

FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

Yemen

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ABSTRACT

In Yemen, food security is interrelated with the access to land, water and tenure security. Few women own land, and rights that they do obtain are transferred to male relatives. Most productive land is concentrated in the hands of a few; an increasing number of migrants further increases the competition over natural resources.

Tensions around land and ground water governance affect rural development and stability. In rural areas, land governance is articulated around traditional leaders (sheikhs) who wield considerable power and occasionally violate their fiduciary role by selling off communal land or transferring land for their personal use. The integration of sheiks in formal decentralisation frameworks has de facto affected accountability mechanisms.

Tensions over land are exacerbated by inadequate legislation and formal institutions (based on Islamic law or traditional customs) to which Yemeni people barely turn. The lack of capacity, administrative support, poorly trained staff and judges translates into a dysfunctional system and widespread corruption. Despite this problematic situation, the revision of land policy or legislation are not envisaged.

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About LANDac

LANDac, the Netherlands Academy on Land Governance for Equitable and Sustainable Development, is a partnership between Dutch organizations working on land governance. The partners are the International Development Studies (IDS) group at Utrecht University (leading partner), African Studies Centre, Agriterra, the Sociology of Development and Change (SDC) group at Wageningen University, HIVOS, the Royal Tropical Institute (KIT), and the Netherlands Ministry of Foreign Affairs. The LANDac network conducts research, disseminates information, and organizes courses and training, focusing on new pressures and competing claims on land and natural resources. Guiding question is how to optimize the link between land governance, sustainable development and poverty alleviation.

www.landgovernance.org

About F&BKP

The Food and Business Knowledge Platform (F&BKP) is one of the five Knowledge Platforms initiated by the Dutch Ministry of Foreign Affairs. It is an open and independent initiative where representatives from international networks and organizations of business, science, civil society and policy come together. The Platform shares, critically reflects on, generates, deepens and improves (interdisciplinary) knowledge and feeds practices and policies on food and nutrition security. Land governance is one of the prioritized themes in its mission to develop a more focused knowledge agenda. www.knowledge4food.net

POLICY AND LEGISLATION

Regulatory land governance framework

It is estimated, in the IFPRI discussion paper 'Managing Transition in Yemen', that an additional US\$3 billion to US\$6.5 billion is needed to stimulate growth and accomplish a measure of poverty reduction by 2020 (Marslen et al., 2015).

In 2002, the Government of Yemen adopted a Poverty Reduction Strategy Paper (PRSP) that recognizes the need to support the agricultural sector and improve women's access to agricultural land. However the PRSP does not include any programs or initiatives to address land access and land tenure security, also not for women (ROY 2002a). Although Land and Water governance in Yemen is increasingly the subject of conflict, revision of land policy or legislation are not envisaged.

The 1995 Law of Land and Real Estate is mainly applied in urban areas. Land governance in rural areas is determined mainly by customary and Islamic law under the leadership of sheikhs. The Department of Tribal Affairs formalized the position of sheikhs by including them in the decentralisation framework (USAID, 2010).

Law	Content
CONSTITUTION OF THE REPUBLIC OF YEMEN (1994)	All legislation is based on principles of Islamic law
	Private property is respected and protected
LAW OF LAND AND REAL ESTATE NO. 21 OF 1995	Provides for the classification of land (public, private, communal) and terms of use
THE WAQF LAW NO. 23 OF 1992	Governing land donated to religious organisations, dictates the terms for leasing waqf land

(ROY 1994; MPWH 2010; World Bank 2009b)

Land tenure forms

Land categories	Description
PRIVATE LAND (MILK KHAS OR MULK)	Covers about 85 per cent of land; 82 per cent of agricultural land is owner-cultivated. This land is administered under customary law and almost always documented by a written deed or contract.
STATE LAND (ARADI AL DAWLA OR MIRI)	Most of the State-owned land was confiscated after the 1962 revolution. It represents 2-3per cent of the area, mostly communal land (Law 21 of 1995 states that communal land is owned by the state)
RELIGIOUS ENDOWMENT LAND (ARADI WAQF)	Donated by people for the enhancement of religious institutions; covers 10-15per cent of the land

Islamic law regulates land rights in Yemen. Land tenure forms include:

