THE CAPACITY OF INTERNATIONAL SOFT-LAW INSTRUMENTS IN ENSURING PROTECTION OF INDIGENOUS PEOPLES FROM LAND-GRAB-INDUCED DISPLACEMENT: THE CASE OF THE VOLUNTARY GUIDELINES

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Author's declaration

I, the undersigned Rima Abu Zaalan hereby declare that I am the sole author of this thesis.
To the best of my knowledge this thesis contains no material previously published by any other person except where due acknowledgment has been made. This thesis contains no material which has been accepted as part of requirements of any other academic degree or non-degree program, in English or in any other language.

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Abstract

The last decades have seen a proliferation of land-based investments all over the world. Actively promoted climate change mitigation agenda partially shifted the focus of 'global land rush' to large-scale land acquisitions for environmental ends such as carbon sequestration, biofuels production, etc. Taking into account generally weak land governance in the countries of the Global South, which are the most attractive for green land investments, large-scale land acquisitions there incur risks of dispossession and displacement of local communities. Indigenous peoples as the most marginalized and vulnerable groups, whose tenure rights are extremely insecure, might be disproportionately affected by 'green' land-based investments. This thesis is concerned with the capacity of the international land governance standards to ensure protection of indigenous communities from land-grab-induced displacement in general and green-grab-induced displacement in particular. It focuses on the VGGT as a key internationally negotiated framework to improve land governance developed in 2012. The analysis provides insights on to what extent the VGGT as a 'soft law' instrument can ensure recognition and protection of indigenous peoples' tenure rights and mitigate the risks of their forced evictions.

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Table of Contents

List of Abbreviations

CSO	Civil Society Organization
EU	European Union
FAO	Food and Agriculture Organization
FPIC	Free, Prior and Informed Consent
ILO	International Labour Organization
NGO	Non-governmental Organization
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
REDD+	Reducing Emissions from Deforestation and forest Degradation plus the sustainable management of forests, and the conservation and enhancement of forest carbon stocks
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UN	United Nations
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

Introduction

Due to the 2007-2008 upsurge in agricultural commodity prices and the ensuing food crisis, the last decades have witnessed a rush of large-scale land acquisitions to produce food, fiber and feed for both international and domestic markets. As global efforts on climate change mitigation were strengthened, there was an upsurge in land grabs not only for the purposes of food or energy security, but also for environmental ends – specifically, for biodiversity conservation, carbon sequestration and biofuels production (Fairhead et al. 2012). While such land-based investments can be viewed as opportunities for both national development and contribution to addressing global problems (e.g. climate change), they also carry risks of carry risks of dispossession and loss of livelihoods for local communities.

Among all the local communities indigenous peoples are believed to be disproportionally affected. They mainly live on the lands governed by customary tenure systems which often lack recognition and protection by national legislation. Insecure tenure and resource rights of indigenous peoples make them particularly vulnerable to forced evictions in case of large-scale land acquisitions. Weak land governance systems in the countries where they live usually do not have enough capacity to protect indigenous communities from displacement.

The potential solution in such situations could be the promotion of land reforms according to international land governance standards which are represented mainly by the VGGT. The VGGT developed by FAO and the World Bank through an extensive process of consultations with an unprecedently wide range of actors. Although the VGGT are considered to be a comprehensive institutional framework for improving land governance at the national level. It is notable that the VGGT are a 'soft law' instrument – they are not legally binding for states which signed up to them and are still characterized with the high level of political weight (Seufert 2013).

While the VGGT is generally seen as a legitimate and effective framework for improving land governance, this thesis is concerned with their capacity to address specific problem of land-grab-induced displacement among all of the potential land-related issues. The case of indigenous communities is the most interesting due to 1) the specifics of their tenure system which could be quite challenging to manage in the societies with weak land governance institutions and which might be the reason for land disputes; 2) the general marginalization of indigenous communities which can be exacerbated by negative effects of large-scale land acquisitions.

The scope of the research is also limited to so called 'green grabbing' and there are several reasons for that. Firstly, large-scale land acquisitions for environmental ends are becoming more common even though their coverage is still less than land grabs for food production. Secondly, green grabs for the purposes of biocarbon sequestration in forests might disproportionately affect indigenous people, in particular, hunter-gathering indigenous communities which might or might not live in the forests but use them as resources hub which is crucial for their livelihood.

To sum up, the research question which is going to be explored could be formulated in a following way: to what extent do the Voluntary Guidelines as an international institutional framework ensure the protection of indigenous communities from the displacement in case of large-scale land

acquisitions? (with a specific interest to green-grab-induced displacement, although the regulatory framework remains the same in both cases).

The research is built within the methodological framework of so called 'mainstream' political analysis (Sabatier 2019) which, in turn, falls within a more broad paradigm of institutional analysis (see e.g. Lowndes 2002). The main object of analysis – the VGGT – constitute an institutional framework which state and non-state actors try to implement at the national level. The research methodology also includes the elements of legal analysis as it is mainly based on the analysis of both international 'soft law' and national 'hard law'. In general, the study falls within a broader research framework on the capacity of soft law, the key feature of which is that it is not legally binding to bring institutional changes to the national context.

The arguments are supported with the country cases which are supposed to illustrate the implementation of international standards on land governance within the specific national context. The process of the selection of the relevant cases is based on three criteria. Firstly, the countries included in the study should have signed up to VGGT and there should be empirical evidence that the guidelines are implemented (by international, national and local NGOs, through FAO-supported programs, etc.). Secondly, indigenous communities should be present in the countries which are selected for the study. Finally, there should be evidence that country is attractive to investors (including government as an investors) in terms of land acquisitions for environmental ends. These might include land-based investments in carbon sequestration, biofuel production, etc. As a result, the research is supported with evidence from a variety of countries of the Global South such as Indonesia, India, Cameroon, Cambodia, etc.

Chapter 1. Connecting land grabbing, climate change mitigation and forced migration

This chapter provides an overview of the phenomenon of land grabbing in general and green grabbing in particular and explains why indigenous communities are specifically affected by large-scale land acquisitions for environmental purposes. Hence, the chapter builds the connection between academic discourses on land governance, climate change mitigation and the rights of indigenous peoples.

1.1 Approaches to conceptualization of land grabbing

The phenomenon of 'land grabbing' refers to large-scale land acquisitions which have been experiencing a boom since the middle of 2000s driven by world food and energy crises. Even though land-based investments are not a new phenomenon, the scope of the so called 'global land rush' of the last decades is considered as unprecedent. For example, according to Land Matrix, large-scale land acquisitions rose over 49 million hectares between 2006 and 2018. Large-scale land acquisitions usually refer to the land deals of over 100 hectares in scale by mainly private but also by public investors, either transnational or domestic. There is quite a wide range of purposes for which lands are sold or leased, including production of agricultural and fuel commodities, conservation of natural resources, etc.

