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ASSESS & ENHANCE LAND TENURE SECURITY

HEKS ANALYTICAL FRAMEWORK

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1. Introduction

Restricted and endangered access to land and resources has proven to be one of the major obstacles to the development of rural communities, which are in the centre of HEKS' work. As a consequence of the urgent needs to secure access to land and HEKS' longstanding experience in development work, a substantial number of HEKS projects have focused and are focussing on enhancing access to land and resources for rural communities.

The reasons why access to land is crucial for the development of rural communities is manifold: For rural communities agriculture is their predominant source of income and a secured access to land and resources is the basis for any agricultural production. Beyond the classical crop cultivation a secured access to land is required for other basic livelihood strategies, for example access to pasture land, possibilities for collecting fruit and firewood, the fulfilment of housing requirements. Furthermore, secured access to land is important for the spiritual attachment of a group and thus the maintenance of a feeling of belonging and cultural identity as well.

Access to land and resources means, in the view of HEKS, that people have guaranteed rights to land ownership and/or land use, and that they can manage and use the resources of the land (territory) in the long term. Depending on the context, HEKS' work focuses on three aspects:

- Supporting rural communities in their legitimate endeavours to obtain land and resources;
- Assisting rural population groups already living on the land and using its resources in safeguarding it against outside interests on the basis of the laws in force;
- Supporting rural communities in investing in land and in managing it productively and sustainably.

Since 2009 HEKS has been actively involved in analysing the interplay between access to land and development endeavours. It is the aim of this document to provide a review of selected HEKS projects undertaken in this field and to suggest an analytical framework for programme and project work on access to land. The framework aims at identifying causes and triggers of land conflicts in order to address adequately problems in its strategies to secure access to land. However, the dynamic that hinder access is interwoven in a web of differing interests between great numbers of actors from the very local to the very global level.

It seems that population growth, possibilities of quick gains through global financial investments, changing food consumption habits in new emerging economies as well as environmental stresses among other factors have exacerbated violent conflicts over land. The current literature dealing with the subject of "land grabbing" however predominantly assesses the situation from a global perspective. The proposed framework goes beyond the land grabbing discourse and proposes an analysis that starts at the local level and examines triggers, key causes and amplifiers that constitute and enforce land conflicts. Based upon the analysis an appropriate intervention strategy is to be defined. The proposed analytical framework was developed by analysing different case studies from HEKS work – four of them are displayed in this article. Finally, the paper offers first conclusions from the application of the framework and gives an outlook on future directions.

2. Context – Land as a crosscutting issue

In the international development discourse on access to land, three different perspectives may be distinguished: a) rural development; b) human rights; c) economic policies underlining the cross-sectorial nature of land. Although problems around access to land are mostly accompanied by open or latent conflicts the conflict perspective as a fourth perspective is under-represented in the current literature.

2.1. Different perspectives in the access to land discourse

The rural development perspective

In the political discourse, access to land has been a central issue for rural development and food security. The FAO in 2006 recognised that food insecurity, hunger and rural poverty often result from a lack of access to resources.

Therefore, access to land, water and other natural resources related to rural people's livelihoods, especially, women, indigenous, marginalized and vulnerable groups, is essential to hunger and poverty reduction. In addition, there is a need to make better use of the land. This underlines the importance of traditional and family agriculture, and other smallholder production as well as the roles of traditional rural communities and indigenous groups in contributing to food security and the reduction of poverty as well as the need to facilitate increased and environmentally sustainable agricultural productivity and fair trade (FAO 2006).

The issue access to land is also integrated in the concept of food sovereignty that has long been advocated for by civil society organisations, especially "La Via Campesina". Food sovereignty has become a globally relevant analytical concept for food-related issues regardless of whether they pertain to the rural or urban areas, or to the South or to the North.

"La Via Campesina's" understanding goes much further – not only focussing on access to land, but also integrating the broader understanding of access to territories and food sovereignty. Land is embedded in territory, which includes water, air, forests, plants, animals, fish, other living creatures, culture, sacred sites, ceremonies and practices. Territories therefore connote holistic relationships between people and their environment (Rosset 2013).

The human rights perspective

The issues discussed in the rural development discourse have also been raised and elaborated from a human rights perspective, especially in the context of the right to food. The report of the Special Rapporteur on the Right to Food stated clearly that "access to land and security of tenure are essential for the enjoyment of the right to food." (DeSchutter 2010) Therefore from the human rights perspective the threats to and the question of strengthening access to land for smallholders, indigenous people and other groups such as pastoralists demand for efforts to improve security of tenure as well as agrarian reform. In doing this, it is important to broaden entitlements of vulnerable groups aiming at ensuring a more secure livelihood and to recognise the existence of commons and the community-based management of natural resources. In addition to this, agrarian reforms remain an important element of supporting the right to food.

La Via Campesina has also promoted the right to food sovereignty not as an individual right, but as a right of communities and is promoting the rights of peasants and other people working in rural areas.

The economic policies perspective

Land policies and access to land in developing countries have always been influenced by national and international economic policies, as e.g. the effects of the Structural Adjustment Policies (SAP) of the 1980s and 1990s illustrated. With the convergence of global food, energy and climate crises in recent years, the interest in land has seen a sharp increase resulting in large-scale land acquisitions, especially in the Global South (Borras and Franco 2012). While there are no specific figures available as to how much land is actually leased or purchased through land grabbing, an estimate from 2013 states the figure of 32.8 million hectares globally, of which most land is located in Africa (SciDev website).

Following the widespread discussion of land grabbing and its consequences for poor communities in developing countries, the issue of global governance of land deals took a prominent place on the international agenda. In 2012, the FAO adopted the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGG). While they represent an important step and formulate many important concerns raised by civil society, they also contain

weaknesses and loopholes. Since the adoption of the VGG implementation processes have started in various countries that are key to define the interpretation of the VGG.

The conflict perspective

Access to land and conflict are closely intertwined, in two ways:

Land-related conflicts: Restricted or in-sufficient access to land is linked predominantly to conflict. Conflicts may be openly fought or be latent in cases where those deprived do not even dare to speak up. These conflicts are often located at the local level, even though they may have national or international factors, which cause or increase them. Another dimension are bigger intra or interstate conflicts around territories. Land issues, however, are rarely the sole cause of conflict, but interact with other factors such as governance and identity.

Land in post-conflict areas: Land is also a crucial factor in post-conflict situations, even if it was not at the root of the conflict. Unclear post-conflict situations where different legal authorities (national, customary, religious) co-exist can cause situations in which different groups claim one piece of land. Conflict-induced displacement can play a primary role in the development of legal pluralism with regard to land (Pantuliano 2009,

HPG 2009).

Another issue discussed in this context are **housing, land and property (HLP) rights** in fragile and conflict-affected contexts, an issue that is linked closely to the human rights discussion. This does not only concern restitution for displaced people. Communities losing access to their land due to land grabbing are also victims of violations against HLP rights.

Despite its relevance to access to land, the issue of conflict is by far less prominent in the current discussion on access to land. The mainstream of the discussion especially around land grabbing, however, does not address the interlinkages to conflict and fragility of states in detail.

2.2. From local to international: Key issues around access to land

Access to land is thus a highly complex issue not only discussed in many different thematic contexts, but also on many different levels. However, the different perspectives add to the understanding of the complexity around securing access to land for the poor and marginalised as well as dealing with the sources and consequences of land conflicts. Summarizing the different processes of the development discourse, the following main issues are divided in local, national and global level.