- Communal land: communities exercise use and management rights but the State claims ultimate ownership. In practice, most communal land is governed by the customary law (urf). Grazing and range land is used and managed by communities, under the administration of their traditional leaders, sheikhs.
- Leaseholds: Private, state, waqf, and communal land can be leased to individuals and entities on a cash basis. Leases tend to be for lengthy periods of time (10-50 years) and are common on high-value irrigated agricultural land. Leases can generally be transferred, with permission of the landowner. Tenancy agreements (waraqat eyjar) often document leaseholds.
- Sharecropping: Sharecropping is permitted on private, state, and waqf land, and is common on both irrigated and rainfed land and covers around 10per cent of the land. Sharecroppers have use rights for a contracted period and can bequeath their rights to their heirs. Shares paid to the landowner range from one-fourth to one-half of production, based on the community and on who has responsibility for inputs. Close relatives of the person who donated waqf land

have priority for sharecropping (ROY MPWH 2010; Aw-Hassan et al. 2000; Alabsi 2001).

For the economically disadvantaged, Islamic inheritance is an important way to obtain land (USAID, 2010).

Forests constitute only 1per cent of Yemen's total land area, but are important in combating erosion, protecting water sources and storing rainwater. Trees are a critical resource, providing 70per cent of the country's energy needs and over half the fodder for livestock. The ambiguity of forest ownership in Yemen means disputes are frequent. Yemen does not have a national forest policy or legislation governing forestland. The last draft law was produced in the 1990's. (Herzog 1998; FAO 2010; Ma 2008).

Institutional land governance framework

Most rural landowners have documented rights to their (private) land that are enforceable under customary law in traditional and formal tribunals. Leaseholds and sharecropping agreements tend to be lengthy (10 – 50 years) and documented. Short-term agreements for use of land for a single season exist also, usually for rain-fed agricultural land. Traditional leaders, usually the sheikh or amin, prepare these land title documents (basira) and also issue land inheritance certificates (fasl). The documentation usually includes a description of the land, boundaries, and history of ownership (World Bank 2007; Aw-Hassan et al. 2000; Ecolex 2009).

The government of Yemen has no effective land registry system in place. Although it is common to have a land registry system established in many of Yemen's development strategies and plans, it is not yet a reality. Despite the new land-law that has been under discussion in parliament since 2006, there is currently no effective land-registry providing a national service with complete authority nor formal 'technical' registration (Thompson, 2010).

Traditional leaders often double as local government offices. They have a role both in maintaining the official General Authority of Lands, Survey and Urban Planning (GALSUP) registry of land records and in the basira or informal documentation of land transactions (covering eighty to ninety per cent of all land transactions). The role of the traditional leaders is once confirmed by the Ministry of Local Administration which requests that the amin keep records of all land transactions at the sub-district level and recommends that the court endorse title deeds to ensure their validity (ROY MPWH 2010; World Bank 2007; World Bank 2009b Aw-Hassan et al. 2000; Ecolex 2009).

The GALSUP is in charge of: (1) urban and rural land inspections and surveys, layouts, and planning; (2) management of state, private, and wakf land; (3) administration and registration of land, including maintaining land records; (4) valuation of land; and (5) oversight of land expropriation. The Department of Public Domain (Ministry of Finance) and the Ministry of Public Works and Highways control urban land. (MPWH 2010; World Bank 2009b; Aw-Hassan 2000 et al.).

The Republican Resolution on Law No. 39 of 1991 requires registration of land rights. Only a small percentage of Yemen's land, estimated at 10 – 20per cent, is registered officially (ROY MPWH 2010; World Bank 2009b; Aw-Hassan 2000 et al.). However, only some privately owned urban land appears to be registered pursuant to the formal law. State land is recorded in the Land Registry Department at the Ministry of Finance (World Bank 2007; Aw-Hassan et al. 2000; Ecolex 2009).

In the northern governorates, the government has not generally intervened in agricultural land markets, except in the case of public irrigation projects. By contrast, in the southern governorates, the government nationalized large tracts of land in 1957 after independence and in 1970 by a further round of nationalisations. Since unification of both the Southern and Northern parts of the country, the government has taken the decision to return the land confiscated in the 1970s back to its former owners.