The literature on the topic demonstrates the use of different terms to refer to land investments such as 'land grabbing', 'large-scale land acquisition', etc. which might indicate various approaches towards the conceptualization of the phenomenon. One of the central tendencies in academia is to analyze the global increase of land deals in terms of 'dynamics and contemporary transformation of capitalism' (Hall 2013, p. 1582) following up Marxist tradition. The key notion which the proponents of this approach rely on is Harvey's 'accumulation by dispossession' (Harvey 2003) which is interconnected with Marx's 'primitive accumulation'. Based on these, the terms 'accumulation by displacement' and 'dispossession by displacement' (Araghi 2009) have also been introduced. Within this approach the phenomenon of 'land grabbing' is strongly associated with the concepts of commodification of land, neoliberal policies, enclosure and, in general, is seen as a part of global capitalist accumulation (Borras et al. 2012).

As a development of this academic tradition, latest attempts on elaboration on the issue of 'dispossession' resulted in the introduction of the concept of 'land-grab-induced displacement' (Thomson 2014). Following the critical political economy approach, he distinguishes the forced migration resulted from large-scale land acquisitions from other types of displacement which are a by-product of violent conflicts or natural disasters. What the author suggests with the introduction of a new concept is to build causal relationship between global accumulation dynamics, land commodification and forced displacement which might have been overlooked so far.

Although the radical critique of 'global land rush' highlights essential aspects of large-scale land acquisitions, it might be, to some extent, one-sided due to its ideological rootedness. In particular, the proponents of this approach see large-scale land acquisitions as crisis-driven 'accumulation by

dispossession' assuming that displacement is a key feature of the phenomenon itself (Hall 2013). Such an assumption has several weakpoints. Firstly, the its 'dispossession' aspect lacks empirical evidence. There have been empirical studies demonstrating that land deals are not necessarily accompanied by massive displacement (Edelman et la. 2013, 2016, Cotula et al. 2014). In contrast, these studies tend to highlights the opportunities to development which the deals bring to the particular region. Secondly, the radical approach towards the conceptualization of 'land grabbing' does not focus on opportunities to improve land governance – when land deals are viewed as a part of 'immoral' capitalist accumulation, the problem is seen in the phenomenon itself and, thus, the only possible and effective solution is to block and rollback 'land grabbing' (Borras and Franco 2019). However, taking into account contemporary concerns on food and energy security, climate change mitigation and other issues which significantly depend on the land, the option of banning large-scale land acquisitions cannot be seen as a viable solution.

Radical critique of 'land grabbing' is one of the popular approaches in academia highlighting the problem of forced evictions as a consequence of land investments. It collides with a more neutral approach developed by global land governance practitioners represented mainly by FAO and the World Bank. In 2012 the UN Committee on World Food Security endorsed the VGGT. These are the standards of good governance of land and natural resource tenure developed through inclusive and extensive negotiations. The key objective of the Voluntary Guidelines is to provide practical guidance to a variety of actors, including governments, investors, NGOs, etc. on how to improve governance of land and natural resource tenure, mainly in order to achieve food security and the progressive realization of the right to adequate food.

Applying the standards of good governance to large-scale land acquisitions is one of the specific aspect the VGGT cover. An extensive negotiation process prior to the adoption of the VGGT revealed the conflicting views on the issue of 'land grabbing' – while CSO were strongly advocating for an international ban on 'land grabbing', the governments of some developing countries were highlighting the opportunities which large-scale land acquisitions can bring for the national economic development (Seufert 2013). The final version of the document is closer to the latter position. The terms 'land grabbing' / 'land grabs' are deliberately not used (instead – 'large-scale land acquisitions') in the VGGT as they by default imply forceful and illegal acts which may not necessarily be the case. The technocratic approach promoted by FAO, to some extent, reconciles various positons on the issue of recent 'global land rush' and sees large-scale land acquisitions as a neutral phenomenon located in a continuum between an opportunity for development on one side and forceful dispossession on the other side.

Instead of criticizing land deals per se, FAO focuses on their improvement through legal instruments so that the risks of 'dispossession' could be mitigated. They include securitization of tenure rights, specifically within the customary tenure systems, transparency, participatory techniques, etc. In general, this thesis analyzes how effective the VGGT as an international framework could be in terms of protecting local communities from land-grab-induced displacement. Further sections will narrow down the focus of the research and provide substantive justification for that.

1.2 Interconnection between land grabbing and climate change mitigation policies

Land-based climate change mitigation approaches cover a range of policy, technology and market-based solutions in the agricultural, livestock and forestry sectors. They can include biofuels policies supporting the cultivation of 'flex crops' (Borras et al. 2016), those that have multiple uses, including food, feed, fiber and biofuels, separate production of biofuels, global forest carbon sequestration initiatives to encourage reductions in deforestation, degradation or increases in forest carbon stocks and policy programs to support conservation agriculture to reduce emissions from soils and production cycles in cropping systems.

As it was mentioned in the previous section, in case of large-scale land acquisitions land can have a variety of uses. So called 'green grabbing' represents one particular type of land grabs and generally falls within the same frameworks for conceptualization which were discussed above. The basic definition proposed by Fairhead suggests that green grabbing is "the appropriation of land and nature for environmental ends" (Fairhead 2012, p. 237). In other words, in case of green grabs environmental agendas are the core drivers of the land deals whether through biodiversity conservation, carbon sequestration or biofuels production (Fairhead 2012). The phenomenon is based on historical resource expropriations in the name of the environment but climate change brought a new dimension to the trend and reinvigorated it with the novel discourses around the policy instruments of climate change mitigation (Vigil 2018).

There are several reasons why green large-scale land acquisitions are specifically interested for the current analysis. Even though they are still inferior to land grabs for cash crops in terms of land area (according to Land Matrix, large-scale land acquisitions for biofuels production and carbon sequestration account for their 35.7% of all the land grabs), the growing demand for biofuels is undeniable (OECD/FAO 2018). It could be explained by a variety of factors including climate and energy crises. The role of eco-regulations, specifically the requirements set by EU Renewable Energy Directive should be acknowledged as well. Some authors are quite critical in their evaluating of such regulatory initiatives, for example, highlighting that "EU sustainability criteria seem to be ineffective in guaranteeing and verifying the sustainability of the European land investments in Africa" (Bracco 2015, p.130).

Furthermore, environmental component of the green land-based investments can often be interpreted in order to justify land deals from the position of public (either global or domestic) rather than truly commercial purposes which they serve (Margulis 2016) and in some cases it might create additional challenges for tenure holders in terms of asserting their land rights. Secondly, some forms of green grabbing are particularly interested from the perspective of tenure and resource rights transfer. The key form is carbon sequestration projects, in particular, REDD+ initiatives.

Global land grabbing and land-oriented climate change mitigation are viewed as two of the most essential features of contemporary political economic and ecological changes (Franco & Borras 2019). However, the relationship between them might be controversial. In particular, large-scale acquisitions for the purposes of food security and climate change mitigation may contradict each other. While the search for new sources of food is one of the key drivers of deforestation, carbon sequestration through forests conservation might restrict access to food in some situations (Tehan

et al. 2018, Vigil 2018). At the same time ignoring the need to adopt climate change mitigation policies could exacerbate the threat of global warming on food security (Seo 2012). A stable research framework to connect climate change mitigation with large-scale land acquisitions is yet to be established (Hunsberger 2017). There have been some recent attempts though to connect these issues within the radical political economy framework. For example, Borras and Franco suggest that land grabbing can undermine efforts on climate change mitigation while the latter can constitute, trigger, legitimize or reinforce the former (Borras and Franco 2019).