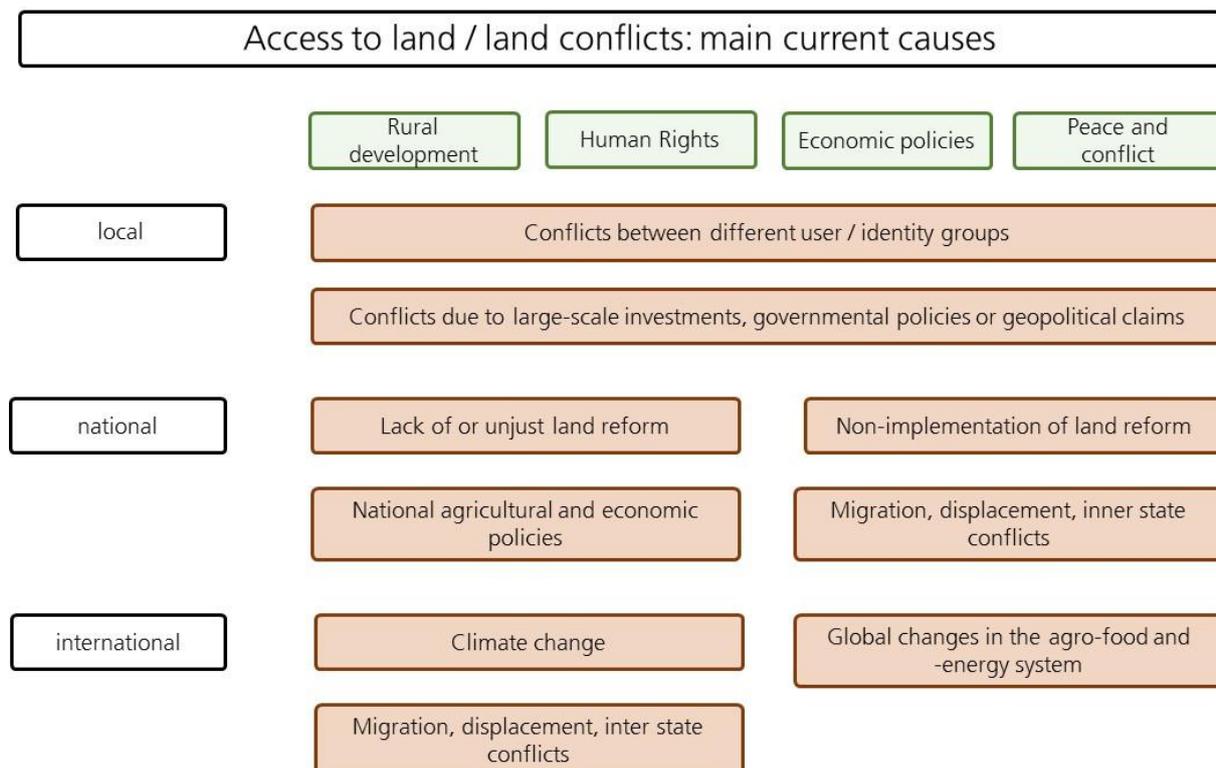


Figure 1 Illustration of the different approaches with regards to access to land and the key issues at the different levels.

Local level: Among the most common conflicts are disputes over land between different groups of users (e.g. farmers versus pastoralists) and communities losing their land to investors due to land leases or purchases for agricultural production, natural resource extraction, or financial investments. Yet land is the central resource, which smallholder farmers need to have access to in order to be able to make their living through agriculture. Improved agricultural practices can support them to make better use of it. Furthermore, the spiritual attachment and thus the maintenance of a feeling of belonging and identity plays an important role, too. Land as property of an entire community or identity group is also inhabited and utilized by other mostly marginalised groups such as pastoralists or indigenous people. All of these different groups need a secure access to land as a basis to making their living, live their own traditional lifestyle and identity.

National level: National food security and poverty reduction strategies are interlinked closely to the issue of land. Unequal land distribution is a problem in many developing countries and therefore land reforms by national governments are a crucial issue. Depending on the existence and quality of respective national policies, this

covers the demand for the implementation of land reforms. In addition, agricultural, economic and other policies also have an impact on access to land, depending on the incentives set by national governments. Furthermore, claims on territory and ethnic borders and increased land pressure due to migration play an important role in driving conflicts violent.

Global level: In recent years, the impacts of global developments and policies have been in the focus of the debate around access to land, with the most prominent issue being land grabbing in developing countries. Most of the debate focuses on the consequences of investment in land in the context of agriculture and energy supply in developing countries. In addition, land degradation due to climate change and the consequences of global environmental policies have also been a focus, e.g. regarding agro-fuels and REDD+ in the context of the international climate negotiations.

Due to the crosscutting nature and high complexity of access to land, many projects and programmes in developing countries tend to focus on specific aspects and neglect other important aspects. The analytical framework that HEKS is proposing therefore tries to take all the different perspectives and levels into account.



3. The analytical framework

Internal analysis of 2009 and 2010 revealed that one of the key driving factors of latent or violent conflicts HEKS and its partners are struggling with is the restricted and denied access to resources; e.g. land, water. This is the case in Latin America, Africa, Asia and to some extent also in Eastern Europe. Those conflicts evolve either in rather symmetric power relations of different population groups. Or they manifest in asymmetric ways between local communities and power holders of states and/or companies; for example due to large-scale extractions of natural resources or land grabbing by export-orientated agro-industries.

A review of HEKS projects showed that the main successes resolving or alleviating conflicts have been made in more stable hybrid democracies with a strategy of a rights-based approach referring to national laws and regulations. The circumstances are different and far more complicated in fragile and conflict-affected countries where strategies to improve access to land on a more permanent basis are still to be tested.

These findings as well as the experiences collected for annual reporting and secondary literature provide ample sources of information and analysis. Based upon its rich experience and its conviction in the relevance of enhancing tenure security for the development of rural communities and peaceful coexistence, HEKS has decided to review its initiatives on the topic and to develop an analytical framework to assess and transform land conflicts and thereby enhancing tenure security.

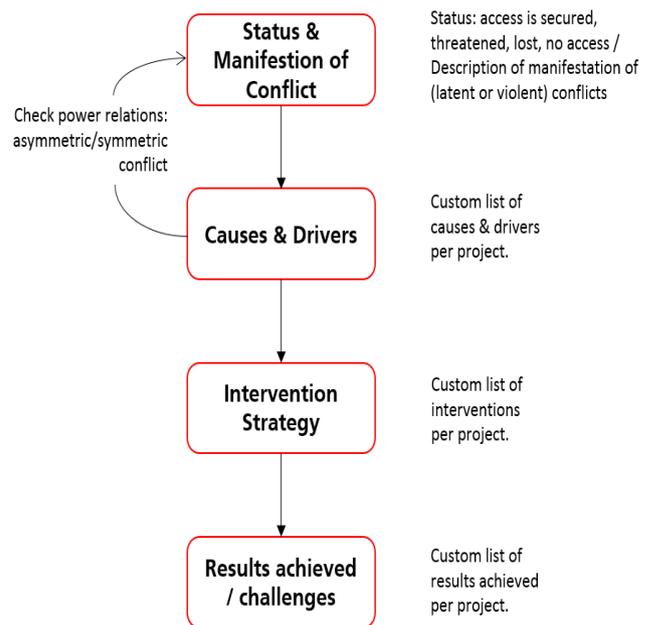


Figure 2: Methodological approach of HEKS framework of analysis.

3.1. Methodological approach

The framework aims at providing guidance in the entire analysis process. Starting point is a profound analysis of land rights in the country and the given context. Projects, cases and contexts are analysed with regard to a) status and the manifestation of latent or violent conflicts, b) causes and drivers, c) power relations to define, if the conflicts are rather asymmetric or symmetric, d) intervention strategies, and e) results achieved or challenges encountered. Figure 2 above summarises this approach.

THE ANALYTICAL FRAMEWORK PROVIDES AN OVERVIEW OF THE STATUS AND ISSUES TO BE DEALT WITH IN A RESPECTIVE PROGRAMME OR PROJECT

The purpose of the exercise is ...

- to identify the main problems at stake concerning land conflicts in order to be able to select certain foci within the vast topic;
- to build certain clusters of sub-issues to enhance a more focused specific knowledge sharing;
- to identify organisational strength and fields NGOs believe to make a difference in order to further sharpening their profile;
- to enhance the quality of analysis for NGO projects and programme contexts concerning the topic of land conflicts;
- to provide guidance to enhance the identification of intervention strategies and programming in general;
- to identify and enhance the application of good or promising practises.

3.1.1. Status of access to land and manifestation of conflicts

Status of access to land

The term “access to land” refers to the right to use, manage, and control land and the resources embedded thereupon. The different status assesses the de facto rights that determine the actual possibility of people’s access to land.

Thus, there are the following three types of rights involved:

- Use rights: refer to the right to use land for growing crops, passage, grazing animals, and the utilization of natural and forest products.
- Control rights: refer to the rights to make decisions about how the land should be used and how benefits should be allocated.
- Transfer rights: refer to the right to sell or mortgage land, convey land to others, transmit the land through inheritance and reallocate use and control rights.

The framework suggests differentiating four different status, meaning categories of opportunities for rural communities in project areas to access land and its resources:

- a) “access secured”
- b) “access threatened”
- c) “access lost”
- d) “access never provided” (although rights are adjudicated)

This is of importance as subsequent strategies to enhance tenure security may be different. The final category “secure access” does not demand any strategies but may be of interest for analytical reasons.

Manifestation of conflicts

After analysis of the status of access to land it is important to describe systematically the manifestation of conflicts, to seize the nature of it and to recognize the intertwined connexion to the land issue.

3.1.2. Causes of restricted access to land / land conflicts

Having a clear picture of the main points of a land related conflict – be it latent or violent –; an analysis of the causes follows. It is difficult to determine key issues and to put them in a hierarchical order. HEKS analytical framework (see figure 3 on page 10) is an attempt to distinguish different clusters of causes. This includes socio-political as well as economic drivers that amplify or exacerbate existing land conflicts. These may be clustered in two categories: in *prevailing*

conditions, which describe social, political, historical, economic and environmental challenges from a macro perspective; and in *governance & enabling environment*, which cover land related governmental, juridical issues and deal with the communities’ ability to claim their rights on access to land and resources.