Despite the steps taken by the national government of the new Republic of Yemen to resolve land-ownership problems in the former south Yemen (PDRY) and the compensation paid to landowners who had lost land in the 1990s, many land-claims and disputes remain; clogging courts with a backlog of claims that were submitted as many as two decades ago. Land issues were key in generating the resurgence of a southern political movement in 2006, which is still a significant challenge to the national government (Thompson, 2010).

Gender

Under formal law, women have a legal right to own, buy, and sell land. According to Islamic law, daughters inherit half the share of property received by sons under Islamic law, and women a one-eighth share of their husbands' property and one-

sixteenth of their sons' property (in case the sons predecease the mothers). However, few women have ownership rights to land. They commonly relinquish inherited land rights to male family members. When receiving land through inheritance or marriage, many women prefer to transfer any land rights they receive in exchange for economic support from their male relatives, such as rights to a house in the event of widowhood (World Bank 2007; Manea 2010). In some regions, women must obtain the permission of their husbands to transact land, regardless of ownership.

Women don't inherit land at all in many tribal areas due to a combination of land stress and the domination of tribal law. The reason that men in their immediate family often overrule their inheritance is to consolidate land holdings in a direct genealogical line. Female heirs are given 'compensation' instead of land (Thompson, 2010).

Previously many women were involved in agriculture – providing 60 per cent of crop production – however, they had very limited access to autonomous economic and social opportunities and land-ownership (<1 per cent agricultural land owned by women) (IFAD 2011; IASC 2015).

Foreign direct investment

Foreigners can own land in Yemen and can execute land-based projects in Yemen. One law permits foreigners to hold 100per cent ownership interest in land while another limits foreign ownership to 49per cent. The government is reportedly reviewing the laws as an initial step toward resolving the inconsistency.

Despite this previously adopted law which limited foreign land ownership to 49 per cent, the Yemeni Cabinet passed legislation allowing foreigners to acquire and own land in order to improve an enabling environment and promote investment in the agricultural sector. The legislation intended to address land disputes that are major hindrance to investment. Such a matter was analysed to be a trend in key policy decisions from 2007 to 2013 when the government focused on land policies to attract investment (Fapda/FAO, 2014).

INTEGRATED WATER RESOURCE MANAGEMENT

Regulatory framework Integrated Water Resource Management

Yemen has low levels of rainfall and no permanent rivers. The country is experiencing severe water scarcity and per capita availability of freshwater is only 10 per cent of the regional average. Ninety per cent of water withdrawal is for agriculture. Access to water requires upstream control of surface water flows or a well dug on private land. This obviously has effects on agricultural output, and is increasingly a source of conflict (SAS, 2010).

According to the Yemeni Constitution, surface and groundwater resources are communal property. Yemen's Water Law No. 33 (ratified in 2002) promotes the sustainable use of water, protects water resources from overexploitation, and balances the water needs of the various communities and sectors. However the formal Water Law is apparently unenforced (ROY 1994; FAO 2008; ARD 2004).

In practice, as also for land governance, Islamic and customary principles of water management are most relevant. These principles hold that: (1) water is an ownerless resource that can be appropriated by those who develop the resource (e.g., sinking a well); (2) upstream water users have priority; (3) water cannot be alienated from the land; (4) wells must be spaced a certain distance; and (5) no one can deny drinking water to another person (World Bank 2007; ROY 2002a).

Towards reducing water consumption and expanding the availability of arable land for food production, putting a stop to qat production is an essential step (Marslen et al., 2015). However, no regulations or policies were developed to establish these goals despite the multiple local anti-qat movements/initiatives that have been started since the past few years.

Institutional framework around Integrated Water Resource Management

The Ministry of Water and Environment (MWE) was established in 2003 and is responsible for water resource planning and monitoring, drafting legislation, and building public awareness. In practice the Ministry's authority extends only to urban areas. Subsectors of the Ministry include the National Water Resources Authority (NWASA), General Rural Water Authority, and Environmental Protection Authority. The Ministry of Local Administration is responsible for water supply and sanitation in rural areas. The Ministry of Agriculture and Irrigation is responsible for policies on irrigation, crops, livestock, and forestry (FAO 2008; Al-Asbahi 2005). Plans for ensuring the sustainability of the country's water resources, increasing the productivity of irrigated agricultural land, and reducing governmental involvement and relying more on user groups

to manage the resource are all part of Yemen's National Water Strategy (1999) and National Irrigation Strategy (2001) (FAO 2008). The General Directorate of Forestry and Desertification Control, which is within the Ministry of Agriculture and Irrigation, was established in 1984. The Directorate is responsible for forest supervision, formulation of forest policies and strategies, implementation of forest campaigns, and desertification control. Financial constraints have reduced the Directorate's activities; this was also caused by the fact that many donor projects from the 1980s and 1990s have ended (FAO 2008; Ma 2008).

