



ACCESS TO LAND

**HEKS/EPER'S STRATEGY, ACTIVITIES, PROGRESS
AND PERSPECTIVES ON TO ACCESS TO LAND**

ZURICH/LAUSANNE, MAY 2019

WHY LAND RIGHTS & ACCESS TO LAND MATTER

Globally

Strengthening land and resource rights is key to eliminate poverty, strengthening food sovereignty, reducing inequality and conflict, advancing gender equality, and conserving biodiversity and ecosystems. Local communities with secure tenure rights together with a sustainable management of the natural resources help create more resilient landscapes that directly contribute to climate change adaptation and mitigation.



To HEKS/EPER

Restricted and endangered access to land and resources has proven to be one of the major obstacles to the development of local communities, which are in the centre of HEKS/EPER's work. As a consequence of the urgent needs to secure access to land and HEKS/EPER's longstanding experience in development work, a substantial number of HEKS/EPER programmes and projects are focussing on enhancing access to land and resources for local communities. Access to land and resources means, in the view of HEKS/EPER, that people have guaranteed rights to land ownership and/or land use, and that they can manage and use the resources of the land or territory in the long term.

HEKS/EPER CORE DEMANDS

PROMOTE THE RIGHT TO LAND

HEKS/EPER requests that the right of every person or community to access, use and manage these resources are respected, protected and fulfilled. Land is the base to fulfil the right to food and food sovereignty. Land must serve the nutrition, the way of living and the cultural identity of local communities.

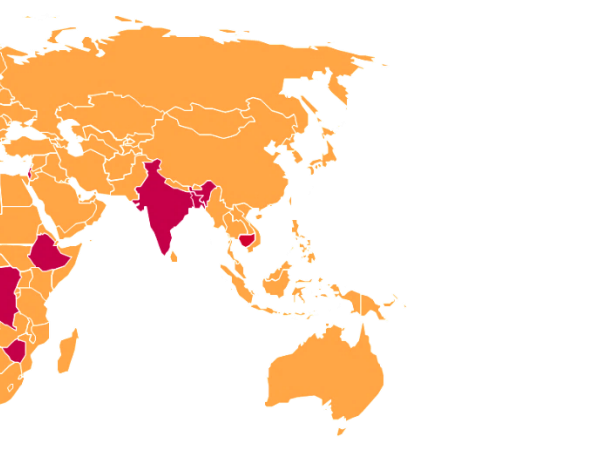
ENABLE COMMON LAND USE

HEKS/EPER is convinced that community-organised forms of management lead to sustainable use and conservation of finite resources and public assets such as land, water, forests and biodiversity. HEKS/EPER wants to promote and legally protect this economic and living form of the traditional 'common land'.

PROTECT LAND ACTIVISTS

HEKS/EPER works to ensure that human rights defenders who are committed to the implementation of land, territorial and environmental rights are supported in their work and better protected against discrimination and violence.

ACCESS TO LAND



/ land governance components.
2018.

Subjects

ITS OF THE GUARANI

PEOPLE IN THE PHILIPPINES

3

PROMISING PRACTICES

Niger – Securing mobility and access to resources for pastoralists



The project ZAMAN TARE POTAT (Zaman Tare = cohabitation in Hausa language, Potal = peace in Fulani language) or ZAMTAPO: It is a project to **secure the mobility of herds in the Maradi region in Niger**. The project initially started its activities in 2011 and the intervention on pastoral land is part of the territorial planning and requires close collaboration with different government bodies responsible for the implementation of the Rural Code and thus the **negotiation about use and management of land and other natural resources**. Their composition, the collegiality of their decision, their superstructure from the bottom up, is a guarantee of the

sustainability of the actions they take. For this reason, they are essential in Niger for securing access and management of pastoral land and resources.

With the ZAMTAPO project, HEKS/EPER has facilitated the formation of various commissions and supports them in the negotiation process and the **recognition of land rights for pastoralists and settled peasants**. An important instrument to reconcile the potential for conflict between sedentary farmers and pastoralists is the clear demarcation of corridors for pastoralists and their herds. The commissions are responsible for conducting the negotiations between all parties concerned, monitoring compliance with agreed rules and acting as mediator in the event of conflict. The process of demarcation of the corridors has three different phases with 12 distinct steps where each stage involves different responsible and associated actors.



