

A FACILITATOR'S GUIDE

Community-led
Land Lease Guidelines

May 2019



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This Facilitator's Guide is intended for practitioners involved in supporting smallholder farming communities in the development of tools to enhance access to land through leasing. It is based on experience gained in piloting community-led land lease guidelines in Kakamega County in Kenya. Challenges around land access are not limited to Kenya and this Guide can be easily adapted for use in other contexts.

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Acknowledgement

We are grateful to the community members of Isukha Central and Isukha West wards of Kakamega County for their willingness to enter uncharted waters by pioneering a process to develop land lease guidelines to serve their farmland leasing needs. Many thanks also to the team at Shibuye Community Health Workers, who facilitated the pilot processes. We are also grateful to our partner, Soil Protection and Rehabilitation project team of GIZ Kenya for fruitful exchanges and support throughout the accompanying research project.

Cover image

Launch of land lease guidelines in Shiasaba Sub-location

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Land lease guidelines awareness creation and consultation meeting in Mukhonje Sub-location
© Violet Shivutse/ Shibuye CHW

Acronyms

CHW	Community Health Workers
GIZ	Gesellschaft für Internationale Zusammenarbeit
LLG	Land Lease Guidelines
SLM	Sustainable Land Management
TMG	Töpfer Müller Gassner
gGmbH	gemeinnützige Gesellschaft mit beschränkter Haftung

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Background

Social innovation for land access

Access to and control over farming land is important for agricultural productivity and household food security. However, many Kenyan households, particularly those headed by women and youth, face challenges in accessing land for farming (Diirro et al. 2018).

As part of the special initiative One World No Hunger, TMG Research gGmbH, a Think Tank for Sustainability based in Berlin, has investigated barriers to the adoption of sustainable land management (SLM) practices by farmers in Western Kenya. One key finding was that despite widespread awareness about the negative effects of land tenure insecurity on the uptake of SLM practices, SLM programmes rarely address this challenge (Kiragu and Flohr 2016).

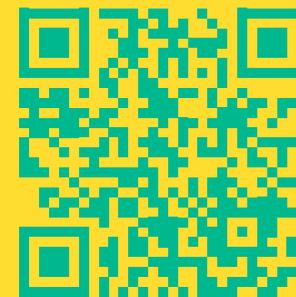
In search of a solution, TMG Research sought collaboration with Shibuye Community Health Workers (Shibuye CHW), a women-led grassroots organisation that is engaged in promoting women's land rights. Discussions with farmers revealed that many farmers in Shinyalu Sub-county of Kakamega County had turned to leasing farming land to circumvent the challenge of limited access to land, a practice that is also gaining ground nationally (Holden et al 2009). The land access challenge emanates from population pressure on land as well as a patriarchal system of land allocation that disadvantages women and youth, who are granted limited or no land rights.

But the practice of leasing farming land is fraught with conflicts. In some cases, land owners arbitrarily change the terms of the lease, which are often informal arrangements agreed without witnesses. In other cases, land lessees reportedly altered lease

documents, taking advantage of the land owners' illiteracy, old age or poverty to seize land by deception.

Such conflicts occur in contexts where existing legal provisions for leasing land are considered by many community members to be unclear or costly, and to serve only well-off individuals leasing large tracts of and/or high value land.

Against a background of unregulated land lease markets, TMG and Shibuye CHW supported two communities in Shinyalu Sub-county in their efforts to develop land lease guidelines (LLG) that are accessible to everyone and tailor-made to fit their needs. This process was piloted at two sites – Isukha Central and Isukha West wards¹. A documentary film of this process is available.



Documentary film
on process piloting

Community-led Land Lease
Guidelines in Kenya

<https://www.youtube.com/watch?v=CHhYcEKEIkg>

The community-led LLG (Magotsi et al. 2017; Magotsi et al. 2018) were met with an overwhelmingly positive response. The Governor of Kakamega hailed the process as a great step forward and has suggested that similar initiatives should be launched across the county. This success was shared with other farmers from Kakamega, Bungoma and Siaya counties, who expressed their desire to see the process replicated in their localities.

¹ A ward is the smallest political administrative area in Kenya and comprises approximately 5,000 people.

Why a Facilitator's Guide?

This Facilitator's Guide provides a general methodology for organisations wishing to facilitate the development of community-led LLG in diverse contexts.

A key lesson from the development of community-led LLG in the pilot wards is that because the process addresses context-specific challenges, its focus must be as local as possible. Farming systems and farming communities can differ considerably even over short distances; a focus on the locality increases the likelihood of community members engaging with and participating in the development process.

Accordingly, this Facilitator's Guide seeks to provide local facilitators with the necessary tools to lead the process in communities where they are already active.

