

“Conflicts over Land – Dispute Resolution and De-escalation” (Working Group 2)

Background

Land is important to the vast majority of the world’s population. It serves as basis for livelihood, food production and residence as well as tradition, culture and identity. There are many reasons for conflicts over this precious source, which follow different patterns and intensity. In nearly all regions of the world, conflicts over land occur frequently, indeed, they are often cyclical in their emergence and are regularly accompanied by conflicts over water and other natural resources or have an historical basis. A particular type of conflict arises when land, in combination with other associated resources, bears promise of significant economic benefit and/or political power. Precisely conflicts over land are inherent to all societies. The challenge is to become aware of the various dimensions of each conflict and to strive to keep them manageable, de-escalate and to ultimately resolve them in a fair, just, non-violent and sustainable manner. One of the key contemporary contentious issues is the uncertainty over land rights compounded by overlapping claims to land and different land rights conceptions. Furthermore, land disputes often take place in a context of structural injustice, social inequalities and neglect of human rights. The growing interest in land by national and international investors adds an extra dimension to brewing conflicts into the already tense competition amongst different stakeholders at local level.

The role of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security (VGGT)

The VGGT contain safeguards against the dispossession of legitimately tenured land, mechanisms for dispute resolution and conflict management. Furthermore, they include participatory procedures, principles on reparation and compensation, as well as measures for the prevention of eviction and the use of force. The VGGT provide guidance on appropriate actions and formulate principles for orientation for governments, private/public investors and civil society actors. The working group’s first session will provide an introduction to the main chapters of the VGGT, with particular attention given to dimensions such as fair resolution mechanisms, non-violent management and de-escalation of land conflicts. Part of the exchange will also concern the medium and long-term effects of implementing the VGGT in areas of conflict so as to shape the nature of conflict and promote prevention. Discussions will aim at answering questions as to what extent the VGGT can help to tackle root causes of conflict in measured and non-violent ways.

Causes of conflict - Land rights, legitimacy of tenure and fragility

Many conflicts concern state land, or where local populations have traditional, collective rights that are not acknowledged by the state. Overlapping land claims as well as different conceptions about rights and legal ownership cause uncertainty about the legitimacy of tenure and rights on land and engender various challenging dimensions for conflict resolution. Given that safeguards for legitimate tenure rights for vulnerable or weak parties are the core of the VGGT, the second session of the working group will explicitly focus on challenges for the implementation mechanisms for legitimating land tenure and rights in situations where democratic structures and rule of law are absent. Indeed, requirements for land rights systems in fragile environments are understood as contentious yet central feature of the VGGT. The presentations will look at how land rights systems need to be reformed in (post-) conflict contexts and what specifically needs to be taken into account with regard to legitimacy of informal and traditional rights, customary tenure versus land titling and formal land management systems. Instruments for the safeguarding of land and tenure rights will be presented with an example from Côte d’Ivoire. Examples for improving the mechanisms for safeguarding legitimate land rights through the implementation of the VGGT will be reflected on insights from Sierra Leone. In addition, the general preconditions for successful implementation will be put forward. Discussions will aim at identifying what kind of guidance

the VGGT can provide for establishing appropriate hybrid and overlapping land rights systems in areas of conflict, and which mechanisms and instruments might be strengthened further.

Actors and means for conflict resolution – judicial and extrajudicial mechanisms

The working group's third focus will be on issues of conflict resolution and management through judicial and extrajudicial means. As conflicts over land in various regions are chronic in nature, local (out of court) mechanisms for conflict resolution and traditional mediation and grievance mechanisms are in place to some extent. Conflict management and regulation amongst pastoralists and farmers, and the functioning of these 'horizontal mechanisms' will be reflected upon and linked to the respective sections within the VGGT. An example of land disputes between pastoralists and resident farmers in Mali and northern Cameroon is used to illustrate the needs for legal protection and rights. When it comes to judicial and extrajudicial processes of conflict resolution and the respective 'vertical mechanisms', the competence, independence and impartiality of the judicial institutions are of high importance. Because these are often lacking, unequal power relations between local land owners and investors and/or political decision makers are one major concern. To address this, methods for legal consultation by affected parties will be presented based on cases from Africa, Asia and Latin-America. Specifically addressed will be the necessary preconditions for conflict resolution and the problem of power imbalances. An example from Cambodia will focus on affected peoples' needs for empowerment and the necessity of protecting human rights defenders. Discussions here will surround the role of civil society engagement and human rights activists in terms of monitoring, negotiation and de-escalation of conflicts, as well as advocacy for justice and non-violence.

The concluding discussion shall deal with the questions how the VGGT support the 'horizontal mechanisms' for conflict resolution, how they can help to overcome legal and power imbalances and what the preconditions are for successful implementation of their principles and standards within conflict contexts. The conclusion will also aim at revealing not only the potential of the VGGT and the embedded mechanisms for bringing investors and/or governments to respond and to protect human rights and human rights defenders, but also the gaps. In short, it shall be clarified what needs to be done in order to implement the VGGT with success.

Recommendations for actions

The final part of the working group will serve as a platform for recommendations about the implementation of the VGGT. These should address specific needs and preconditions for fair and just conflict resolution, de-escalation and the prevention of aggravated structural violence that constitute the majority of causes for conflicts over land.