For the purposes of this thesis it is crucial to understand the connection between climate change mitigation policies and already existing sustainable forms of nature resources management.

1.3. Human rights framework for the protection of tenure rights of indigenous peoples

The VGGT is often referred as human rights-based framework (Duncan 2015, Anthes 2020) that is why it is crucial to understand the general international human rights framework which is relevant for the protection of indigenous peoples.

The analysis is focused on the indigenous communities as they are one of the most marginalized groups who need special protection. Indigenous peoples are particularly vulnerable to a lack of recognition of their rights to land and natural resources. While almost 45% of land globally is held by indigenous peoples through customary tenure, the research by Minority Rights Group International has found that only 12% of land across the world is formally recognized as belonging to indigenous peoples (Minority Rights Group International 2017). The empirical research supports the hypothesis that indigenous communities are disproportionately affected by large-scale land acquisitions, in particular, including those which were committed for environmental ends. For example, there has been evidence for around 72 % of the Peruvian Amazon which were zoned for hydrocarbon activities negatively impact the rights of local indigenous peoples (Finer and Orta-Mártinez, 2010). Another research demonstrates that in Malaysia less than five per cent of Sarawak's rainforests, inhabited mainly by indigenous communities, remain unaffected with land deals (Global Witness, 2013).

Apart from the VGGT, the key institutional framework covering the tenure rights of the local communities is constituted by international human rights law, specifically international law on the rights of the indigenous people. The communities displaced as a result of large-scale land acquisitions may not necessarily represent indigenous people. They could be small-holder farmers, pastoralists, etc. (Liversage 2010). However, the case of displacement of indigenous people is particularly interesting due to their specific connection to land which determines their land rights. It also allows to narrow the focus of the research down.

Indigenous peoples' rights to lands, territories and other natural resources are recognized by international law but there is no specific human rights instrument which precisely secures the land rights of indigenous peoples. Instead, the relevant provisions on this issue can be found in various documents. One of them is ILO Indigenous and Tribal Peoples Convention no. 169. It contains a separate section on land which includes the government's obligation to guarantee effective

protection of indigenous people's rights of land ownership and possession (Article 14) and safeguard their rights concerned to the natural resources pertaining to their lands (Article 15). The problem is, however, that a very few countries in Africa and Asia covering a significant proportion of land deals ratified the Convention.

Another human rights instrument on the issues is the UNDRIP. It connects the indigenous people's access to the land with the a range of rights such as the right to life, the right to self-determination, the right to health, the right to adequate housing (OHCHR 2005). It is particularly important for the discussion on the VGGT as some of the key VGGT principles, e.g. the principle of FPIC, are derived from the UNDRIP. Also, UNDRIP still remains a key document to refer to when it comes to protection of indigenous peoples' rights in general and their land rights in particular.

Chapter 2. Securitization of indigenous peoples' tenure rights under the VGGT: country cases of the VGGT implementation

After a short overview of the VGGT as an international 'soft law' instrument, this chapter focuses on the key aspects of the VGGT relating to securing indigenous peoples' tenure rights such as their recognition, protection and remedial policies. These aspects are illustrated with the relevant examples of the VGGT implementation in particular countries.

2.1 Voluntary Guidelines as an international institutional framework for land governance

The adoption of the VGGT in 2012 was a result of a three-year-long participatory process which was initiated by FAO and involved 96 national governments, CSOs, private sector representatives and tenure rights holders' associations. The inclusiveness and participatory character of this process is what the VGGT draw a high level of legitimacy and political weight from (Seufert 2013). The consultative nature of the process of the VGGT development is inextricably linked with the approach of how they promote land governance reforms – through building multi-stakeholder platforms for change (Cotula 2017).

The VGGT is a 'soft law' instrument which means that the recommendations they include are not legally binding for states which sign up to them. In general, the VGGT can be viewed as a framework that provides an overview of the different topics that are relevant to improving governance of tenure and builds the links between them. While located outside the realm of international law, these instruments provide detailed guidelines for states and non-state actors on a wide range of land governance issues. It is important that the implementation of the VGGT is not limited to the incorporation of the standards into a national legislation in a form of 'hard law'. In fact, the guidelines are subject to interpretation in national context by a wide range of actors, including state agencies, business corporations, international and local CSOs, tenure rights holders, etc. Implementing the VGGT can be any contribution by an individual or a group to improve land governance within the given framework. According to the Land governance programme map and database, there are currently 254 active projects worth over 2.6 billion USD, and most of them are related to the implementation of the VGGT as a key international set of standards for improving land governance.

The VGGT pay specific attention to securing tenure rights of communities with customary tenure systems in general and indigenous people in particular. Section 9.4 encourages states to recognize and protect 'legitimate' tenure rights of indigenous people and other communities with customary tenure systems. Legitimate tenure rights constitute a key concept throughout the VGGT, although they do not include an exact definition. Rather, the VGGT suggest that states should derive their own inclusive concepts of legitimate tenure rights after a thorough review of all existing tenure governance systems in a country (FAO/FIAN International 2017). The key feature of VGGT is that they explicitly consider as legitimate not only those tenure rights formally recognized by

national law but also rights that are viewed as 'socially legitimate' in a regional context but not necessarily formally recognized (FAO 2019).

Customary land tenure derives from and is sustained by the community itself rather than by state law – opposite to statutory land tenure, although customary and statutory systems might often be intertwined, forming a complex and multi-layered national resource tenure system (Cotula et al. 2006). Due to its specifics customary land tenure might suffer from inadequate recognition and protection all over the world. This is reflected at the discourse level when governments claim that the lands offered for large-scale land acquisitions are 'unoccupied', 'underutilized' and 'unused', implying that such lands neither belong to, nor are used by anyone (Moreda 2016).

In this chapter I focus on the several key aspects of the VGGT which are particularly important in terms prevention of land-grab-induced displacement – the recognitions of indigenous peoples' tenure rights, the protection of indigenous people's tenure rights, and, finally, remedial policies. Although, according to the VGGT, the general responsibility of improving governance of tenure lies with States, a variety of stakeholders can and actually are encouraged throughout the guidelines to contribute to the improvement of land governance.

2.2 Recognition and protection of indigenous peoples' tenure rights under the VGGT

The lack of recognition of the indigenous peoples' access to lands, natural resources and territories is what initially puts indigenous communities in a vulnerable position and increases the risks of further land disputes and, consequently, forced evictions and resettlement. It is estimated that 90% of the 370 million indigenous peoples all over the world do not have formally recognized rights to their lands (Oxfam 2016).