These two clusters are based on HEKS experience in addressing land related conflicts in its projects over the last couple of years. Figure 3 on page 10 summarizes the different core problems of causes, which are at stake across HEKS projects and programmes.

Prevailing conditions

Among the macro developments, conflicts between and within states may play an important role. Territorial claims, land use issues or disputes on land related resources may either be among the root causes of those conflicts or a consequence if displaced and returning mass migrations disrupt existing rules and regulations.

Degradation and climate variability aggravate the pressure on scarce resources and may be triggers of violent conflicts. This is for example the case when droughts force pastoralists to move beyond their regular mobility patterns. Migration pressure due to population growth and economic growth in urban areas may additionally amplify land conflicts, as it is for example the case in South Sudan and Cambodia.

Historical inequalities often going back to colonial rule and are the early roots of land conflicts and structures that deny access to land for certain groups. In these cases, land reforms are either non-existent or lack proper implementation. This is the case in a number of HEKS focus countries and a common picture of hybrid democracies such as India, the Philippines or Brazil. The globally increasing pressure on the resource land in order to produce animal feed, enhance food security or for energy purposes may directly or indirectly affect rural communities. If HEKS beneficiaries are not directly threatened or evicted through those pressures, they are often affected indirectly as those who are directly affected in consequence increase the pressure in the more remote and sometimes less fertile regions where HEKS runs many of its programmes.

Governance & enabling environment

Access to land is also influenced by governance issues and a not-enabling environment for civil society action, which are not exclusively limited to land issues. The overlapping laws such as for example traditional rules and regulations concerning land tenure and national laws are increasing the likelihood of land conflicts. In

numerous cases the judicial insecurity as for example due to lack of proper documentation of tenure patterns and complexity of juridical procedures are an additional challenge and/or even an opportunity for power holders to gain access to desired resources. This fact may explain the reluctance of some states to implement international and national laws, policies and guidelines. Another challenge are the growing economic disparities, which often force marginalised groups to sell their land far below its actual value. However, in many cases it is a combination of lack of interest and lack of capacities to ensure the proper implementation of laws and policies. Impunity, corruption and clientelism are one dimension of the problem whereas weak institutions in charge of safeguarding laws (e.g. land register) may be the other side of the coin. Thus, governance failures have to be assessed in detail in order to secure equal distribution of land.

A great challenge also represents the weak capacities of rural communities and organisations and their restricted possibility to claim their rights. Lack of knowledge about their rights, access to networks and information as well as high levels of vulnerability are still one of the major obstacles to enhance just resource distribution and tenure security. This fact predetermines their weak power status, which is often marked by the discrimination of minorities and women's access to land and a lack of recognition of their concerns.

3.1.3. Symmetric / asymmetric conflicts

Knowing the causes of a manifestation of conflicts around access to land, and before defining a strategy of intervention, it is useful to distinguish two categories of conflicts: more or less symmetrical conflicts and highly asymmetrical conflicts.

The former are rather between different user groups as for example pastoralists versus those engaged in sedentary agriculture or between different identity groups who claim access to a certain piece of land. Furthermore, claims to exploit common resources – collecting of fire wood, wild fruits or for worshipping – may frequently lead to conflicts. Last but not least, conflicts between neighbours or relatives including women who lost their husbands may play a role here.

Highly asymmetrical conflicts involve most of the time huge power differences between a marginalised population group and national or international actors. Those actors may be national representatives of the government or the

economy who may benefit from either leasing out land or ignoring their accountability to safeguard the rights of marginalised claimholders, or international business enterprises or states with their economic interests. These conflicts relate mainly to a dominant discourse on “development” which values an industrial economy with large-scale enterprises rather than medium scale and smallholder economies.

The political marginalisation and structural violence against certain identity groups – often social, religious or ethnic minorities – represent another form of asymmetric land conflicts. Especially in fragile contexts where a government is non-existent or does not have effective control. Geopolitical claims of conflict parties are often also at the expense of access to land for marginalised population groups.

3.1.4. Development of intervention strategies

Following the analysis of the key factors influencing a specific land conflict, the next step is to define the measures that have been, are, and will be undertaken to mitigate the negative consequences of restricted access to land. Based on HEKS' experience and the analysis of different case studies with the outlined framework, a series of promising intervention strategies has been identified. In general, these strategies should take into account the different dimensions, which are touched by land conflicts, i.e. rural development, human rights, economic policies and conflict. They should also strive for a combination of different types of interventions (technical, institutional, political).

The table below summarizes a list of possible intervention strategies and activities, which is certainly not comprehensive, and needs to be adapted to the specific conflict, local context and actors involved. However, it may provide input on how to elaborate strategies based on the analysis of the contributing factors and challenges to restricted access to land or land conflicts.