Working with the water ministry, the UN and the Dutch Embassy have launched a three-year project aiming at reducing groundwater extraction and conserving resources while working with farmers. More promising opportunities to address unsustainable water management practices are offered by community-led development and support (Marslen et al., 2015).

FOOD INSECURITY

Yemen is the most food insecure country in the Middle East. It suffers, along with having the eight-worst hunger rate, from rapidly growing poverty rates, rapidly growing population, and a deteriorating economy (Marslen et al., 2015). The food, water and electricity insecure, and resource-scarce country's 45 per cent of the population is food insecure and Yemen's scarce water resources are far below the regional average (World Bank, 2015).

Yemen shows high levels of food insecurity and has made slow progress towards improving this situation. The main factors underlying the lack of progress are: political instability; war and civil strife; and fragile institutions. The Millennium Development Goal (MDG) were not achieved, and show slow progress, while the World Food Summit (WFS) targets have not been achieved and show lack of progress or even deterioration (FAO, IFAD & WFP, 2015).

The ongoing crisis in Yemen is aggravating food insecurity, one out of four persons is considered undernourished according to statistics (FAO, 2015). The civil war and the Saudi-led coalition's blockade have deteriorated the situation. Ten Governorates are now facing a food insecurity Emergency (The Integrated Food Security Phase Classification (IPC) Phase 4). These governorates are being the worst affected by the conflict with a 6.07 million people, 22 per cent of the population, facing food insecurity emergency. Another nine governorates, 6.8 million people (25.57 per cent of the population), are classified as facing a food security "Crisis" (IPC Phase 3). Comparing this year's level of food insecurity to the previous year, there is a 21 per cent increase and the number is on the rise (IPC 2014; FSIS/FAO, 2015).

The escalating conflict in nearly all major towns across the country is disrupting markets and trade, increasing food prices and hindering agricultural production. As a result, food insecurity is expected to further increase in the poverty-stricken country. Paradoxically, some 2.5 million food producers are among those identified as food insecure. They include small-scale farmers, sharecroppers, pastoralists, artisanal fishermen and agricultural wage labourers (FAO, 2015). Furthermore, food insecurity is even more severe among households classified as poor including women and children. Landless labourers and Internally Displaced Persons (IDPs) are also severely affected, as well as government employees who are affected by the reduction in their remuneration (by an estimated 30 per cent) in March 2015 due to the austerity measures. Approximately 26 per cent of households depend on government salaries in Yemen (FSIS/FAO, 2015).

Most poor and undernourished persons live in rural areas and make up 84 per cent of the total food insecure people. This group would particularly be affected from a poor agricultural season. In addition, the food stocks are running out and the market suffers from replenishments scarcity (GIEWS/FAO, 2015).

Although food insecurity is a phenomenon primarily found in rural areas, this is changing as poor, rural Yemenis move to the cities in increasing numbers. Moreover, the Yemeni government has linked the food prices in the country to international food prices, and hence Yemenis were affected by the international food price crisis in 2008 to a great extent (Chatham House, 2011).

With the riyal being depreciated in 2010 causing food price increases when the international wheat price index was decreasing, Yemen's volatile exchange rate appear to be a complicating factor in Yemeni food prices. If the deprecation of the riyal continues, that will impact food prices and hence leave vulnerable Yemenis on the brink of starvation (Chatham House, 2011). The black market's high exchange rates compared to the international rates nowadays might be a factor,

along with all other factors, which will depreciate the Yemeni riyal exchange value internally and thus increase hunger rates among the poor.