RESULTS BETWEEN 2011 AND END OF 2018

Agreements of all actors regarding the demarcation and definition of access rules for the pastoral zone:

- 1'553 km of transhumance corridors demarcated until end of 2018.
- 605 kilometres of live hedges planted by the communities to ensure that the boundaries of the transhumance corridors are respected.
- 97 inter-community forums organised concerning transhumance corridors and rest areas. In addition, a so-called "peace caravan" was organised. These activities led to the signing of 2'572 issued land transactions by landowners along the transit zones.
- Conflict assessments and mediations: A first step of the project was to assess all conflicts related to pastoral transit zones and water points. These assessments are repeated regularly. So far, 19 intercommunal mediations were conducted by the structures of the Rural Code.

Management systems to maintain the network of transhumance tracks, rest areas and wells, and future conflict management:

- 160 basic land commissions have been set up and trained.
- 24 training workshops for the land commissions conducted to enable the commissions to play their role as administrators for land transactions, conducting mediation in case of land conflicts.
- 49 pastoral wells (41 new and 8 rehabilitated) constructed along the transhumance corridors and pastoral areas, including the appointment of the corresponding management committees.
- signing of a bilateral agreement between the Maradi region in Niger and the state of Katsina in Nigeria in July 2017 on the organisation and management of cross-border transhumance between the two regions. The agreement, aims to foster and strengthen socio-economic activities between the two states emphasising free movement of people and animals in line with the ECOWAS charter.

Senegal – Inputs from civil society to the ongoing land reform process

Within the framework of a national land reform, HEKS/EPER and its partner organisations are committed to the design and elaboration of a land legislation for the benefit of smallholders as well as pastoralists. Since 2015, through the conduction of different multi-stakeholder fora, meetings and various radio broadcast HEKS/EPER and its partner organisation worked towards **the sensitisation and participation of the rural population in the debate on the ongoing land reform and the formulation of concrete proposals for change of the current land legislation.**

As a major achievement, most propositions by civil society actors have been taken into account in the land policy document submitted to the Head of State. In addition, a document analysing and proposing legal improvements on the draft pastoral code, taking into account the concerns of pastoral populations was handed over to the Minister of Livestock and Animal Production. However, for more than a year, the reform process is on hold, as the government did not want to proceed prior to the elections which took place early 2019.

Cambodia – Protecting collective rights & ICT-based sensitisation service

In Cambodia, the collaboration with two local partners has brought **solution to a long-lasting water conflict.** A private company diverted water resources from a river which has provided water for personal consumption of local communities, their cattle as well as water for agriculture. There have been numerous attempts by different communities to either destroy the water blockage or to seek help from authorities – however without any durable success. The project has been successful to empower right holders by building capacities and linking different right holder groups with one another. Thus, communities gained strength by joining forces and new strategic linkages to watch dog groups facilitated by the project. The groups include high raking people, officials who were capable to enforce the rights of the people concerned. As a consequence, the deputy of Kampong Chhnang Governor has accompanied the commune officials and community members to build a durable water-split in Prey Chrov village where the water has been diverted. He also coordinated the dialogue between the communities affected and the company which led to a signed agreement which guarantees that the company will not sidetrack water resources for their own sugarcane production anymore. **As a result, 18 villages that were affected from the water conflict are enjoying their customary rights now.**



In addition, HEKS/EPER Cambodia is testing innovative means to build capacities of local communities on land law / land rights, land registration and related topics through an ICT-based sensitisation service. End of 2017, the project has developed the so called **3-2-1 service – a mobile phone-based tool, where you can call the number 3-2-1 and get pre-defined information on land rights, land concessions, land dispute solution mechanisms and defamation lawsuits.**

For the development of this service HEKS/EPER partnered with the social business Viamo, originally known as VOTO Mobile, which started in 2012 by a handful of Ghanaian and Canadian engineers in Kumasi, Ghana. The founders noticed that there had been a huge increase in mobile phone usage, but that very few organisations were using this communication channel to reach their end-users. So, they decided to first create an SMS channel to spread information to end-users, but soon found that did not effectively reach or engage rural populations, especially rural women. They decided to add a voice (IVR, Interactive Voice Response) channel, which proved much more effective. Since then Viamo have expanded its products, reach and impact, with the goal of improving lives via mobile by reaching the most isolated populations and providing them with information to make informed decisions for a healthy, prosperous life.

Within one year of activity of the 3-2-1 service, it was called about 2'300 times, whereas about 40% of the requests were linked to get information on land rights in general, about 25% on land laws, about 13% on land concessions, and about 10% each on land dispute solution mechanisms and defamation lawsuits.