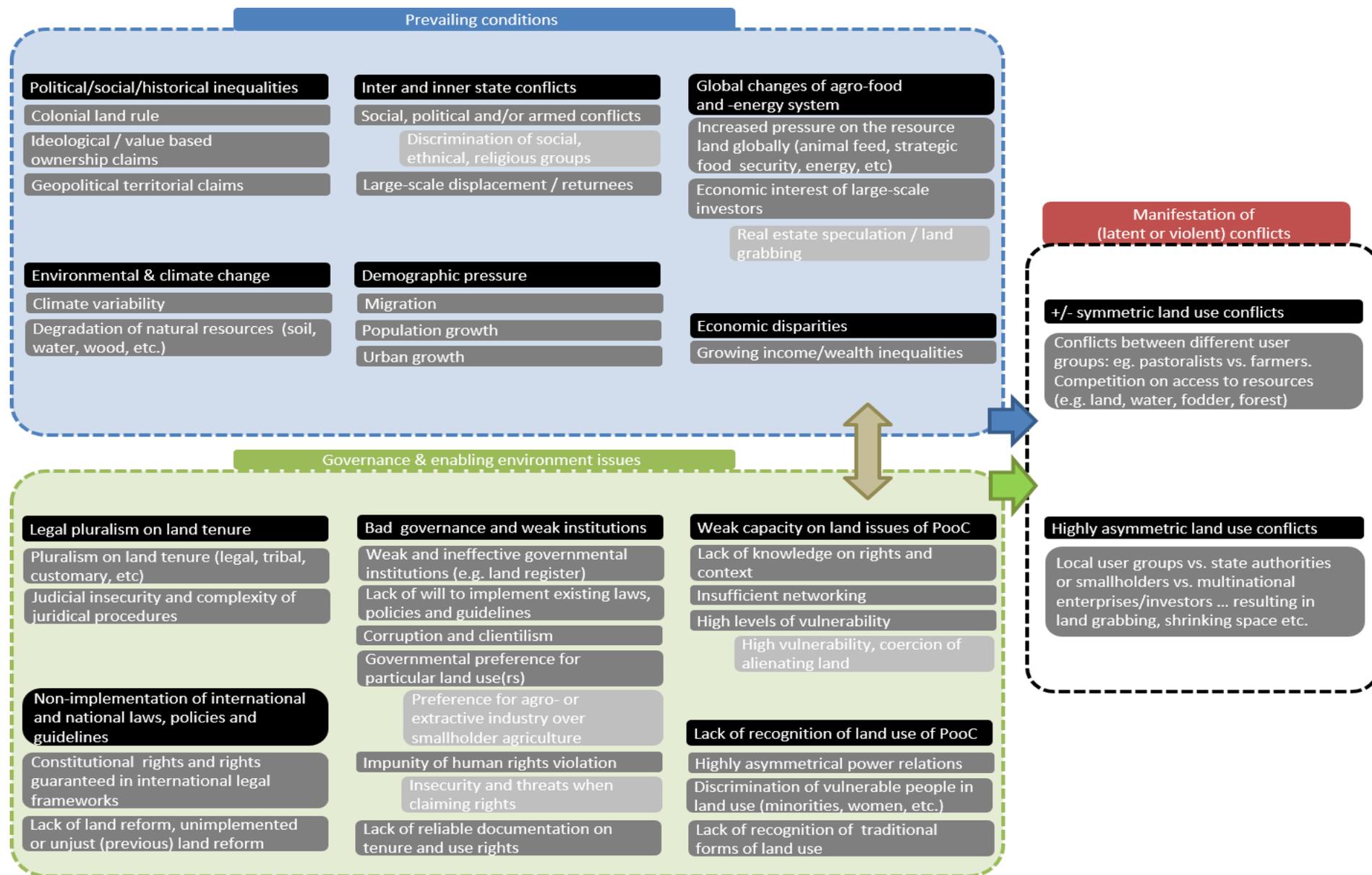


Figure 3: Cluster of causes of restricted access to land / land conflicts

	Possible intervention strategies	Possible activities
Prevailing conditions		
Political, social, historical inequalities in land access	<ul style="list-style-type: none"> National and/or international advocacy on land reform Campaigning and outreach 	<ul style="list-style-type: none"> Building and strengthening of peoples organisations Dialogue with government actors on a new / just land reform or for the implementation of the land reform Training of paralegals Litigation
Environmental & climate change	<ul style="list-style-type: none"> National and/or international advocacy regarding land-related impacts of climate change Supporting climate change adaptation 	<ul style="list-style-type: none"> Advocacy for compensation (loss and damage) and for effective climate change mitigation Implementing technical measures for land recovery, alternative agricultural practices etc. Capacity development on climate variability, risk analysis, land use changes
Inter and inner state conflicts	<ul style="list-style-type: none"> Analysis and documentation Awareness raising of political actors and the public Identification of joint aims/connectors between groups Advocacy against forced resettlement and for the rights of returnees 	<ul style="list-style-type: none"> Documentation of the needs of PooC and intervention at relevant instances
Demographic pressure	<ul style="list-style-type: none"> Analysis and documentation Awareness raising of political actors and the public 	<ul style="list-style-type: none"> Documentation of the needs of PooC and intervention at relevant instances Dialogue between different user groups and the government Awareness raising on the individual consequences for potential migrators.
Global changes in the agro-food and -energy system	<ul style="list-style-type: none"> National and international advocacy for the rights of the PooC Campaigning and outreach Capacity building and networking 	<ul style="list-style-type: none"> Dialogue with the government on the pros and cons of agroindustry and the social and economic potential of smallholder agriculture Dialogue with the government on international laws and guidelines Field visits and fact finding missions Research and publications Speakers tours Urgent actions, open letters, special intervention, petitions Peoples marches, hunger strikes
Economic disparities	<ul style="list-style-type: none"> Advocacy for the rights of the PooC Improving livelihood strategies 	<ul style="list-style-type: none"> Dialogue with the government on economic and agricultural policies Access to infrastructure Diversifying livelihood strategies through income generating activities
Governance & enabling environment issues		
Legal pluralism on land tenure	<ul style="list-style-type: none"> Analysis and documentation Strengthening of institutions 	<ul style="list-style-type: none"> Search for win-win solutions to clarify/harmonize traditional and legal regulatory systems and institutions (e.g. demarcation of corridors) Dialogue between local governmental and traditional representatives
Non-implementation of international and national laws, policies and guidelines	<ul style="list-style-type: none"> Analysis and documentation National or international advocacy for the rights of the PooC Strengthening of institutions 	<ul style="list-style-type: none"> Documentation of forced resettlement National and/or international litigation

Bad governance and weak institutions	<ul style="list-style-type: none"> • Strengthening of institutions • Advocacy for the rights of the PooC 	<ul style="list-style-type: none"> • Support for governmental bodies to fulfil their duties regarding land use, e.g. implementation of legal decisions, follow-up on fulfilment of lease obligations, local institutions for conflict settlement • Dialogue with the government • Demand for transparency according to international standards, documentation of corruption and litigation
Weak capacity of or symmetric conflict of PooC	<ul style="list-style-type: none"> • Empowerment, capacity building and networking • Improving livelihoods strategies • Legal support • Analysis and documentation • Capacity building and networking • Improving agricultural practices and livelihoods strategies • Capacity building of user groups • Dialogue between user groups 	<ul style="list-style-type: none"> • Building and strengthening of peoples' organisation and networks • Information on rights and options to claim these rights • Empowerment of vulnerable people in dialogue with governmental institutions • Increasing the authority of PooC associations by solving internal conflicts and by strengthening horizontal and vertical connections to CSO and governmental actors • Access to infrastructure • Diversifying livelihood strategies through income generating activities • Field visits and fact finding missions • Documentation of violation of land rights / forced resettlement • Building and strengthening of peoples organisations • Training of paralegals • Land user commissions involving all relevant stakeholders, e.g. government officials, traditional leaders • Establishment of producer networks • Training of trainers on selected agricultural crops • Development of structures and procedures to handle grievances and clarify responsibilities • Exact analysis of the needs of all conflict parties • Identify and negotiate for pareto-efficient solutions with reference to traditional and legal regulatory systems and institutions (e.g. demarcation of corridors) • •
Lack of recognition of PooC	<ul style="list-style-type: none"> • Analysis and documentation • National and/or international advocacy for land rights of PooC • Campaigning and outreach 	<ul style="list-style-type: none"> • Documentation of land use forms with the involvement of governmental institutions (including commons) • Advocacy on the recognition of traditional land use forms at national level with reference to human rights and FAO voluntary guidelines. • Litigation • Speakers tours • Urgent actions, open letters, special intervention, petitions • Peoples marches, strikes.

3.1.5. Results achieved and challenges encountered

Accompanying and following the implementation of the strategies the framework also includes the documentation of the results achieved and challenges encountered. This step supports the

documentation of the results achieved and the challenges encountered when implementing a mitigation strategy. It also helps to refine the analytical framework as well as building up a knowledge base for analysis and strategy development.

4. Case studies

This chapter shows the application of the described framework on four different HEKS' project contexts (Brazil, Niger, South Sudan and the Philippines) with different characteristics of

problems related to access to land and resources. At the same time these four case studies also served for the further development of the analytical framework.

4.1. Brazil – Territorial conflicts on Guaraní Kaiowá communities in Mato Grosso do Sul

Background

The Guaraní Kaiowá case concerns around 30,000 members of the indigenous people of the Guaraní Kaiowá living in the state of Mato Grosso do Sul in Brazil. The Guaraní Kaiowá were expelled from their territories to make room for agriculture and were given reservations outside their ancestral territories, which affected their cultural identity and social structures. The extension and mechanization of large-scale agricultural production decreased the demand for indigenous labour and destroyed the biodiversity and subsistence farming. The Guaraní Kaiowá are exposed to overcrowded reservations, conflicts with farmers and evictions.

Status of access to land

Four different situations describe the land and territory status of the Guaraní Kaiowá:

- Groups, which have been expelled from their traditional territories (Tekohá). They decided to leave the reservations and go back to occupy their ancestral territories in order to increase pressure on the Brazilian authorities to concretize land demarcation and the allocation of land titles. Most of those groups are in open conflict with landlords and agro-business enterprises.
- Guaraní Kaiowá groups, which have been expelled from their Tekohá and now live in very precarious conditions under plastic tarpaulins at the roadsides of the highways. Some of these groups are organizing themselves to go back to their Tekohá.
- Guaraní Kaiowá groups, which are squeezed in overcrowded reservations in the region of Dourados. They have around 0.3 ha land per family which means that they do not have any possibility to follow their traditional way of live, including land use patterns.
- Guaraní Kaiowá groups, which are in a more "comfortable" situation, as they have access to land and resources. On the other hand they still

lack access to governmental programmes and public policies, particularly with regard to health facilities, education services, rural development and food security and public security.

Causes and drivers

The main causes and drivers of the land conflict are as follows ...

CAUSES AND DRIVERS BRAZIL
• Non-implementation of constitutional rights and rights guaranteed in international legal frameworks.
• Physical and psychological violence and violation of human rights.
• National and trans-national agro-business and agro-investors.
• Lack of good governance structures and missing political will to implement rights and apply legal framework.
• Insecurity and threats of individuals and communities in the struggle for their rights.
• Governmental favouritism and public policies that mainly support the implementation of agro-business models and ignore the relevance of traditional patterns of land use management.
• Increasing pressure on land and natural resources

Intervention strategies

All activities and approaches are integral and complementary parts of the overall case strategy and are applied whenever they seem appropriate. The intervention points particularly pick up on the demarcation process, land issues or incidences that have a highly symbolic value and create visibility of the case, both in-country and internationally. An important strategy is to delay evictions of communities who occupy land as a

form of protest, to bridge time for decisions to be made with regard to demarcation.

At the same time it is tried to exert pressure on Brazilian decision-makers to keep timelines and continue with the demarcation according to the TAC (Terms of Conduct Agreement). Different interventions have been undertaken:

Urgent actions, open letters, special interventions of the International Secretariat and petitions: Open letter to the Brazilian Federal Court in September 2011, a letter to President Rousseff by FIAN Brazil in November 2012; a letter to the new president of the Human Rights Subcommittee of the European Parliament in December 2012; a petition to the Brazilian government in December 2013;

Speaker tours: European speaker-tour of Guarani-Kiowa representatives in December 2010;

Field visits: Fact-finding missions and site visits took place in 2011 and 2013;

Studies, publications: Study on food and nutritional security of three Guarani Kaiowá communities carried out by FIAN Brazil supported by the International Secretariat;

Litigation: In 2012, it was decided to take the case to the Inter-American Commission of Human Rights.

Results achieved

Example "Open letters": The difficulty is to track down immediate outcomes when there is no direct response to the letters. Actually, this "absence of action" might be a response. On the other hand, it is noted that, whenever this type of intervention was launched Guarani Kaiowá communities concerned seem to obtain an increased access to food basket programmes. The assumption is that for the Brazilian authorities it is a relatively easy form of action taken, avoiding the trickier and politicized area of the demarcation process. Direct responses from European decision-makers and stakeholders are easier to obtain. For example, as a response to a letter by FIAN, the new president of the Human Rights Subcommittee of the European Parliament sent a letter of inquiry to the Brazilian Embassy in Brussels.