The key challenge for implementing the VGGT standards on the recognition of indigenous peoples' tenure rights is to incorporate a broad concept of 'legitimate tenure rights' into a national legislation system. While formal recognition of customary tenure rights as a whole and indigenous peoples' tenure rights in particular is common to many countries, their real access to land ownership might often be limited. The common situation is the state ownership of lands inhabited/used as a resource for livelihood by indigenous peoples. In Indonesia, for example, where 70% of land was declared as "forests" during the Suharto Regime, forests fall within the state ownership lands category, and for a long time the rights of indigenous communities inhabiting them were almost ignored. The New Forestry Act adopted in 1999 did not contribute to changing the situation of indigenous communities, although it introduced a concept of 'adat' forest' which is basically a 'state forest situated in the territory of *adat* community'. 'Adat' is a generic term which refers to local traditional systems of rights, beliefs, customs and legal institutions of ethnic or religious groups which evolved over time in various parts of Indonesia (Benda-Beckmann 2011). Consequently, the term 'adat law' refers to 'adat law' refers to customary law that is practiced by traditional community in Indonesia (Priambodo 2018). Hence, the communities were recognized as existing but they were not granted with any legal status in terms of their tenure rights. It was not until 2013 when the Constitutional Court of the Republic of Indonesia issued a landmark judgement which gave indigenous people the right to manage the forests they inhabit. The case had been filed by the Aliansi Masyarakat Adat Nusantara organization in 2012, objecting to the New Forest Act, which, as it alleged, allowed the government to sell land to business companies without considering the rights of the indigenous peoples living there.

Although the ruling of the Court is a significant step forward towards the recognition of customary tenure rights in Indonesia, the implementation of the reform is rather slow. The agencies involved in many cases have overlapping mandates for issuing the land titles (Siscawati et al. 2017). Local CSOs, following the approach promoted by VGGT, assist state agencies in resolving clashes on case-by-case basis by verifying applications, facilitating and targeting communities at the site level, etc. (Liswanti et al. 2019). Also, FAO is actively present in the country providing technical assistance to the Ministry of Environment and Forestry of Indonesia in allocation of 12.7 million hectares of forest land to indigenous peoples and local communities (FAO 2018).

As it can be seen from the Indonesian case, even when indigenous peoples' access to territories and resources is formally mentioned in national law, there could be various obstacles towards the effective recognition of their tenure rights. One of them is the mechanism of land registration. The relevant example here could be Cameroon where unregistered lands fall to the ownership of the state, although indigenous people's 'use rights' are recognized. The problem is that registration procedure is usually centrally controlled, expensive and demands a certain level of literacy and institutional empowerment which not only indigenous people but a significant part of Cameroonian rural population lack (Alden Wily 2011). The most challenging aspect of land registration procedure could be the required evidence of productive land use which is not the case of hunter-gathering communities living in the forests such as the "Pygmy" peoples (include Bagyeli, Baka and Bedzan communities) who represent around 0.4% of the total population of Cameroon (IWGIA 2020). As a vast majority of safeguards apply only to the registered lands, legal recognition of indigenous peoples' land rights could be difficult to achieve and, consequently, it might increase the risks of forced evictions in case of large-scale land acquisitions. For example, this is the reason why Bagyeli community currently struggle to assert their tenure rights for the territory which, according to governmental decree (Decree No 2018/736 of 04 December 2018), is going to be leased by Singapore-based SIVA Group (parent corporation of BioPalm Ltd) for 50 years for the purposes of palm oil production. The lack of the recognition of indigenous peoples' rights further results into lack of their protection as well and might potentially lead to forced evictions. Although the government of Cameroon is not very active to promote reforms on securing indigenous peoples' tenure rights, there are several NGOs, both local and overseas, which advocate for the rights of the Bagyeli people referring to the VGGT.

Apart from recognition of indigenous peoples' customary land rights – through enshrining legal propositions into the national law and through introducing participatory land registration system – another key aspects of prevention of forced evictions is implementing the principle of FPIC. FPIC is a key standard VGGT promotes in order to ensure the protection of indigenous peoples customary tenure rights. It is a human rights standard originally enshrined in the UNDRIP that obliges states to obtain the FPIC of indigenous peoples for measures that may require their removal from their ancestral lands. In its practical guidance FAO defines FPIC as "a collective right of indigenous peoples to make decisions through their own freely chosen representatives and customary or other institutions and to give or withhold their consent prior to the approval by government, industry or other outside party of any project that may affect the lands, territories and resources that they customarily own, occupy or otherwise use" (FAO 2014, p. 4). FPIC is often viewed as a mutually beneficial principle for both local communities and investors It reduces the

risks of potential disputes over the land that, on the one hand, protects inhabitants from forced evictions and, on the other hand, secures investments.

In its practical guidance on the implementation of the principle of FPIC, FAO emphasizes that obtaining FPIC should not be "a 'tick-the-box' process that ends with the community signing an agreement" (FAO 2014). FAO provides sufficient amount of information on how the process should be organized in its special practical guidance. The process demands resources from states and investors such as human resources, communication materials, capacity-building activities, technical and legal advice, etc. As FPIC is a collective right, indigenous peoples should be provided with consultations as a whole group for however long is necessary for them to understand and analyze the proposals. The inclusion and encouraging participation of various groups such as women, youth, etc. is essential.

There are not many countries which adopted national laws explicitly mentioning an obligation to obtain FPIC. One of them is Philippines where the Indigenous Peoples' Rights Act requires FPIC for any activity that might affect indigenous peoples' land and resource rights. Procedures for observance of this duty are overseen by the Philippines National Commission on Indigenous Peoples, which has deployed and reviewed several versions of regulations that set out the required process for FPIC.

Technical assistance on practical implication of FPIC is an essential course of action implemented by FAO. In 2018, FAO representatives provided on-site technical guidance for both state and non-state actors in such countries as Kenya, Vietnam, Uganda, Philippines, etc. (FAO 2018). What has been highlighted during the implementation of these projects is that consultations with the communities used to be are often characterized by significant power imbalances (FAO 2018) . In other words, communities were reported to feel that they have no choice but to accept an investment that has already been approved by the government. In fact, there is a range of other problems relating to obtaining a consent from local communities. For example, external actors, either state agencies or representatives of the business corporations, may seek only the consent of local leaders rather than the consent of the full community (FAO 2018). The alternative monitoring activities by CSOs within FAO-supported programs or any other local or international civil initiatives might improve the situation with obtaining FPIC.

To sum up, the key measures the VGGT promote in order to secure customary tenure rights are legal recognition of the customary tenure system, guaranteeing ownership community rights rather than only use and/or control rights, enshrine the principle of FPIC into national legislation and applying it in real cases of potential large-scale land acquisitions.

2.3 The VGGT remedial policies

The previous sections demonstrate that the VGGT pay significant attention to the reforms on that should be undertaken in order to prevent the problem of displacement per se. Such measures include incorporation of customary tenure rights into national legislation, introduction of collective land title or participatory land registration systems which are inclusive towards customary tenure rights of indigenous peoples, etc. However, effective framework for protection communities from

displacement should also provide comprehensive guidance on how to deal with the incidents of forced evictions which already occurred.

Concerning recommendations on post-displacement management, the VGGT distinguishes between restitution, redistribution and compensation policies. As redistribution might not directly relate to large-scale land acquisitions, this section will address two of the mentioned recommendations. Firstly, states are encourages to provide restitution for the loss of legitimate tenure rights to land, fisheries and forests (Section 14.1). Indigenous peoples are explicitly mentioned as communities who might be paid special attention in terms of designing restitution policies. FAO experience in supporting restitution reforms is rather limited and its activities mainly cover land which used to be affected by armed conflicts. For example, FAO was actively working on recognition issues around land titles to land tenants in selected protected areas and restitution of land to local communities in Colombia (Wordsworth 2018).