India – successes of the People's Forums for Land Rights

Since 2000, HEKS/EPER India had been supporting partner organisations for lobbying and advocacy on land mobilisation, and over the years, three so-called land forums – KPFLR, APFLR, and TPFLR emerged. In the beginning, the forums were functioning as a loose network of partner organisations coming together periodically for lobby and advocacy on land related issues. **Since their inception until 2015, the members of the three forums had mobilised more than 100'000 ha of land to the benefit of 96'370 families.**

From 2016, the forums were further institutionalised and focused on assisting landless people to get legal access to agriculture land, provide assistance or help them to mobilise resources from different government schemes to increase agriculture production through sustainable agriculture practices and building resilience against risks.

Within the period of three years (2016-2018), 21'386 people got legal access to 103'458 hectares of land¹, whereas about 92'000 hectares have been community lands and the remaining individual land.



Brazil – Governance of territories and natural resources



The governance of territories and natural resources by indigenous and other traditional peoples and communities is in the centre of HEKS/EPER interventions in Brazil.

The Serra do Espinhaço, in the Alto Jequitinhonha territory in Minas Gerais, is home to traditional communities that, for centuries, have developed and practiced a complex agricultural production system. It combines the cultivation of highly diversified food production, particularly around their homesteads, and a collectively organized management system of the natural resources of their ancestral territories (non-timber forest products). The most important activities are the

gathering of wild fruits and medicinal plants of the Cerrado ecosystem and the collecting of dry wildflowers and grasses in the upper parts of the region.

The rural communities play an **important role as custodians of the enormous biodiversity and water resources** of the fragile ecosystem of the savannah rangelands, known as Cerrado. The flower picking, processing and selling is the most important source of income. Without access to these collecting areas, food security of the communities is threatened and their vulnerability to the impacts of climate change increases. Today, the access to their ancestral territories is increasingly threatened by green grabbing, the implementation of huge eucalypt plantations and mining activities. All this has led to increasing land disputes and violence in the region.

HEKS/EPER supports the *Commission for the Defence of the Rights of the Flower Picking Communities* (CODECEX), a regional movement of local communities, which integrates more than 50 different local organizations in their efforts to claim their right to land and develop sustainable land use strategies. In this regard, a process was initiated towards the recognition of the specific agricultural system as a **Globally Important Agricultural Heritage System (GIAHS)**, granted by the Food and Agriculture Organization of the United Nations (FAO), as Brazil's first candidacy.

The GIAHS dossier prepared by CODECEX and its network partners was officially submitted by the Brazilian Government to FAO's international GIAHS secretariat. The document includes a description and analysis of the traditional agricultural system of the flower picker communities as well as a dynamic work plan for the use of the natural resources. In addition, it proposes a set of participative instruments to promote inclusive

¹ In 2016: 4'574 ha for 6'037 people; in 2017: 4'264 ha for 5'751 people; in 2018: 94'620 ha for 9'598 people.

land governance, such as Biocultural Community Protocols and the regulation of Free, Prior and Informed Consent processes.

Since the start of the GIAHS process in 2015, this agenda has contributed enormously to strengthening the communities' identities and their understanding of their role and responsibilities on the way towards more inclusive land governance based on collective land rights and land use practices. The interest of the FAO to give an international label to the flower picker communities has increased the visibility and recognition of the traditional communities, particularly by government authorities. By putting the regional agricultural heritage in the centre of the political agenda, the GIAHS initiative was able to invigorate a positive, enabling environment. Various stakeholders became part of the process, particularly governmental authorities at local and state level, national and regional institutions responsible for cultural and heritage issues, international organizations as well as civil society, research institutions and the tourism sector. All this has led to a **better recognition of CODECEX as the legitimate interlocutor of the traditional local communities in the political negotiations with government authorities concerning issues of land governance and agricultural development.**

Israel / Palestine – Land for agriculture & housing, making communities resilient to confiscation

The topic of denied or threatened access to land and resources is central for HEKS/EPER's constituencies in Israel / Palestine and **several projects work towards the recognition and implementation of land tenure issues.**

HEKS/EPER's partners Maan and Badil (Resource Centre for Palestinian Residency and Refugees) support farmers and communities in reclaiming and rehabilitating land which otherwise would be under risk or being confiscated for building new Israeli settlements or outposts. Building roads, strengthening agricultural or other use of so called "idle land" leads to increased community resilience and protects the right to their lands. Further, HEKS/EPER partner CIVITAS has established a representing platform called the "IDPs League" in Gaza, through this league internally displaced people (IDP), are able to claim their rights to go back to their properties and to reconstructing their demolished houses. This work is done by addressing relevant duty bearers from the de-facto government in Gaza and international organisations present in Gaza. Another HEKS/EPER partner, Emek Shaveh, is promoting access to land and cultural heritage sites among Palestinian communities which reside near Israeli declared National Parks in EJ and Area C in the West Bank. The National Parks are declared by the Israeli Government and run by the Israeli National Parks Authority without taking into consideration the needs of the nearby Palestinian residents, who are mostly the owner of the land. Activities include awareness sessions and media campaigns about the legal rights of Palestinians in these villages. In addition, HEKS/EPER also supports a process to reclaim lands already lost. Palestinian and Israeli partners cooperate in order to influence the public discourse on the sensitive issue of the right to return with suggesting practical models on how return could be possible.