It is important that the process of developing LLG is led by an organisation previously active within the target community. At best, this would be a grassroots organisation with leadership and a strong standing within the local community. A brief screening process may be necessary to confirm that organisations are accepted within the community.



Principal steps in facilitating community land lease guidelines

Preparatory phase: baseline survey

A baseline survey is critical before commencing the LLG development process. This survey should seek to establish basic yet key land and land-related issues in the locality, such as the primary farming systems (cropping/livestock management patterns), land sizes, structure and diversity within the community (men, women, youth, widows, migrants). The survey will also offer valuable insights into the roles of local institutional stakeholders – governmental and non-governmental – and facilitate their subsequent engagement in the process.

The survey also provides a means to identify socio-cultural organisation within the local community that could hinder or act as catalyst for the LLG development process.

Lastly, the baseline survey will aid in the assessment of key land leasing challenges in the locality.

Step I: Consultation with key institutional stakeholders

Why is this step important?

Ownership and operationalisation of the LLG are vital. Inviting institutional stakeholders to contribute to the design process helps to build co-ownership of the LLG. Some of these institutions have a mandate to manage local conflicts. Their involvement makes them appreciate how the process will support their mission. In addition, the involvement of governmental actors is part of local practice that needs to be respected

Who participates

This initial stakeholder consultation session is attended by key institutional stakeholders identified during the baseline survey. Their role at this session is to validate the value of the process not only to their respective mandates but also to the community. The consultation also offers stakeholders an opportunity to contribute to the design of the LLG by, for example, raising concerns they wish the local community to address as the LLG are developed. This consultation also facilitates the subsequent implementation of the LLG within existing governance structures at, for example, the Ward level.

Potential participants include: representatives from the county ministries of lands, agriculture and forestry, representatives from the local administration, such as the office of the County Commissioner, the ward administration, chiefs and assistant chiefs. Local non-governmental, community- and faith-based organisations, as well as opinion leaders may also be included as these can have considerable influence at the local level.

What should happen

- Discuss land leasing as an opportunity for land access, and the associated challenges experienced in the locality
- Share the idea of facilitating a community-led process to address the challenges of land leasing
- Gather the participating institutions' experiences in farming land management
- Discuss how participating institutions manage land-related conflicts in general and conflicts over leased farming lands in particular
- Solicit input to the design of the LLG development process



A governmental administrator welcomes institutional actors to a consultation meeting © Doreen Magotsi

Step II: Community-level awareness creation and consultation

Why this step is important

The objective of the second step is to bring the LLG development process to the local community in order to raise awareness and seek input.

In the Kenyan context, the sub-location is the smallest administrative location with governmental representation (the assistant chief). Together, several sub-locations constitute a Ward, which is administered by a chief. It is at this level that any breach of law and order is reported. Assistant chiefs enjoy close ties with their communities, and the sub-location is accordingly a suitable level on which to raise awareness and gather input on the LLG development process. The consultation session spans a full day.

Who participates

The initial scoping informs the selection of attendees for the consultation session. These will include leadership from but not limited to:

- i. Local governmental administrators: chiefs or assistant chiefs, village elders, heads of Nyumba Kumi ²
- ii. Faith-based organisations
- iii. Community-based organisations
- iv. Youth representatives, e.g. youth groups engaged or interested in farming
- v. Women representatives of groups engaged or interested in farming

2 Nyumba Kumi - this is a governmental initiative of community policing that forges connections between households to ensure safe and sustainable neighbourhoods

- vi. Representatives from community members who are leasers and lessees at the time of the guidelines' development process
- vii. Special groups/ representatives of categories of community members, e.g. minority migrants, widows, indigenous peoples

What should happen

- i. Discuss land leasing as an opportunity for land access and the associated challenges experienced in the locality
- ii. Establish how land leasing is adopted as an option for land access, e.g. who leases, and why. For those who lease out, stimulate discussion on the reasons or motivation to lease out land. This is important in order to understand the drivers of land leasing.
- iii. Discuss challenges of leasing and how people have been addressing these challenges
- iv. Discuss experiences in the management of local land-related conflicts. What local grievance management mechanisms exist? What could be done differently?
- v. Share the idea of a community-led LLG process. Verify whether the community truly wants to engage in this process to solve their land leasing challenges.
- vi. Discuss considerations that the LLG development process must address. These might include:
 - What issues should the LLG address? E.g. conditions for the use of land featuring natural assets such as trees to hinder soil and land degradation
 - Who needs to be consulted, and on what issue, to ensure the LLG comply with existing formal laws?
 - How will the LLG be implemented and enforced?
 - How will the LLG be monitored to ensure they meet the objective of increasing secure access to land through leasing?

- How will conflicts be managed?
- How and under which conditions will the LLG be revised if necessary?

The outcomes of these discussions become the terms of reference for the work of a smaller team, a so-called LLG Drafting Committee.