The VGGT recommendations on remedial policy are quite general. Along with recognition and protection of the tenure rights of indigenous people and other communities with customary tenure systems, the VVGT also provide recommendations for both states and non-state actors in case of tenure rights violations which might take the form of forced displacement in particular. Non-state actors, specifically business enterprises should introduce or cooperate in non-judicial mechanisms to provide remedy if they "caused or contributed to adverse impacts on human rights and legitimate tenure rights" (Section 3.2). As for the states, they are encouraged to ensure local communities' access to competent judicial and administrative bodies in case of disputed over tenure rights and provide effective remedies which might particularly include restitution, indemnity, compensation and reparation (Section 4.9).

Compensations are implied only in case of land expropriation. According to Sections 16.8-16.9, when forced evictions as a result of land expropriation are unavoidable, the government should be legally obliged to consult with communities who are supposed to be displaced prior to the eviction and to provide them with adequate alternative housing, resettlement or access to productive land. a relocation allowance and alternative land to ensure that they are not subject to impoverishment risks.

It is notable that the VGGT encourage states to enshrine clear conceptualization of 'public purpose' in national law to allow for judicial review (Section 16.1) suggesting that land expropriation should occur only where rights to land, fisheries or forests are required for a public purpose. It refers back to the discussion on the extent to which large-scale land acquisitions constitute an opportunity for development. 'Green grabbing' is specifically interesting here as its environmental aspects might be used as a solid justification for serving a 'public purpose'. The research by the World Resource Institute assessing the implementation of the VGGT recommendations on expropriation demonstrates that national legislation in a vast majority of countries (15 out of 24 which were assessed) does not provide a clear definition of 'public purpose' to allow for judicial review (Tagliarino 2016).

A reason for this could be the difficulty of achieving an agreed-upon definition of a public purpose. Along with this concept of public purpose, the VGGT introduces the concept of 'responsible investments'. In particular, the VGGT recommend assessing land investments taking into account

a wide range of indicators, not necessarily land-based ones. For example, in guideline 12.4, the VGGT formulate that responsible investments should do no harm and should strive to contribute to several other policy objectives "such as poverty eradication, food security and sustainable use of land, fisheries and forests; support local communities; contribute to rural development; promote a secure local food production systems; enhance social and economic sustainable development; create employment; diversify livelihoods; provide benefit to the country and its people, including the poor and most vulnerable; and comply with national laws and international core labour standards as well as, when applicable, obligations related to standards of the ILO" (Section 12.4).

One of the countries which is considered to successfully incorporate the concept of 'public purpose' in its national legislation following the VGGT framework is India (Tagliarino 2016, Hoops and Tagliarino 2019). Land Acquisition, Rehabilitation and Resettlement Act (2013) contains a clearly prescribed clearly list of public purposes which for which large-scale land acquisitions can be accelerated. Importantly, the Act includes a requirement that 70–80% of families affected by an acquisition must give their consent to it. Although the inclusion of this obligation may be considered as a significant step forward towards 'good' land governance, the problem is that an obligatory 'public purpose' component does not apply to investments made by the government. That is specifically interesting in the context of REDD+ projects. There has been an upsurge in carbon sequestration programs after India launched its National REDD+ Strategy in 2018. The number of potential cases of displacement has increased as well. For example, in 2019 the Supreme Court of India ordered the forced eviction of millions of forest-dwelling people in the name of state conservation projects. Hence, the risks of green-fran-induced displacement is still relevant for India.

It should be mentioned though that in general India has made a significant step forward in terms of improving land governance as a whole and the management of customary tenure systems in particular. It is notable that one the first programs on securing tenure rights of indigenous peoples ws implemented in India. Together with the Asia Indigenous Peoples Pact (AIPP), Indigenous Peoples team and the Land Tenure team in FAO developed a one-year capacity-development programme specifically built around the most common challenges which land investments might bring to indigenous communities. The program was mainly aimed at the working with the communities themselves raising their awareness on which instruments they might use in order to secure their tenure rights. However, a range of program participants was not limited to the local communities and also included a variety of actors, both state and non-state ones such as local NGOs, independent lawyers, academicians, etc.

Current practice often demonstrates that the support provided to indigenous communities whilw filing grievances on land-related decisions by national bodies might not be sufficient (that is why the active position of CSOs on the issue is essential). Rather, implementation of judgements in favor of indigenous communities has been generally poor so far (Open Society Justice Initiative 2017). When a state fails to ensure protection of indigenous peoples' customary tenure rights, this might result into communities going beyond the national legal framework and taking legal action to the regional judicial institutions, for example, to the African Court on Human and People's rights.

A good example of how a regional court interpreted 'public purpose' in favor of indigenous communities could be a successful case of Ogiek community in Kenya. They challenged the denial of the forest they live in and associated rights before the African Court of Human and Peoples Rights (African Commission of Human and Peoples' Rights v. Kenya) and the court granted an injunction. Even though the VGGT were not directly referred in the ruling (it is still a soft law instrument), the Court noted that the Ogiek peoples could not be expelled from their forest even in the name of "the preservation of the natural ecosystem" as it was claimed by the state. The Court explained it in a way that there has been no evidence of the "Ogiek's presence in the area is the main cause for the depletion of the natural environment". However, even though the Court gave the judgement in 2017, the government of Kenya is yet to implement it. Even though FAO does not push the government of Kenya in regards to the implementation of the Court ruling (due to its intentional neutral political position, it advocated for land governance reforms in the country in general, specifically, to ensure legal acknowledgement of the collective rights of indigenous peoples.

Chapter 3. What hampers the implementation of the VGGT indigenous peoples-related provisions at the national level

As it can be seen from the previous chapter, the VGGT do constitute an adequate framework for securing indigenous peoples' land rights in case of LSLA at the national level. However, as any other instrument the VGGT have their limitations. This chapter addresses the range of obstacles which may limit the capacity of the VGGT to ensure the protection of indigenous communities from land-grab-induced displacement.

3.1 Limitations of the VGGT standards

This sections is going to address some features of the VGGT which are considered to be their limitations in academia. In general, based on the research question which this thesis explores, these limitations do not play a significant role, but still should be taken into consideration for the purposed of assessing the VGGT as a regulatory framework for prevention land-grab-induced displacement.

The first limitation that is going to be discussed is related to the content of the VGGT themselves. The key issue here is the determination of those who fall within the protective framework set by the VGGT. In general, the VGGT are quite inclusive calling for the recognition and protection of the 'legitimate tenure rights' of not only indigenous peoples but also any other communities with customary tenure systems. However, the key principle of FPIC promoted by the VGGT applies only to indigenous peoples as the principle itself is drawn from the UNDRIP. The problem is that there are communities that are not necessarily formally recognized as indigenous by the government but whose livelihoods still depend on land, fisheries and forests (Paoloni & Onorati 2014). FAO itself highlights that international law is far less clear about the FPIC in relation to other groups with customary tenure systems which might not recognize themselves as indigenous or tribal. As this research generally focuses on the indigenous peoples, it should not be considered as a significant limitation. However, taking into account that a considerable number of Asian and African states fail to recognize indigenous peoples as such, this constitutes a slight gap in international soft law which is, therefore, might lead to the lack of legal protection of customary tenure rights at the national level.