UN Declaration on the Rights of Peasants and Other People Working in Rural Areas

On 17 December 2018 the international community adopted the "Declaration on the Rights of Peasants and Other People Working in Rural Areas" (UNDROP). 28 articles describe the most important rights that peasants worldwide are entitled to. These include the right to land, including collective land rights, the right to water, to seeds, to agroecological forms of production, based on an intact environment or the right to determine one's own economic goals and nutritional patterns.

The Declaration outlines States' responsibilities to respect, protect and fulfil the rights of peasants and other people working in the rural area, who historically have been discriminated.

UN DECLARATION ON THE RIGHTS OF PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS

The UNDROP builds on, and includes agreed language taken from a number of binding international treaties. States must therefore play a key role in its implementation, in line with the numerous UNDROP provisions defining their obligations.

The Declaration encompasses all the important rights of HEKS/EPER's core constituencies to overcome systematic discrimination. Therefore, HEKS/EPER will continue to enhance the implementation of the UNDROP in future. HEKS/EPER will support peasants around the globe to meaningfully claim and enjoy their rights.

Switzerland has advocated for the adoption of the UNDROP during the negotiations and, with its approval in New York, sent a clear and praiseworthy signal. But the real work begins now: The concrete implementation of the UNDROP will also present challenges within Switzerland, when it comes to bringing Swiss agricultural or trade policy in line with the UNDROP, for example with regards to bilateral trade agreements or laws on intellectual property rights. **HEKS/EPER has joined forces with a broad alliance of civil society organisations to promote the implementation of the declaration in the North and the South.** The alliance aims at entering into a dialogue with Swiss administration in order to follow up on its commitments towards the UNDROP.



PROGRESS 2018 & PERSPECTIVES

Between 2013 and 2018 the trend of HEKS/EPER projects taking up the issue of ‘access to land’ is more systematically included in their strategies – a trend which had set in phase between 2008 and 2012 – has been further pursued in the majority of HEKS/EPER’s focal countries. Accordingly, the number of projects focusing on access to land has increased over the past to 44 projects in 14 countries in 2018. **From 2009 till 2018, land projects led to improved access to land for about half a million individuals.**

Based on data from 14 projects in 5 countries, HEKS/EPER together with its partners facilitated access to 96’591 hectares of land covered by different access rights. 96.1% (92’836 ha) of this surface is covered by collective and 3.9% (3’754 ha) by individual land rights. 98.3% (94’984 ha) are use rights for the people living on and from the land and 1.7% (1’607 ha) are transfer rights. **In total, about 61’510 people benefitted from these newly acquired access rights.**²

Figure 1 shows the status of land rights of the land secured for these 61’510 people in 2018. **96% of the analysed land rights** are implemented and adjudicated – meaning that the land right **is a legally binding right, usually documented and assigned by a legal authority** and implemented in the sense that the concerned land is de facto utilised. 2.2% of the people’s land rights are implemented but not adjudicated and 0.2% in the process of being adjudicated. This shows that despite the difficulties and complexity of addressing land rights issues in many context HEKS/EPER is working, substantial progress could be achieved during 2018 and security of access to land – individually or collectively – increased. However, there

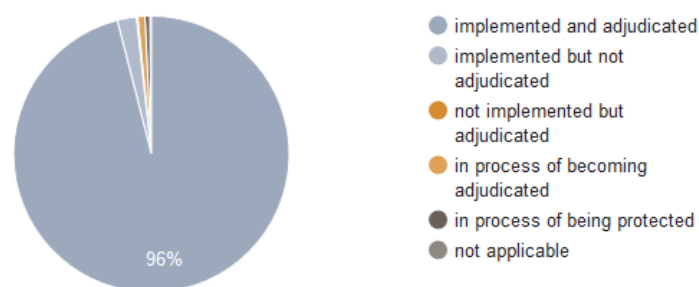


Figure 1: Status of land rights of people supported in their legal fight for securing their land 2018.