Facilitate the nomination of LLG Drafting Committees at the lowest level possible. In the pilot cases, committees were convened at the sub-location level, to consult for inputs towards the ward-level LLG. The committees should comprise five to eight persons. Criteria for the nomination of committee members should be developed and agreed to ensure gender balance and the representation of special interest groups such as migrants, youth, and widows.

Step III: Drafting the land lease guidelines

Why this step is important

The objective of this step is to develop the LLG in detail through in-depth discussions and consultations. Drafting Committees should hold 2-3 sessions in their respective areas and discuss in depth the issues outlined in the terms of reference (Step II).

Who participates

To ensure proper documentation of the drafting process and outcomes, a member of the facilitating organisation should attend the meetings of the Drafting Committee. This also facilitates the involvement of community members with poor literacy skills.

Once the Drafting Committees have completed consultations in their respective areas, they should nominate delegations of 2-3 persons, who work together to consolidate the outputs into a single LLG document.

These consultations may include exchanges with officials working in lands, forestry or water sectors.

What should happen

Drafting Committees should hold 2-3 sessions in their respective areas and discuss in depth the issues outlined in the terms of reference (Step II). The drafting of the LLG may take 2-3 weeks depending on the extent of consultations required between the individual meetings.



LLG Drafting Committee meeting at Ileshi Sub-location © William Onura

Step IV: Consolidation

Why this step is important

The objective of this step is to consolidate the work of the drafting committees into a unified LLG document.

Who participates & activities

The members nominated by the drafting committees come together and compare their outcomes. Any significant differences on issues are further discussed and a consensus is built. The consolidation process may take 2-3 day-long sessions.



LLG consolidation meeting in Mukhonje Sub-location ©William Onura

Step V: Approval

Why this step is important

The objective of this step is to ensure that the guidelines are validated by the local institutional leadership at the ward-level.

This step provides a feedback loop to Step I and brings the community LLG into the hands of the local institutional stakeholders for validation. This is crucial because the implementation of the LLG requires the active participation of both community members and institutional actors. For instance, chiefs and assistant chiefs both generate awareness of the LLG and act as custodians of the agreements concluded by leasing parties.

Who participates

All the members of the drafting committees and the institutional stakeholders present during Step I should participate in this session.

What should happen

The members of the drafting committees should share the community LLG with the institutional stakeholders. The participants make revisions and/or corrections to ensure compliance with existing legal requirements. After this input has been incorporated, the participants approve the LLG. The output of this session is an approved, community-led LLG. In the pilot processes, the Ward, an administrative area comprising of several sub-locations was the operational level of the LLG.

LLG can and should be translated into languages spoken within the relevant community in order to make them accessible to everyone.

Step VI: Launching the land lease guidelines

Why this step is important

After weeks of consultation, community members will be waiting to receive the final product of their work. The launch provides this opportunity. The launch is another milestone that will build ownership of the LLG. The launch also serves to popularise the LLG and make them available to as many people in the focus area as possible.

Who participates

The launch should take place at the lowest community administrative levels (i.e. sub-location or village depending on the respective country context) in order to extend their reach. The launch meetings can target as many as fifty participants at any one session. The key consideration in arriving at an actual number of participants is ensuring that enough time is provided for dialogue – participants at the launch should have the opportunity to pose questions or ask for clarifications.

It is critical to ensure that local leaders and opinion leaders such as faith-based leaders are included in the launch in order to increase endorsement, ownership, and uptake of the LLG.

What should happen

During the launch meetings, the facilitating organisation, together with the members of the LLG Drafting Committee, should present key aspects of the LLG and outline how the LLG are to be used. The launch meetings should encourage those participating to share the information with community members unable to attend.



Shiasaba Sub-location © William Onura



Monitoring and impact evaluation

Why monitoring?

This phase aims to track and document the implementation of the LLG as well as their impacts as a basis for any necessary revisions and adjustments.

Who monitors? When?

The facilitating organisation is best suited to lead the monitoring process due to their experience in accompanying the design of the LLG. The LLG will have provided for a community-led oversight team to oversee its implementation. In the pilot cases, this team was identified as the “Community Land Lease Committee”. The facilitating organisation should work closely with this oversight team to ensure that the monitoring of the LLG implementation is community-based.

Monitoring is a continuous process. The facilitating organisation should meet with the respective community oversight team at regular intervals to review the performance of the LLG.

What should be monitored?

The baseline survey undertaken prior to the LLG process provides input on the variables that should be monitored. These could include fewer conflicts, an increase in leasing arrangements and changes in leasing periods. As women and youth engagement is core to the LLG, it is also important that their participation is systematically documented.

Regular meetings to review the performance of the LLG provide opportunities to identify needs for revision and to build a consensus for their implementation.