Example "Speaker tours" of community and activist representatives: They are an effective means of creating visibility of the case and obtaining support by European decision makers and institutions. A *Speaker tours* carried out in 2010 visit included meetings with members of the European Parliament, with the Commissioner for Human Rights of the German Government and the submission of a letter to the Human Rights

Subcommittee of the European Parliament as well as to the Director for International Human Rights of the European Union. The evaluation is that this strategy is a very strong intervention approach to reach international stakeholders who in turn are able to open doors to governments of the countries concerned. However, this also requires a long and work-intensive follow-up time. For example, the outcome of the 2010 speaker tour was a 2013 communication sent by the EU Delegation to Brazil to the Brazilian authorities reminding them about their human rights obligations with regard to the situation of the Guarani Kaiowá. The strategy is worthwhile and aims to continuously advocate the cause through the EU channels, in particular the Delegations, as the EU Strategic Framework and Action Plan on Human Rights and Democracy gives the competence to the Delegations to address the human rights situation in the countries.

Example Field visits and fact finding missions:

They serve a double purpose; (a) to document the case and to enable closer coordination and work with the partners and communities on site and (b) to approach governmental decision-makers. Two visits were carried out over the last three years: In 2011 a fact-finding mission documented the increase of malnutrition among children and the lack of government assistance and the FIAN's Secretary General met with the FUNAI, the Public Ministry and representatives the presidential cabinet. Another visit by the Latin America Coordinator took place in 2013, which included a visit to three local communities and coordination meetings with partners including CIMI, Lawyers without Borders and Amnesty Brazil.

Example litigation: This is a new strategic option as the Optional Protocol has now entered into force and the right to food is judicialised. The case is seen as a "test the human rights system". The exhaustion of calling on national instances is a prerequisite for this choice. In the case of the Guarani Kaiowá, the process started in 2012 with a decision of the indigenous communities to go for litigation and to address the Inter-American Commission on Human Rights. As a first step, the communities have been supported to request the Commission to issue precautionary measures in relation to the safeguarding of community leaders and activists, which brought about discussions between the Commission and the Brazilian government. In October 2013, the first public hearing of the Commission took place, which was the first opportunity to discuss the content of a possible petition to initiate the litigation process. Webcasts in English, Spanish, Portuguese and French were made available. This was sensed a great achievement for the concerned communities

and supporting organisations, as there are around 400 requests for hearings on average and only around 100 to 140 are approved. Overall, litigation is by far the most time- and resource-consuming instrument. For example, the granting for the request for a hearing took around two years and another year will have passed until the petition to seek litigation will be ready for submission. However, the chance to be successful is very realistic as the case has a high degree of visibility due to human rights defender violations and malnutrition of children.

What has been the impact on the Guarani Kaiowá case until to date? The publication of the final report of one of six FUNAI working

groups in December 2011, which served as a first step for the demarcation in two municipalities, is a first milestone. The second milestone with regard to the demarcation process followed in January 2013 with the order of the President of FUNAI recognizing Iguatemi, an area of about 41,571 hectares within the municipality of Iguatemi, as being the traditional territory of the Guarani-Kaiowá. With regard to litigation before the Inter-American Commission on Human Rights, the request to the Commission to issue precautionary measures with regard to violence against community leaders and activists has been followed by a number of security measures in the communities concerned.

INTERVENTION STRATEGIES	REMARKS WITH REGARD TO THE OUTPUTS	ACHIEVEMENTS SO FAR AND IMPACT
Urgent actions, special interventions, petitions, etc.	Time consuming verification of facts Time consuming coordination with other organisations if joint action Difficulty to track outcomes when there is no direct response	Dec 2011: Publication of final report of one of six FUNAI working groups; first step of demarcation in two municipalities Increased access to food basket programmes January 2013: Letter by the president of the European Parliament Human Rights Subcommittee to the Brazilian Embassy in Brussels Jan 2013: Order of the President of FUNAI recognizing Iguatemi, an area of about 41,571 hectares within the municipality of Iguatemi, MS, as being the traditional territory of the Guarani-Kaiowá 2013: Security measures in concerned communities following request to the Inter-American Commission on Human Rights to issue precautionary measures with regard to violence against community leaders and activists
Speaker tours	Long lead time with regard to logistics and contents Long follow-up time to produce outcomes; no one shot action	2013: EU Delegation sent communication to Brazilian authorities highlighting international human rights obligation
Field visits	Cost intense Dependant on partners in country	Presentation of the case to the Public Ministry and the Cabinet
Studies	Resource intense Only works with appropriate methodology Needs trained personnel to collect data (training) Time consuming and costly process	First hand data available to create a "strong case" for litigation
Litigation	Time and resource consuming instrument Highly politicized	October 2013: Hearing on the situation of human rights defenders in Brazil before the Commission

Table 1 summarizes the results achieved.

Enabling factors and challenges

There are several enabling factors in support of the Guarani Kaiowá case. First, the case is followed by capable and strong partners as well as knowledgeable experts. For example, the study is led by an expert who has experience in the application of the food insecurity scale, also in indigenous contexts. Another enabling factor is the financial support for the study as usually cases do not receive any earmarked funding but activities are financed as part of a larger proposal. Here, HEKS has an important role. Finally, not only because of the upcoming study, the case is well documented which is indispensable for pursuing litigation.

With regard to in-country challenges, the fact that the Guarani Kaiowá case comprised a multitude of territories and communities makes it indispensable to focus continuously on main strategic issues and interventions in the case. A main concern is that with the current government the indigenous course has lost its space as there is a strong concentration on the economic development of

the country. The influence by the agribusiness on the government has reduced the right to food theme to an issue of food safety nets. An additional threat is a possible involvement of landowner friendly institutions in the demarcation process. At present, FUNAI demarcates the land. However, a coalition linked to land owners within the Brazilian Congress tries to push for an involvement of other institutions. The demarcation process is also delayed by pending lawsuits and appeals by landowners. Finally, community leaders, activists and the FUNAI working group are continuously facing threats and violence.

At the international level complications with the human rights system are faced. The Inter-American Commission of Human Rights is under a lot of pressure exerted by Brazil and other countries and faces the accusation of interference with regard to the right of development. Hence, at present there is lack of clarity about the role of the human rights system in Latin America and a suitable strategy of how to deal with this issue has to be identified.

4.2. Niger – Securing the mobility of pastoralists in Mayayi



Background

To adapt to the climatic conditions in the Sahel region, dominated by dry and rainy seasons, the pastoralists in Niger follow a century old pattern of mobility. With their herds they migrate in a yearly cycle from the North to the South of the

country and back, in search for adequate pasture and water to raise their animals and in order to guarantee a balanced use of the scarce resources in the whole region. More than 80% of the population of Niger living conditions are based on agriculture and livestock. A transhumant system is applied for about 70% of the droves in Niger.

The South of Niger is dominated by sedentary agriculture. Recurrent drought and population growth have led to increasing pressure on natural resources, which again brought the sedentary population to cultivate their crops in the passage corridors, where the pastoralists traditionally used to pass through. This has led to conflicts between the two population groups.

Status of access to land

From the point of view of both the pastoralists and the sedentary farmers the **access to land** (pasture land and farmland respectively) **is endangered** although there is a legal framework (Code Rural) which should regulate the access to land but which is not fully implemented.