Apart from this, VGGT recommendations, one of the critique of the VGGT which is relevant for this research is that the VGGT partially ignores existing international framework around the problem of displacement. In particular, it is inconsistent with the key international document on the topic, United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement, the entitlement/human rights obligation to be properly resettled is only fleetingly mentioned, and what is stated is inconsistent with most international standards. It makes no mention of, and is not consistent with, the United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement (Vanclay 2016). In general, it should be admitted that the VGGT are less detailed in terms of their compensation policies in comparison with United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement. The latter, for example, includes a notable provision saying that "all those evicted, irrespective of whether they hold title to their property, should be entitled to compensation" (Section 6.1). The

VGGT recommends on financial reimbursement only in case of land expropriation which might not necessarily be the case when it comes to large-scale land acquisitions. Indeed, in case of unrecognized customary tenure rights, the displacement and dispossession of the communities which exercise only the rights of use but are not going to be recognized as expropriation.

The analysis of the discrepancies between the VGGT and United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement brings it back to the discussion on the effectiveness of the VGGT recommendations on remedial policies. While they generally address the problem, it should be admitted that the VGGT as framework is more focused on promoting policies which are supposed to mitigate the risks of displacement, rather than ensuring an adequate protection of the communities which have been already displaced or are currently in the process of displacement. Again, this should not be considered as an evidence for the ineffectiveness of the VGGT in addressing the problem of displacement. Rather, it is supposed to highlight which aspects of the problem of forced evictions the VGGT prioritize and which they might overlook or at least consider as less important.

3.2 Institutional obstacles towards the VGGT implementation

The institutionalization of the land governance standards always highly depends on the national socio-political context. Some of its characteristics might be seen as potential obstacles to secure indigenous peoples' tenure rights and to effectively address the risks of displacement in cases of large-scale land acquisitions.

At the stage of recognition of indigenous peoples' customary tenure rights it might be challenging and costly to introduce transparent and consultative system of customary land registration/collective land titling, especially for the developing countries of the Global South. For example, FAO experience in implementing the VGGT in Cambodia demonstrates that communal land titling through consultative and participatory mechanisms demands significant human, time and technological (e.g. GIS-based maps) resources. FAO estimates that the whole titling exercise normally takes an indigenous community from 4 to 6 years for their customary tenure rights to be registered (FAO/MRLG 2019). In general, the progress of the issuing of communal titles for indigenous communities in Cambodia has been far below the official target of 10 titles per year so far (FAO/MRLG 2019). The capacity remains limited not only because of the high costs but also due to the lack of coordination between various state agencies dealing with the land issues on the one hand and between these agencies and CSOs on the other hand.

Another problem at the national level could be overlapping tenure systems and, consequently, potential conflicts over land which might result into ignoring particular communities' tenure rights. Although it is quite a general and wide-spread problem in the countries of the Global South, it is specifically highlighted in the context of forest lands. The problem is becoming more evident as there is an upsurge in REDD+ projects. Although indigenous peoples can significantly contribute to carbon sequestration projects through sustainable development, the cases of their forced evictions from the lands which are supposed to be covered by REDD+ projects are not that rare.

These were practical problems that can potentially hamper the implementation of the VGGT in general and protection of indigenous communities from land-grab-induced displacement.

However, more broad and systemic factors should be taken into account as well. One of them is corruption.Weak land governance tends to be characterised by low levels of transparency, accountability and the rule of law. What the VGGT in fact imply in its recommendations (even though it is not explicitly stated) is a strong need for the adoption and implementation of complex anti-corruption policy. Countries where land-based investments are a common phenomenon are usually exposed to such types of corruption as wide-spread administrative corruption and grand corruption. In such systems the success of land governance reforms might be challenged with the lack of overall transparency, accountability and the rule of law.

Conclusion

Within a wide range of land governance-related topics this thesis investigates a specific issue of land-grab-induced displacement which disproportionally affects indigenous communities and the protective potential of the VGGT to address the problem.

The results support the general consensus on the VGGT as a progressive international instrument on improving land governance. The key contribution the VGGT makes to protection indigenous people from displacement as a potential side effect of land-based investments is explicit call for the securitization of customary tenure rights through their legal recognition. As it has been demonstrated, the formal recognition of indigenous communities' access to land might not be enough – it is crucial to legally guarantee indigenous peoples not only their use rights but also their ownership and transfer rights to land. This can be made through the introduction community land titles or land registration system which should include a strong consultative and participatory component.

The VGGT per se were developed through a process of extensive negotiations between both state and non-state actors, and the guidelines actively promote the similar approach to be implemented on-site in order to improve land governance. This commitment to the inclusive and participatory implementation process is what makes the VGGT a particularly unique 'soft law' instrument in the sphere of land governance.

Back to the need for legal recognition of indigenous peoples' customary tenure rights, the VGGT and supportive practical guidance issued by FAO imply that land registration system will not benefit indigenous people and rather may make their position even more vulnerable if the registration initiatives do not assume post-adoption assistance to local communities. Participatory, inclusive and gender-sensitive approach to securing indigenous people's tenure rights is definitely a strong side of the VGGT.

It is also notable that although it is states that sign up to the guidelines, the process of their implementation is open to a wide range of actors. That is why there are more than 200 programs currently being implemented in order to improve land governance (Land Portal 2020), and a considerable part of them is initiated by non-state actors, mainly local CSOs. In fact, the approach towards securing land rights suggested by the VGGT highly encourages the creation of multi-stakeholder platforms for promoting securitization of tenure rights. In case of indigenous people, this is a crucial point. In order to involve indigenous peoples into a consultative process, it may be easier to contact them through local human rights NGOs who usually have prior experience in dealing with particular communities.

Before turning to conclusions specifically relating to VGGT capacity to ensure protection from land-grab-induced displacement, it should be mentioned that the VGGT constitute a powerful instrument for change not only when there is evidence of particular recommendations being implemented. The VGGT is actively used by CSOs for the purposes of raising awareness on a wide range of land governance-relating issues. The awareness component is also extremely

important as it is key element of promoting the reforms securing tenure rights, increasing the number of responsible land investments, etc. from below.

These are the general conclusions on the VGGT as a soft law instrument to improve land governance. Concerning the capacity of the VGGT to address specific problem of land-grab-induced displacement, the key outcome of the research is that VGGT provides sufficient guidance on prevention of the dispossession and displacement. Securing customary tenure rights through changing national legislation, following the principle of FPIC before potential acquisitions are effective instruments of mitigation the displacement risks. It should be highlighted however that the VGGT represent a proactive approach towards solving the problem of forced evictions. They suggest focusing on prior measures and, consequently, pay less attention to addressing the cases of land-grab-induced displacement which have already occurred.

Based on the legal analysis, the lack of guidance on post-resettlement or post-displacement can be considered as the only aspect indicating the limited capacity of the VGGT to address the problem of land-grab-induced displacement. Once again, the VGGT provide extensive guidance on how to avoid the problem of displacement per se through securing customary tenure rights. However, it is worth taking into account the peculiarities of the national socio-political context which might impose additional obstacles. The VGGT is obviously not all-in-one solution to land governance improvement and to protection of indigenous communities from dispossession and displacement as there is a range of national factors it cannot address such as corruption, lack of rule of law, accountability, etc. Much more practical problems such as overlapping tenure systems and high costs of introducing a universal land registration system also limits the capacity of the VGGT. However, participatory multi-stakeholder on-site approach which is actively promoted by FAO has a capacity to partially fix the contextual problems as well.