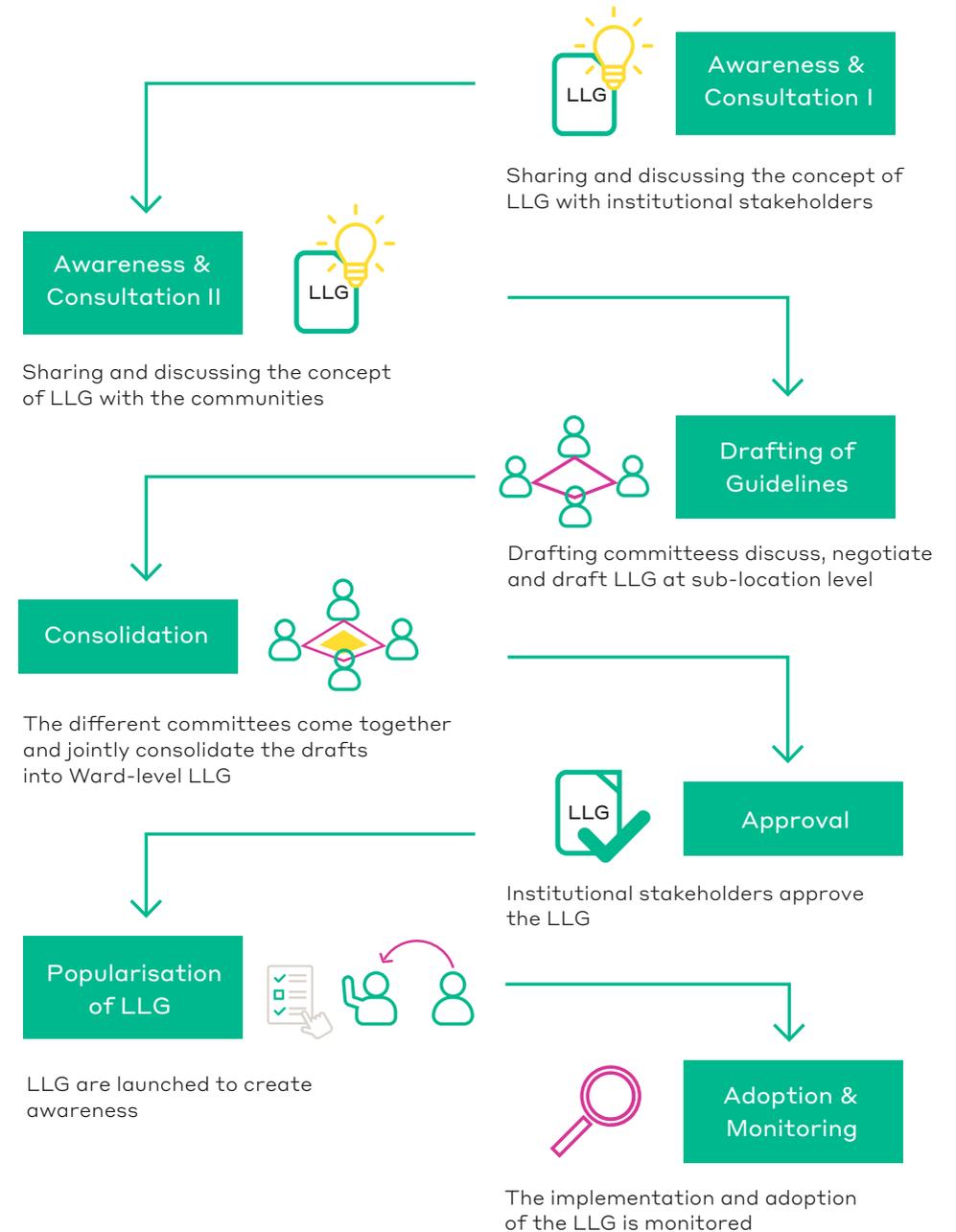
In contrast to community-based monitoring, an assessment of the impacts of the LLG's implementation is likely to require both external technical expertise and financial support of the facilitating organisation.



Land Lease Guidelines development Process

Source: Sehra Kiragu Wissler, 2018–19

Illustration: Zingsho Vashum © TMG Research gGmbH





Costs related to the development of land lease guidelines

Developing community LLG is an iterative process involving many consultation sessions. The costs incurred may relate to:

- Meeting space/hall hire
- Meals and refreshments
- Transport
- Staff hours (facilitating organisation)
- Translation of LLG into local languages
- Printing
- Communication

Based on the pilot cases, these costs range from €3,000 to €4,000.



Outlook

Community LLG give households with limited or no access to land, and women and youth in particular, a means to meet their household food and income needs. This Facilitator's Guide has laid down the basic steps necessary to ensure that relevant organisations can support and engage their communities in a process that addresses their land access concerns.

It is the hope of the authors that this guide will drive the scaling of community LLG process to as many locations as required by communities' demands.

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