CAUSES AND DRIVERS RELATED TO ACCESS TO RESOURCES	
Land-use conflicts	<p>Encroachment of sedentary farmers' farmland by the cattle of pastoralists and occupation of pastoral land by sedentary farmers, which are trying to enlarge their cultivated land.</p> <p>In addition, bigger cattle farms are closed for the movements of the pastoralists and extractive industries restrict access to certain territories.</p> <p>Further, there exist some restrictions with regard to access to nature reserves and national parks, which lead to conflicts between the pastoralist community and state authorities.</p>
Access to water	<p>For the pastoralists and their cattle the following problems exist related to access to water:</p> <ul style="list-style-type: none"> – the water level of water ponds are too low to water animals – the wells are not adapted to the watering of animals and the capacity of the wells is too low for watering of animals – the number of wells is too low to satisfy the needs of the pastoralist community – local communities do not leave enough space between the ponds / wells and their cultivation to prevent damages by cattle – the use of wells by different user groups (pastoralists, villagers for drinking water purposes, etc.) lead to conflicts. <i>"Si les cornes des vaches et les canaris des femmes se croisent, il y a problème"</i>.
Access to fodder and especially to crop residues	<p>Traditionally, the pastoralists are driving their cattle to harvested fields where they could feed crop residues and in return enrich the field with manure.</p> <p>Due to demographic pressure, the increase of the number of cattle staying in the villages, and the lower availability of firewood available for cooking purposes, the people living in the villages are often collecting the crop residues for their own purposes before the arrival of the pastoralist communities, leading to unavailability of adequate fodder for the pastoralists' cattle.</p> <p>Another problem is linked to the availability of fodder in the North. If water and fodder for the animals is getting short earlier in the season, the pastoralist communities arrive before harvest on the fields of the sedentary farmers in the South, where no crop residues are available yet.</p>
CAUSES / DRIVERS RELATED TO SOCIAL STRUCTURES WITHIN THE COMMUNITIES	
Land insecurity	<p>According to the Rural Code, the pastoralist communities have the right to unhindered access to natural resources. In reality, this access is never unhindered. It is subordinated to the respect of local use of the resources, which are mainly in favour of sedentary farmers. In addition, in most cases the lobby of sedentary farmers towards local and national authorities is stronger.</p>
Pluralism of the form of authority and management systems	<p>There are three different systems of authority and land use planning favouring different interests:</p> <ul style="list-style-type: none"> – Traditional pastoral leadership (chief of groups, tribes and families) acting according to a logic of access to resources (pastoral land and water) – Traditional agricultural leadership (chief of cantons, sectors, villages) acting according to the logic of sedentary farmers and fixed areas. – Governmental bodies mostly favouring the recognition of "fixed" rather than "mobile" activities.
Uncertainties of the judicial system	<p>The decisions taken by a body of leadership (official or traditional) is often put into question a short time after the decision which leads to judicial and planning insecurity.</p> <p>In addition, as pastoralists are underrepresented in governmental authorities, the interests of the pastoralist community are often not or not enough recognised in the jurisdiction (e.g. tax system of cattle markets, penalties for damages of agricultural plots, etc.)</p>
Prejudices	<p>The pastoralist communities are dominated by Peulhs and Touaregs whereas the sedentary farmers are mainly Haoussa people. There exist different ethnic group related prejudices, which may lead to conflicts.</p>

Table 2 lists the different types of causes and drivers of the land conflict

Intervention strategies

In order to countervail the different problems stated above, the Government of Niger put in place in 1993 the "Code Rural", a law that regulates the land use of the sedentary population, but also guarantees right of use of passage routes for the pastoralists. The idea of the law is to set up "land user commissions", involving government officials, traditional authorities and representatives of both user groups as well as the civil society, on all administrative levels, who will negotiate and agree the use of the contested land. The setting up of the commissions, however, has so far only proceeded slowly.

With the Zamtapo project, which started in 2011, HEKS facilitated the forming of the required land user commissions in the Southern district of Mayayi and supports them in their process to negotiate and agree on land user rights for sedentary farmers and pastoralists.

An important instrument to reconcile the conflict potential between the two groups is the clear demarcation of passage corridors for the pastoralists and their herds. The land user commissions are in charge to lead these negotiations between all parties involved, as well as to monitor the compliance with the agreed rules and to mediate in case of conflict.

The process of demarcation of passage corridors has three different phases with 12 stages. Each stage involves different responsible and associated actors (see figure 3 above).

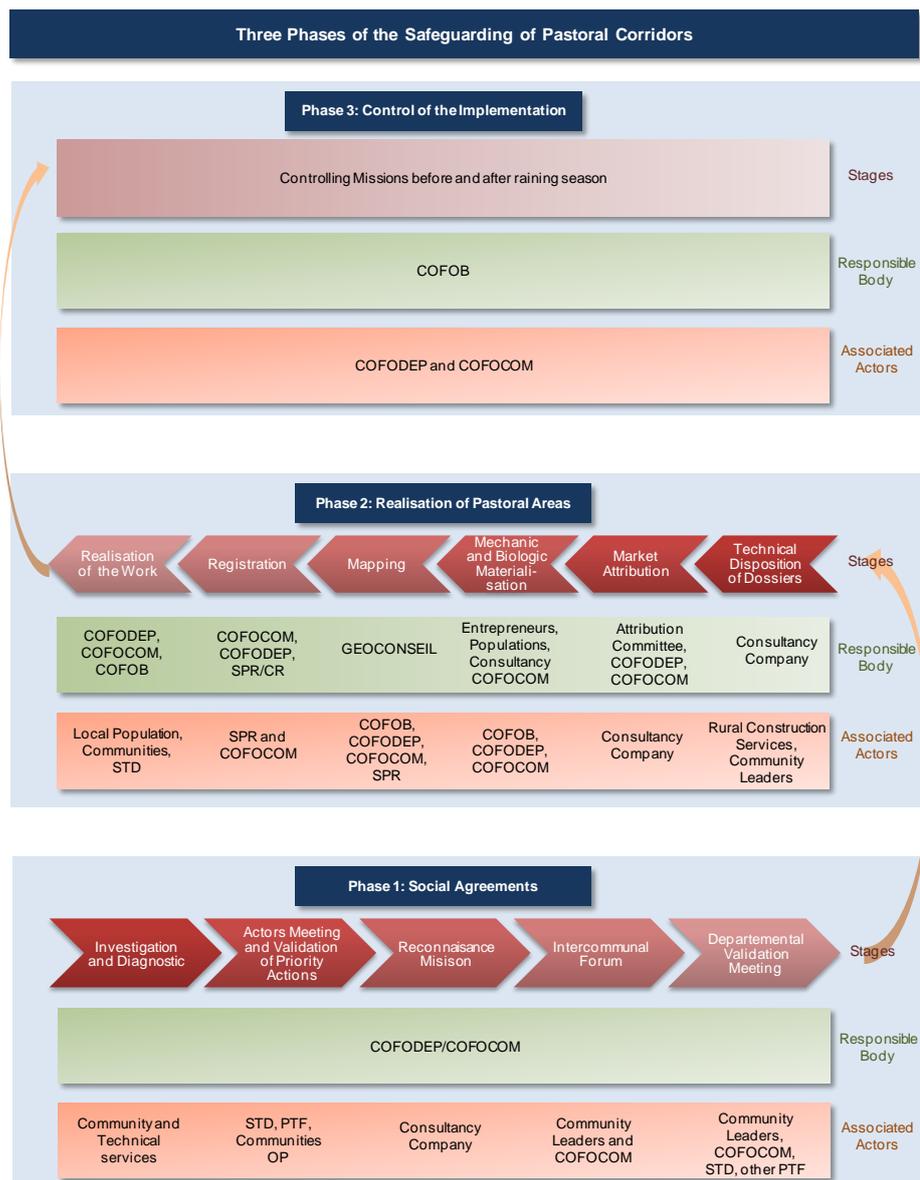


Figure 3: Process of demarcation in Niger

Abbreviations:

COFOB:	Commission Foncière de Base (basic land commission)
COFOCOM:	Commission Foncière Communale (communal land commission)
COFODEP:	Commission Foncière Départementale (departmental land commission)
CR:	Code Rural
PTF:	Partenaires Techniques et Financiers (technical and financial partners)
SPR:	Secrétariat Permanent Régional (permanent regional secretary)
STD:	Services Technique Départementaux (departmental technical services)

Results achieved

Agreement of all actors with regard to the delimitation and definition of access rules for the pastoral area

- 531 km of pastoral transit zones have been secured and marked since 2011.
- Conflict assessments: A first step of the project consisted of the assessment of all conflicts related to the pastoral transit zones and the water points. These assessments are repeated regularly.
- 20 inter-communal forums have been held with regard to the pastoral transit zones. In addition a so called "caravane de la paix" (peace caravan) has been conducted. These activities led to the signature of 245 protocols signed by land owners along the transit zones, the departmental land commission, and the administrative and customary authorities.
- 215 km of live fence have been planted by the communities to enforce the limits of the transit zones. This contribution shows the appropriation of the process by the communities.
- 15 community intern mediations have been conducted by the structures of the Rural Code.
- Management systems allowing the maintenance of the network of transit zones, pastoral recuperation areas, and wells and the dealing with upcoming conflicts



- 32 basic land commissions have been put in place.
- 20 training workshops for these land commissions have been conducted to enable the commissions to play their role as administrator for territorial transactions, the conduction of conciliations / mediations in land conflict cases at village level.
- 24 pastoral wells have been realised along the transhumant corridors and the pastoral zones including the appointment of corresponding management committees.

Support of agro-pastoral production

- About 300 producers have been supported in the establishment of a farmer to farmer seed exchange system for different crops (e.g. millet, sesame, oseille, niébé).
- About 30 producers have been trained in the production of multi-nutrition blocs as a means to overcome fodder shortages during the dry season.
- 6 horticulture wells have been built to improve water supply for horticulture production.

Establishment of a sound monitoring and evaluation system

- 2 transhumant observatories have been established which follow the development of the transhumant corridors.
- 2 conflict analyses (during the descent and the ascension of the herds) have been conducted.
- An assessment of the secured resources (corridors, pastoral zones, wells) have been conducted and localised on maps.