The national policy framework around food security

A National Nutrition Strategy was drafted in 2009, but information is barely found on this. Only in 2013 the Cabinet issued a decree, concerning necessary measures to address widespread malnutrition in the country. The measures, which have been taken by the government to ensure access to food, ranged from price control on basic food items to social safety net programs. These programs are heavily dependent on donor funding and thus their sustainability is questionable (Fapda/FAO, 2014).

The Yemeni government, in cooperation with UN agencies and other donors, has developed the National Food Security Strategy (NFSS). It is one of the few multi-sector strategies to be agreed by the cabinet. The NFSS was launched in December 2010 and aims to comprehensively tackle food insecurity in Yemen.

Objectives by 2020 include tackling food insecurity by reducing it to one third of its baseline status; accomplishing a 'medium' status of food insecurity; and diminishing acute malnutrition among children by 1 per cent annually (CHANTHAM HOUSE, 2011). However, the political and economic instability is hindering the NFSS's implementation and challenges persist for the FAO forbidding it from achieving a measure of food security at a grass-roots level (Marslen et al., 2015).

REALITIES ON THE GROUND

Yemen is a lower-middle income country, and is ranked the second poorest country in the Near East and North Africa region. 34.8 per cent of the Yemeni population is living under the national poverty line (Fapda/FAO, 2014). Currently about more than 47.57 per cent of the population is food insecure in either emergency or crisis phase – approximately five per cent more than in 2014 (FSIS/FAO, 2015).

The population in Yemen is expected to double in the next two decades. And thousands of refugees enter Yemen each year. The 257,645 recognized refugees mainly Somali, Iraqi, Ethiopian and Eritrean refugees are added to another 1.2 million registered internally displaced people (IDPs) seeking refuge from tension between the northern and southern regions of the country (UNHCR 2015). UNHCR reports that the number could be much higher while many refugees, most are Syrians, and IDPs are yet unregistered (2015). The number of IDPs is increasing rapidly due to the ongoing civil war and the Saudi-led coalition since March 2015. Such large groups compete for water, fuel wood and on occasion land. However, a large number of over 100,000 individuals were reported to have fled the country when the situation escalated (UNHCR, 2015).

This added pressure on already scarce resources may cause the country to be the first to 'run out' of water. Food and water production capacity is limited in the country that relies on the international market to supply 60 per cent of its food demands (Marslen et al., 2015). This country's heavy dependency on food imports further aggravates the food insecurity situation (Fapda/FAO, 2014).

There is increasing conflict over water resources (Small Arms Survey, 2010). According to International Policy Digest, it is estimated in a report by Sana'a University that the conflict in rural areas that is related to water shortages is 70-80 per cent. As a result to these shortages, the nation witnesses internal migration; populations from rural areas are moving (mainly) to Sana'a in the hope of securing employment and greater access to scarce resources (Marslen et al., 2015).

Yemen's economy is significantly dependent on agriculture which employs more than 50 per cent of the workforce. The first season rain started late in both Central highlands and Southern uplands. The civil insecurity, fuel shortages and the high prices have negatively affected agriculture and land preparation and irrigation. Therefore, the agriculture production has deteriorated and some crops were damaged because of inadequate irrigation; making the returns from these products less than the production cost (FSIS/FAO, 2015).

Obscured by the ongoing and escalating political violence in Yemen much more structural and insidious conflict is taking

place related to land and water (SAS, 2010). Eighty per cent of disputes in Yemen are land-related (USAID, 2010).

The country does not have a system for authenticating title deeds and land documents (formal or customary), a condition that creates space for fraud and results in land disputes. Land conveyance is subject to corrupt practices and thus the land registry is not able to arbitrate conflicting claims and can end up formalizing conflicting claims rather than resolve them (Small Arms Survey, 2010, World Bank 2007; MPWH 2010).

Very few Yemenis seek the formal legal system for the resolution of land issues. The lack of capacity, administrative support, poorly trained staff and judges translates into a dysfunctional system and widespread corruption. The system is also dominated by men. Most land and water disputes are settled by sheikhs, in their role as conflict mediators, in the traditional forum. In such setting customary law (urf or shar) is applied in an approach centred on conciliatory disputeresolution (World Bank 2007; ROY MPWH 2010; Manea 2010; ROY 2002a). It is therefore important to strengthen local and traditional conflict resolution bodies for alternative dispute resolution particularly on water access and use.