List of References

Alden Wily, Liz. *Whose Land Is It? The Status of Customary Land Tenure in Cameroon*. CEN/FERN/Rain Foundation UK, 2011. https://www.fern.org/fileadmin/uploads/fern/Documents/cameroon_eng_internet.pdf

Anthes, Carolin. *Institutional Roadblocks to Human Rights Mainstreaming in the FAO a Tale of Silo Culture in the United Nations System*. Wiesbaden, Germany: Springer VS, 2020.

Araghi, Farshad. "Accumulation by Displacement: Global Enclosures, Food Crisis, and the Ecological Contradictions of Capitalism." *Review (Fernand Braudel Center)* 32, no. 1, (2009): 113–46.

Benda-Beckmann, Franz Von, and Keebet Von Benda-Beckmann. "Myths and Stereotypes about Adat Law: A Reassessment of Van Vollenhoven in the Light of Current Struggles over Adat Law in Indonesia." *Journal of the Humanities and Social Sciences of Southeast Asia* 167, no. 2-3 (January 2011): 167–95. https://doi.org/10.1163/22134379-90003588.

Borras, Saturnino M., Jennifer C. Franco, Sergio Gómez, Cristóbal Kay, and Max Spoor. "Land Grabbing in Latin America and the Caribbean." *The Journal of Peasant Studies* 39, no. 3-4 (2012): 845–72. https://doi.org/10.1080/03066150.2012.679931.

Borras, Saturnino M., Jennifer C. Franco, S. Ryan Isakson, Les Levidow, and Pietje Vervest. "The Rise of Flex Crops and Commodities: Implications for Research." *The Journal of Peasant Studies* 43, no. 1 (December 2015): 93–115. https://doi.org/10.1080/03066150.2015.1036417.

Bracco, Stefania. "Effectiveness of EU Biofuels Sustainability Criteria in the Context of Land Acquisitions in Africa." *Renewable and Sustainable Energy Reviews* 50 (2015): 130–43. https://doi.org/10.1016/j.rser.2015.05.006.

Bradley, Amands, and Serena Fortuna. *Collective Tenure Rights: Realizing the Potential for REDD+ and Sustainable Development. Information brief*. Rome: FAO, 2019.

Chandran, Rina. Visible or invisible? That's the question for land data. Thomson Reuters Foundation (15 March 2019). https://news.trust.org/item/20190315035338-s3g0p

Claridge, Lucy. "Litigation as a Tool for Community Empowerment: The Case of Kenya's Ogiek." Erasmus Law Review 1, no. 1 (April 2018): 57–66. https://doi.org/10.5553/ELR.000095.

Cotula, Lorenzo, Camilla Toulmin, and Julian Quan. *Better Land Access for The Rural Poor. Lessons from Experience and Challenges Ahead*. Rome: FAO/IIED, 2006.

Cotula, Lorenzo, Carlos Oya, Emmanuel A. Codjoe, Abdurehman Eid, Mark Kakraba-Ampeh, James Keeley, Admasu Lokaley Kidewa, et al. "Testing Claims about Large Land Deals in Africa: Findings from a Multi-Country Study." *The Journal of Development Studies* 50, no. 7 (2014): 903–25. https://doi.org/10.1080/00220388.2014.901501.

Cotula, Lorenzo. "International Soft-law Instruments and Global Resource Governance: Reflections on the Voluntary Guidelines on the Responsible Governance of Tenure". *Law, Environment and Development Journal* 13, no. 2 (2017): 115–33.

De Schutter, Olivier, and Balakrishnan Rajagopal. *Property Rights from Below: Commodification of Land and the Counter-Movement.* London: Routledge, 2020.

Duncan, Jessica. Global Food Security Governance: *Civil society engagement in the reformed Committee on World Food Security*. London: Routledge, 2015.

Edelman, Marc, Carlos Oya, and Saturnino M Borras. "Global Land Grabs: Historical Processes, Theoretical and Methodological Implications and Current Trajectories." *Third World Quarterly* 34, no. 9 (2013): 1517–31. https://doi.org/10.1080/01436597.2013.850190.

Edelman, Marc, Carlos Oya, and Saturnino M. Borras. Global Land Grabs: History, Theory and Method. London: Routledge, 2016.

Gilbert, Jérémie. *Land grabbing, investments, and indigenous peoples' rights o land and natural resources: case studies and legal analysis*. Copenhagen: IWGIA, 2017.

Fairhead, James, Melissa Leach, and Ian Scoones. "Green Grabbing: a New Appropriation of Nature?" Journal of Peasant Studies 39, no. 2 (2012): 237–61. https://doi.org/10.1080/03066150.2012.671770.

Finer, Matt, and Martí Orta-Martínez. "A second hydrocarbon boom threatens the Peruvian Amazon: trends, projections, and policy implications." *Environmental Research Letters* 5, no. 1 (2010): 1–10. https://doi.org/0.1088/1748-9326/5/1/014012.

Franco, Jennifer C., and Saturnino M. Borras. "Grey Areas in Green Grabbing: Subtle and Indirect Interconnections between Climate Change Politics and Land Grabs and Their Implications for Research." *Land Use Policy* 84 (2019): 192–99. https://doi.org/10.1016/j.landusepol.2019.03.013.

Global Witness. "Inside Malaysia's Shadow State: Backroom deals driving the destruction of Sarawak." 2013. https://www.globalwitness.org/en/campaigns/forests/inside-ma- laysias-shadow-state/

Hall, Derek. "Primitive Accumulation, Accumulation by Dispossession and the Global Land Grab." *Third World Quarterly* 34, no. 9 (2013): 1582–1604. https://doi.org/10.1080/01436597.2013.843854.

Harvey, David. *The New Imperialism*. Oxford: Oxford University Press, 2003.

Hawkes, Shona. *Consent is everybody's business. Why banks need to act on free, prior and informed consent.* Oxford: Oxfam, 2019.

Holmén, Hans. "Is Land Grabbing Always What It Is Supposed to Be? Large-Scale Land Investments in Sub-Saharan Africa." *Development Policy Review* 33, no. 4 (2015): 457–78. https://doi.org/10.1111/dpr.12118.

Hoops, Björn, and Nicholas K. Tagliarino. "The Legal Boundaries of 'Public Purpose' in India and South Africa: A Comparative Assessment in Light of the Voluntary Guidelines." *Land* 8, no. 10 (2019): 147–54. https://doi:10.3390/land8100154.

Hunsberger, Carol, Esteve Corbera, Saturnino M. Borras, Jennifer C. Franco, Kevin Woods, Courtney Work, Romulo De La Rosa, et al. "Climate Change Mitigation, Land Grabbing and Conflict: towards a Landscape-Based and Collaborative Action Research Agenda." Canadian *Journal of Development Studies / Revue Canadienne Détudes Du Développement* 38, no. 3 (2017): 305–24. https://doi.org/10.1080/02255189.2016.1250617.

International Labour Organization Convention (No. 169) concerning indigenous and tribal people in independent countries, 27 June 1989, 1650 U.N.T.S. 383 (entered into force 5 September 1991).