Remaining challenges

- Trans boundary migration of pastoralists (Niger – Nigeria)
- Holistic management of corridors, rehabilitated rangeland and access to water
- Functioning of land rights commissions including funds for their work
- Communication flow between all levels and involved actors

4.3. South Sudan – Access to land in a highly fragile context

Background

Since the signing of the Comprehensive Peace Agreement (CPA) and the end of the civil war in 2005, South Sudan has been confronted with fundamental challenges relating to land, its ownership, access and use. This analysis focuses on causes and drivers of land conflicts as it has

been analysed before the new outbreak of violence since December 2013¹. The new phase of violent conflict has caused new migration movements and evictions and shall be reassessed as soon as the situation gains some extent of

¹ The text is partly taken from an assessment made by the South Sudan Law Society for HEKS in the year 2013.

stability. Due to renewed outbreak of violence, the projects have been on hold for about 6 months and just restarted with an update of the analysis.

The government of South Sudan has sought to address conflicts around access to land in its policies of decentralization and community empowerment. By allowing the people who live on the land to make decisions about how their land is used, the government hopes that it can promote a more efficient and equitable system of land administration than that which existed under the previous administration in Khartoum.

Yet, the land reform process has proven far more difficult than expected. Tensions have arisen between community assertions of sovereignty over land and natural resources and the government's need to access land for post-war reconstruction and investment. Border conflicts between neighbouring communities are causing old grievances to resurface in new and troubling ways. Communities are calling on the government to create new administrative units in the hopes that they can secure additional political representation and power. Powerful individuals are misappropriating community lands for their own benefit.

These issues have brought new questions to the fore. What are people's hopes and fears regarding land access and use in the new Republic? If customary land tenure defines land rights according to one's membership in a particular ethnic group, what are the implications in a country where ethnic-based conflict is so prevalent? How can customary land tenure systems be brought into conformity with universally accepted principles of non-discrimination, particular as they relate to women's land rights? How does the government articulate a vision for land ownership, access and use that is responsive to people's expectations and demands, but still flexible enough to facilitate development and economic growth?

The Analysis focuses on Lainya and Yei Counties in Central Equatoria State where HEKS projects are located.

Status of access to land

We can distinguish different groups of beneficiaries in the HEKS project region:

- Returnees, who are not able to return to their land of origin and have none or insufficient access to land.
- Women after divorce are not entitled to access land in the community of origin, e.g. because they do not have male kids.

Access to land is endangered since large-scale land acquisitions, which are common in other regions of the country, are quickly spreading. According to a recent study, in a four-year period, between the start of 2007 and the end of 2010, private interests sought or acquired land rights over approximately 1.25 million hectares of land in Central Equatoria. Therefore, there are fears that HEKS project region will be affected by this in the future.

Causes and drivers

Urban growth and large-scale displacements during the war forced groups to settle on other people's land, often causing tension with host populations. People who lived as internally displaced persons (IDPs) in Sudan or as refugees elsewhere in the world are now returning to their home areas only to find that other individuals or groups development is putting increased pressure on communities living on the outskirts of cities and towns.

In addition, rising land values are encouraging speculative investments by domestic and foreign companies. Bureaucratic weaknesses and legal ambiguity render land administration ineffective and prone to mismanagement and corruption. The lingering wartime economy allows powerbrokers to control land and natural resources through local monopolies of violence.

CAUSES & DRIVERS
• Conflicts between different users, neighbours and neighbouring ethnic groups as well as returnees, migrants – in particular women with children.
• Migration und Eviction
• Interstate conflicts
• Large scale investments
• Bad documentation
• Weak Institutions
• Governance and transparency
• Legal pluralism
• Preference of agro-industry
• Increasing pressure on the resource of land
• Vulnerability of beneficiaries
• Lack of knowledge of beneficiaries
• Lack of linkages and networking power

Intervention strategies

- Mitigation strategy: Conflicts and needs assessment and mediation referring to traditional and national laws
- Analysis and documentation
- Advocacy against forced displacement and peace building
- Dialogue with the government on advantages and disadvantages of large scale and small scale agro-economy
- Establishment of land committees
- Legal aid clinics

- Support to the government in policy development concerning land rights
- Support to enhance the harmonisation of traditional and national laws
- Empowerment of endangered groups at local level
- Education programmes
- Enhancement of networks

Results achieved and challenges encountered

The analysis is accomplished, but the project is now on hold. Thus, it is too early to assess results.

4.4. Philippines – Claiming access to land for landless people and valuation of the land

Background

Following the ousting of the Marcos regime, the Philippines have seen an active movement calling for a national land reform in the late 1980s. This has led to the adoption of a remarkably progressive land reform specified in several laws all aiming at facilitating the provision of land title to peasants. Namely, the following laws are in place to provide peasants with formal access to land:

- Comprehensive agrarian reform programme (CARP): The law on agrarian reform entails that all landholdings above 15ha qualify for eligibility under the law and it aims at providing a proper land title for former agricultural labourers and tenants of large commercial estates.
- Ancestral domain (CATIE): The law provides a framework to grant a formal (collective) land title for indigenous groups.
- Community-based forest management programme (CBFM): This law provides collectives of former peasants with a lease of 25 years which is renewable for at least another term.

Each of the laws incorporates an elaborate procedure on how the land is to be obtained. There are substantial differences in the processes and eligibility criteria but the general process is as follows: Proof of the applicants that they are the legitimate tenure holders; demarcation and parcelling of the land; specification of the compensation for the current landholder; handling over title(s) and obtaining the land. What looks clear and straightforward on paper is however a tedious process that requires time, resources, legal

and tactical know-how and often entails violence by the current landholders².

While TFM's activities initially exclusively focussed on facilitating the provision of access to land to the peasants through the above-mentioned programmes, it became clear that only providing the peasants with a land title was not sufficient to improve their livelihoods. Numerous cases were reported where the beneficiaries have sold or leased back their land to the former owner within a short time after obtaining it. Thus, it became evident that the intervention required needs to reach beyond the mere provision of access to land, but to assure that the newly secured land is turned into a productive resource. Thus, TFMs interventions are now divided into two domains: (i) Land tenure improvement (LTI) which is facilitating the access to land, and (ii) Productivity development support (PDS) aiming at providing the beneficiaries with agriculture-related support.

Status of access to land

Due to the different modalities and requirements of the three laws and their implementation procedures, the beneficiaries of the initiatives are quite diverse. They share that the beneficiaries must prove that they, as a collective body, are the legitimate right holders of this land. While a large share of them (CATIE and CBFM entirely and LAR partially) already live (and) work on the land at stake, others (LAR) have been forced to resettle elsewhere.

² Over the time under the TFM project, there have been numerous incidents of violence ranging to threatening beneficiaries and staff of the partner to murder of key beneficiaries.

Those who are still settling on the land under question evidently still have access to their land but it is not a formal land title, which would give their access a long-term perspective. Rather they are constantly on the verge of being evicted on whatever grounds may be given by the current owner of the estates. Those who already have settled have lost the access to their land entirely.

Causes and drivers

The original causes of the beneficiaries' loss of the access to their land lies years and decades back and is well beyond the project's scope. Rather the projects aim at providing the beneficiaries with access to the land by facilitating the implementation of the land reform laws. The challenges in implementing the agrarian reform are caused by the following reasons ...

CAUSES & DRIVERS RELATED TO LAND TENURE IMPROVEMENT
<ul style="list-style-type: none"> Asymmetrical power relations between the agrarian reform beneficiaries and current large landholders.
<ul style="list-style-type: none"> The implementing procedures for all available laws are highly complex and provide the current landholder with considerable room for appeals. This often results in delaying the process beyond the resources and patience of the beneficiaries.
<ul style="list-style-type: none"> The complexity of the procedures requires a sound legal understanding of the agrarian reform law, which is often not abundant with peasant beneficiaries.
<ul style="list-style-type: none"> The various governmental agencies are in general responsible for executing the respective next steps. Due to a widespread reluctance at the administrative levels, the agrarian reform beneficiaries have to keep the pressure at the authorities high.
CAUSES & DRIVERS RELATED TO PRODUCTIVITY DEVELOPMENT SUPPORT
<ul style="list-style-type: none"> Particular indigenous beneficiaries are peasants communities living isolated and with a high degree of subsistence. There is hardly any market integration and knowledge on modern, productive and competitive farming is highly limited.
<ul style="list-style-type: none"> Governmental resources for increasing the agricultural productivity are available but are difficult to obtain for beneficiaries.
<ul style="list-style-type: none"> Beneficiaries have a strong need for immediate cash – any financial investments need additional credit.

Intervention strategies

Land tenure improvement ...

