceded by preparation and review of an inception report which was validated by IGAD experts through virtual communication. This draft prototype NLP will be applied to the review and formulation of South Sudan's National Land Policy, and the findings from the exercise will be used to update and finalize the prototype NLP.

The methodology used by the consultants was primarily a desk review of literature and analysis of secondary data and previous research on policy reforms to improve land governance

RESULTS AND CONCLUSIONS

The Gender Responsive Prototype NLP draws from the vision, principles and international best practices derived from the African Union (AU) *Framework and Guidelines on Land Policy in Africa (F&G) and the Voluntary Guidelines on the Governance of Tenure of Land, Fisheries and Forestry* (VGGTs). It also builds on processes and experiences from Kenya and Uganda, the only 2 Member States in the IGAD to have formulated NLPs. It will help expedite the formulation of gender responsive NLPs with a view to enhance sustainable economic development at Member State level while also promoting regional integration and development within the IGAD.

Implications or Recommendations

The prototype NLP will be validated by applying it to the review and reformulation of South Sudan's National Land Policy. The findings from the reformulation will be used to update the prototype NLP. Thereafter, it will be submitted to the sectoral ministerial meeting for adoption.

The Gender Responsive Prototype will help expedite the formulation of gender responsive NLPs with a view to enhance sustainable economic development at Member State level while also promoting regional integration and development within the IGAD

REFERENCES AND USEFUL RESOURCES

Africa Union Commission, 2009. Declaration on Land Issues and Challenges in Africa.

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

IGAD/Embassy of Sweden, 2020. A Gender-Responsive Prototype National Land Policy for IGAD Region *(Draft)*

LPI/IGAD, 2017. Mainstreaming Land Governance in IGAD Policies, Strategies and Programs: The Strategy. March 2017.

LPI/IGAD, 2019. A Framework for Formulating and Implementing Harmonized Land Policies in the IGAD Region.

IGAD Secretariat

Ave Georges Clemenceau, Djibouti
P.O. Box 2653, Republic of Djibouti
URL https://land.igad.int/
Twitter @igadsecretariat
Facebook @igadsecretariat