Communal lands are increasingly at risk of appropriation. Land grabs need to be monitored and dealt with. The multiple roles of Sheikhs, wielding considerable power, means there have been incidents of sheikhs violating their fiduciary role by selling off communal land or transferring land for their personal use. The formalisation of the role of sheikhs has actually weakened the traditional dispute-resolution system because communities lost their right to remove a sheikh from office. Now that the sheikhs are within government, residents are less likely to challenge their decisions. It also meant that sheikhs have lost their presumed neutrality because they stand to benefit from government land allocations and transfers to third parties (World Bank 2007, MPWH 2010).

RESOURCES AND OTHER INFORMATION

Related country profiles

 $USAID: \underline{http://usaidlandtenure.net/usaidltprproducts/country-profiles/yemen$

FAO: http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=YEM

FAO/Gender: http://www.fao.org/gender/landrights/report/en/

IMF: http://www.imf.org/external/country/YEM/index.htm

UNHCR: http://www.unhcr.org/pages/49e486ba6.html

World Bank: http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/YEMENEXTN/0,,menuPK:

310170~pagePK:141159~piPK:141110~theSitePK:310165,00.html

World Bank/Country overview: http://www.worldbank.org/en/country/yemen/overview

Laws, policy and regulations search engines

FAO Lex (Land & NR search engine): http://faolex.fao.org/faolex/index.htm Water Lex (Water laws search engine): http://faolex.fao.org/faolex/waterlex.htm

Maps and databases

Land and soils databases/information systems: http://www.fao.org/nr/land/databasesinformation-systems/en/
Water databases/information systems: http://www.fao.org/nr/water/infores_databases.html
Land and water maps and graphs: http://www.fao.org/nr/water/infores_maps.html
infores_maps.html

Portals and other resources

http://landportal.info/search/apachesolr_search/yemen

Donor support programs

USAID assists the government of Yemen with the institutional development of local councils to support the electoral process and to mitigate tribal conflicts in rural areas and capacity building for the judiciary.

Development partners scaled up several emergency food aid programs to address the food crisis and its consequences. Direct food distribution and supplementary feeding initiatives in 2007/08 were implemented by the Yemen Economic Corporation (YEC) in coordination with WFP. WFP also supported the Ministry of Health and Ministry of Education from

2007 to 2011 to implement emergency food aid programs (Fapda/FAO, 2014). In the meantime, local and international food aid programs confront several obstacles under the current unstable political and security situation.

Since 2014 FAO and partners have been working to support local farmers and internally displaced people to strengthen their livelihoods. They have distributed crop production packages, home gardening kits and fisheries inputs. Vaccinated poultry and goats for backyard livestock production have also been provided. Currently, only one third of the required \$4 million of the required \$12 million have been made available for the livelihood programs. (FAO, 2015)

The World Bank, GTZ, USAID, UNDP, the Netherlands, and other donors have engaged in a US \$90 million five-year (2009-2014) grant project to support the government's implementation of the National Water Sector Strategy and Investment Program.

IFAD has worked with Ministries in projects around community resource management (including land and resource governance interventions intended to provide support for rangeland management through surveys and mapping, demarcation and the establishment of grazing management groups) and participatory rural development through the rehabilitation of grazing lands, irrigation development. (GDWGL 2015)

The main policy frameworks governing agriculture and economic development are: The 3rd Five-year Socio-Economic Development Plan for Poverty Reduction (DPPR) 2006 – 2010; the 4th DPPR 2011-2015; The National Agriculture Sector Strategy (NASS) 2012-2016; and the National Food Security Strategy (NFSS) 2011-2015 (Fapda/FAO, 2014).

Civil society organisations working on land governance

The international land coalition has no members based in Yemen.

Youth without Borders Organisation for Development (YWBOD) was one of the five youth-led non-government organisations which led an action research, targeting different themes of youth access to land – including public space, tenure security and access to decision-making spaces. The action plan of the organisation included promoting youth land management opportunities and land awareness training; and youth engagement in the recording, distribution and protection of state and endowment lands. Connecting Yemeni Youth with State and Endowment Lands resulted in a draft national strategy for connecting youth with state and endowment lands (Farlie et al., 2015).

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More information about LANDac and our activities is available on our website: www.landgovernance.org.

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