- Building and strengthening of peoples organisations
- Continued legal and tactical support and consulting for agrarian reform beneficiaries
- Training of paralegals
- Representation of beneficiaries in negotiation/courts
- Legal counselling

Political lobbying and advocacy for land reform:

- Extensive media work
- Fostering alliances and networks (other CSOs, catholic church)
- "High-publicity" campaigning (march to Manila, hunger strikes)

Productivity development support:

- Establishment of product-specific producers' networks and associations
- Consulting of producer networks and facilitating market linkages
- Training of trainers for selected agricultural crops
- Mobilising support of local government units (agricultural inputs, processing facilities, etc.)
- Facilitating access to credit

Results achieved/challenges/learning

- Just having progressive tenure law even at national level in place doesn't directly translate into providing the legitimate peasants with access to their land. The implementation process is a time-consuming, resource-intensive and often dangerous process the beneficiaries (and the partner) have to be prepared to enter.
- The role of the government and administration is crucial: The Philippine land reform is based upon the financial compensation of the current landowner. Although there are substantial



funds allocated to the National Land Bank, the settlement negotiations entail contributions from the agrarian reform beneficiaries.

- While the CARP provides the preferred land titles (individual title with unconditional transfer rights), it is the most complicated long-term process requiring the most resources and time. Thus choosing either CATIE or CBFM has proven to be viable strategy to secure land tenure

for peasants. This holds particularly the case as LAR can always be obtained later when another title (CATIE or CBFM) is already adjudicated.

- The majority of cases are duly solved between the original landowner and the agrarian reform beneficiaries within a two-year period, only a minority of cases incur serious conflict and take extended periods of time.

5. Conclusions and outlook

Supporting beneficiaries in claiming or defending access to land as well as dealing with land conflicts in the different partner countries will remain crucial for HEKS. In this field, HEKS sees two main areas, which will be further developed.

Improving support to local struggles for access to land

With the development of the analytical framework to assess and enhance land tenure security HEKS has started a process of systemizing driving factors and possible responses with a view to providing guidance for the elaboration or improvement of its project and programme work. The analysis undertaken in this context suggests the following added value and foreseen role of HEKS and its endeavours in securing access to land for rural communities:

- Provision of evidence – documentation of land use and human rights violations concerning access to land and the right to food;
- Enhancing cooperation between civil society and government – building of mutual trust by providing information / transparency, horizontal and vertical connections;
- Advocacy – providing capacity for target oriented and coordinated strategies;
- Harmonisation – enhancement of the synchronization between traditional and state law;
- Improving safety – enhancement of secure spaces for civil society to participate in design and implementation of development endeavours and the distribution of resources;
- Development of a joint agenda among the vulnerable – countering internal fragmentation and strengthening cohesion of vulnerable groups through diapraxis and the recognition of common goals;

- Holistic approach – economic valorisation of land through functioning value chains as a means to secure access.

Working with the framework serves several purposes. It supports a profound context analysis during programme / project planning, implementation and evaluation. The framework is seen as an open document to be modified according to implementer's needs and contextual dynamics. This may help to improve the quality of projects and programmes, and build up experiences and gather evidence from the practical application of strategies to improve access to land.

Bringing HEKS approach into the policy discourse

Access to land and land conflicts are covered by a wide range of research and policy discourse, which reflect and discuss the key issues from HEKS work. It seems that a larger share of this research and policy discourse is currently focussing on land grabbing and other international processes and looking at the local effects from the international perspective. Research and discourse focussing more on the local level are often dealing with rural development and livelihoods issues without covering the other dimensions of access to land.

Yet, as processes like the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests are in the implementation phase and access to land and land conflict are virulent issues, systematic approaches as put together by HEKS' analytical framework are very much needed for improving access to land and dealing with land conflicts by the affected people.

In addition, conflict and the role of access to land and land governance in conflicts and post-conflict situations appears to be an issue where the current international discourse is not so well documented and more influenced by government agencies. HEKS therefore wants to take the issue further by ...

- bringing the discourse on land and conflict and especially the analysis of concrete cases of land

conflicts or access to land in fragile contexts into the civil society discussions, e.g. in the context of land grabbing discussions and the implementation of the Voluntary Guidelines;

- identifying gaps within the current international discourse on land and conflict where HEKS can contribute from a civil society perspective and based on its experiences and approach.

References

Borras, Santurnino M. Jr and Franco, Jennifer C. (2012). Global Land Grabbing and Trajectories of Agrarian Change: A Preliminary Analysis, *Journal of Agrarian Change*, Vol. 12 No. 1, January 2012, pp. 34–59. <http://onlinelibrary.wiley.com/doi/10.1111/j.1471-0366.2011.00339.x/pdf>, access: May, 2014.

DeSchutter, O. (2010). The right to food, Report of the Special Rapporteur on the right to food, United Nations General Assembly, A/65/281, 11 August 2010.

Food and Agricultural Organisation (FAO) 2006: International Conference on Agrarian Reform, Porto Alegre, 7-10 March 2006, Final Declaration, http://www.nyeleni.org/IMG/pdf/2006_03_FinalDeclaration_FAO_Conference_En-1-3.pdf, access: May, 2014.

SciDev.Net: <http://www.scidev.net/global/data/news/open-data-land-grabbing.html>, access: June, 2014.

HPG (2009). Uncharted territory: land, conflict and humanitarian action, HPG Policy Brief 39, Sara Pantuliano and Samir Elhawary, HPG, November 2009, <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/5301.pdf>, access: July, 2014.

Pantuliano, S. (2009). Integrating land issues into post-conflict response: Case study evidence and implications, Humanitarian Policy Group, Overseas Development Institute, London, <http://siteresources.worldbank.org/EXTARD/Resources/336681-1236436879081/5893311-1271205116054/pantuliano.pdf>, access: July, 2014.

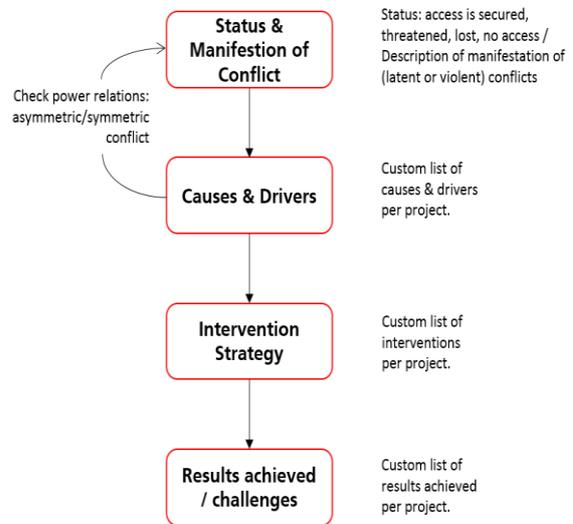
Rosset, Peter 2013: Re-thinking agrarian reform, land and territory in La Via Campesina, *The Journal of Peasant Studies*, Volume 40, Issue 4, 2013, pages 721-775, <http://www.tandfonline.com/doi/full/10.1080/03066150.2013.826654>, access: July, 2014.

Annex

Template for the application of HEKS analytical framework to assess and enhance land tenure security

The analytical framework provides an overview of the status and issues to be dealt with in a respective programme or project to ...

- *identify* main problems at stake concerning land conflicts in order to be able to focus on key topics.
- *build* certain clusters of sub-issues to enhance a more focused specific knowledge sharing.
- *identify* organisational strength and fields NGOs believe to make a difference in sharpening sharpen its profile.
- *enhance* the quality of analysis for NGO projects/programme contexts concerning the topic of land conflicts.
- *provide* guidance to enhance the identification of intervention strategies and programming in general.
- *identify and enhance* the implementation of effective and promising practises.



Projects/cases/contexts are analysed with regard to context/status, the causes/drivers, the intervention strategy, the results achieved/challenges encountered

STATUS (use, control, transfer rights)

- access secured
 access threatened
 access lost
 access never provided

Manifestation of (latent or violent) land conflicts - description	
Symmetrical land use conflicts	
Asymmetrical land use conflicts	

CAUSES & DRIVERS

Prevailing conditions	
Political, social, historical inequalities	
Environmental & climate change	
Inter and inner state conflicts	
Demographic pressure	
Global changes in agro-food and -energy system	
Economic disparities	
Governance & enabling environment	
Legal pluralism on land tenure	
Non-implementation of int./nat. rights	
Bad governances / weak authorities on land issues	
Weak capacity on land issues of PooC	
Lack of recognition of land use of PooC	

INTERVENTION STRATEGY

Manifestation of (latent or violent) land conflicts - description	
Symmetrical land use conflicts	
Asymmetrical land use conflicts	

CAUSES & DRIVERS

Prevailing conditions	
Political, social, historical inequalities	
Environmental & climate change	
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- **WORKING PAPER N° 1, 12/2012: ACCESS TO LAND – LAYING THE GROUNDWORK FOR DEVELOPMENT, ZÜRICH, DECEMBER 2012.**
- **WORKING PAPER N° 2, 02/2015: ASSESS & ENHANCE LAND TENURE SECURITY, HEKS ANALYTICAL FRAMEWORK, ZÜRICH, FEBRUARY 2015.**

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