IWGIA. Cameroon. 2020 https://www.iwgia.org/en/cameroon/3578-indigenous-world-2020-cameroon.html

Knight, Rachael. *The Challenge of Protecting Community Land Rights: An Investigation into Community Responses to Requests for Land and Resources (Full Report)*. NAMATI, 2019.

Liversage, Harold. "*Responding to 'land Grabbing' and Promoting Responsible Investments in Agriculture*." International Fund for Agricultural Development, 2010. Accessed May 28, 2020. https://www.land-links.org/wp-content/uploads/2016/09/

Liswanti, Nining, Esther Mwangi, Banjade Mani Ram, and Tuti Herawati. *"What Future Direction for Forest Tenure Reform Implementation in Indonesia?: Perspectives of National-Level Stakeholders.*" 2019. https://doi.org/10.17528/cifor/007283.

Lowndes, Vivien. Institutionalism. In: D. Marsh and G. Stoker (eds.) *Theories and methods in political science*. 2nd edition. London: Palgrave, 2002, pp. 90-108.

Margulis, Matias E., Nora McKeon, and Saturnino M. Borras. *Land Grabbing and Global Governance*. London: Routledge, 2014.

Minority Rights Group International. No escape from discrimination: minorities, indigenous peoples and the crisis of displacement. London: December 2017. https://reliefweb.int/sites/reliefweb.int/files/resources/MRG_Displacement_Report_Dec17.pdf

Moreda, Tsegaye. "Large-Scale Land Acquisitions, State Authority and Indigenous Local Communities: Insights from Ethiopia." *Third World Quarterly* 38, no. 3 (November 2016): 698–716. https://doi.org/10.1080/01436597.2016.1191941.

OECD, FAO. Agricultural Outlook 2018-2027. https://stats.oecd.org/index.aspx?queryid=84952

Open Society Justice Initiative. Strategic Litigation Impacts Indigenous Peoples' Land Rights. Open Society Foundations. New York, 2017. https://www.justiceinitiative.org/uploads/8c45f0be-d3be-40d6-aae8-a0b046bf6511/slip-land-rights-20170620.pdf

Oxfam, International Land Coalition, Rights and Resources Initiative (2016), Common Ground. Securing Land Rights and Safeguarding the Earth, Oxford: Oxfam, 2016.

Oya, Carlos. "Methodological reflections on 'land grab' databases and the 'land grab' literature rush". *Journal of Peasant Studies* 40, no. 3 (2013): 1–22. https://doi.org./10.1080/03066150.2013.799465.

Paoloni, Lorenza, and Antonio Onorati. "Regulations of Large-Scale Acquisitions of Land: The Case of the Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forests." *The Law and Development Review*, De Gruyter 7, no. 2 (2014): 1–32.

Priambodo, Bono Budi. "Positioning Adat Law in the Indonesia's Legal System: Historical Discourse and Current Development on Customary Law." Udayana Journal of Law and Culture 2, no. 2 (2018): 140–64.

Rajshree, Chandra. "Forest Rights Act of India: putting indigeneity in place." *Indian Law Review* 3, no. 2 (2019): 159–79. https://doi.org/10.1080/24730580.2019.1639422

Sabatier, Paul A. Theories of the Policy Process. London: Routledge, 2019.

Sapignoli, Maria, and Robert K. Hitchcock. "Development and Dispossession: Impacts of Land Reform in Botswana." In "Africa for Sale?", January 2013, 131–57. https://doi.org/10.1163/9789004252646_007.

Schoneveld, G. C., German, L. A., & Nutakor, E. Towards Sustainable Biofuel Development: Assessing the Local Impacts of Large-Scale Foreign Land Acquisitions in Ghana. Paper presented at the World Bank Land Governance Conference, 26-27 April, 2010.

Seo, Kihwan, and Natalia Rodriguez. *Land Grab, Food Security and Climate Change: A Vicious Circle in the Global South*. INTECH Open Access Publisher, 2012.

Seufert, Philip. "*The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests*." Globalizations 10, no. 1 (2013): 181–86. https://doi.org/10.1080/14747731.2013.764157.

Siscawati, Mia, Mani Ram Banjade, Nining Liswanti, Tuti Herawati, Esther Mwangi, Christine Wulandari, Martina Tjoa, and Thomas Silaya. Overview of forest tenure reforms in Indonesia. Working Paper. Bogor, Indonesia: Center for International Forestry Research, 2017.

Tehan, Maureen, Lee Godden, Margaret A. Young, and Kirsty Gover. *The Impact of Climate Change Mitigation on Indigenous and Forest Communities: International, National and Local Law Perspectives on REDD+*. Cambridge, United Kingdom: Cambridge University Press, 2018.

The Law of The Republic of Indonesia Number 41 Year 1999 Concerning Forestry in The Name of God The All Mighty President of The Republic of Indonesia. Indonesia, 1999.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act. India, 2013.

Thomson, Frances. "Why we need the concept of land-grab-induced displacement". *Journal of Internal Displacement* 4, no. 2 (2014): 42–65.

Tagliarino, Nicholas K. *Encroaching on Lands and Livelihoods: How National Expropriation Laws Measure Up Against International Standards*. Working Paper. World Resources Institute. (June 2016). https://files.wri.org/s3fs-public/Encroaching_On_Land_And_Livelihoods_How_National_Expropriation_Laws_Measure_Up_Against_International_Standards.pdf

United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement. Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living A/HRC/4/18. 2007.

UN Food and Agriculture Organization (FAO), GTZ. *"Right to Food – Putting it into Practice"*. Rome, 2005.

UN Food and Agriculture Organization (FAO). *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012.

UN Food and Agriculture Organization (FAO). *Respecting free, prior and informed consent. Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition*. Rome: FAO, 2014.

UN Food and Agriculture Organization (FAO), FIAN International. *"Putting the Voluntary Guidelines on Tenure into practice – A learning guide for civil society organizations"*. Rome: FAO, 2017.

UN Food and Agriculture Organization (FAO). *Report on the work of the FAO Indigenous Peoples team 2018*. Rome: FAO, 2018.

UN Food and Agriculture Organization (FAO). *"Assessing the governance of tenure for improving forests and livelihoods – A tool to support the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure"*. Forestry Working Paper no. 13. Rome: FAO, 2019.

UN Food and Agriculture Organization (FAO), and MRLG. *Challenges and opportunities of recognizing and protecting customary tenure systems in Cambodia*. Bangkok, 2019.

Vigil, Sara. *"Green Grabbing-Induced Displacement*." Handbook on Environmental Displacement and Migration, 370-387, New York, 2018.

Wordsworth, Odame Larbi. The Voluntary Guidelines on The Responsible Governance of Tenure of Land, Fisheries and Forests in The Context of National Food Security (VGGT) and The Framework and Guidelines on Land Policy in Africa (F&G): Versatile Tools for Improving Tenure

Governance. Presented at World Bank Conference on Land and Poverty, 2018. https://land.igad.int/index.php/documents-1/improving-land-governance/1527-vggt-f-g-versatile-tools-for-improving-tenure-governance/file

Zerilli, Filippo M. "The Rule of Soft Law: An Introduction." *Journal of Global and Historical Anthropology* 56, Focaal (2010): 3–18. https://doi.org/10.3167/fcl.2010.560101