² 5’790 from individual land rights, 55’720 from collective land rights, whereas 29’537 are women.

are some exceptions of countries where this process is slower as for example DR Congo, where only 13% of the land rights are already implemented and adjudicated and the majority still in the process.

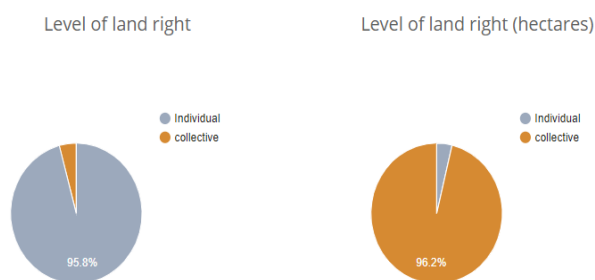
Based on a sample size of 7'259 people, 68.2% of the land rights monitored are documented in the name of men, 28.9% in the name of women and 1.7% in the name of both (man and woman). Thus, the fact that only about 30% of the documented land rights are in the name of women show the high vulnerability of women in the case of for example a change in their marital status or in context where the heritage systems is in favour of men, which is still the case in most of HEKS/EPER countries.

In addition, within 10 projects from 7 countries 150 new claims and 11 still relevant claims related to access to land have been submitted to the respective duty bearers. 17% of these claims are accepted by the duty bearers and 60% are of a binding character. The vast majority of the claims related to access to land are individual claims (about 80%) but comprise also group and national claims and in total shall benefit about 10'000 households of the different project regions.



Perspectives

Convinced that access to land is not only about land mobilisation and land titling, HEKS/EPER supports the development of inclusive land governance models and sustainable land use practices. There is a clear understanding that these models shall focus on a **territorial working approach**, which emphasizes the role of ecosystems and their potential to contribute to the food and livelihood security of local communities as well as their resilience towards the impacts of climate change. Also, a single new collective right leads to more effectiveness as it covers more individuals who profit (see *figure right*: 96.2% (92'781 ha) of the land secured in 2018 are covered by collective and only 3.8% (3'662 ha) by individual land rights (even though 95.8% of the new rights are individual).



Instead of hierarchical and vertical forms of land governance, HEKS/EPER's territorial approach proposes a set of governance processes with more horizontal coordination, concertation and negotiation where all actors share authority. HEKS/EPER will pursue its call for access to land with its three core demands (see last page). A specific focus will be put on advocating for the implementation of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) by Switzerland and within its programme countries. Striving for land policy changes involving civil society and making duty-bearers more accountable is very promising in many countries but also a huge challenge.

THIS IS HEKS/EPER

HEKS/EPER – Swiss Church Aid is the aid organization of the Swiss protestant churches and campaigns for a more human and equitable world supporting in 2018 with 100 partner organizations people and communities in economic and social need with 200 projects in 32 countries.

HEKS/EPER is active in **development cooperation** ameliorating in 2018 with 23 M (net costs) the life of 1'146'000 people focusing on access to land and resources, securing basic services, fostering sustainable production and inclusive market systems. It promoted also social inclusion of marginalized, inclusive governance structures and conflict transformation. HEKS/EPER's **humanitarian aid** supported with 9.5 M 290'000 people affected by disasters with emergency interventions, restoring livelihoods and rehabilitating infrastructure. In the frame of **Church Cooperation** HEKS/EPER enabled with 3.6 M social work of Reformed Churches in Eastern Europe and Middle East reaching out to 35'000 people. Striving for a **systemic change** and the **human rights-based approach** are the guiding principles – HEKS&EPER is cultivating constant dialogue with all relevant development and Government actors enabling civil society to advocate for their needs and rights.

In Switzerland, HEKS/EPER supported with 25.7 M CHF 60 projects in 15 cantons disadvantaged people in becoming socially and economically integrated by promoting equal opportunity, and assists jobless people, refugees and other individuals with providing day structures, legal advice, vocational trainings, language courses, dialogue platforms etc.

OTHER HEKS/EPER PUBLICATIONS RELATED TO ACCESS TO LAND

- HEKS/EPER (2019). Securing the mobility of pastoralists. The ZAMTAPO project in Niger – Capitalisation of HEKS/EPER experiences. Working Paper N°4, 04/2019, Zurich, April 2019.
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 - HEKS/EPER (2017). Access to Land Annual Report 2016. Report on Swiss Church Aid's activities, impact and perspectives related to access to land. May 2017.
 - HEKS/EPER (2015). Assess & Enhance Land Tenure Security, HEKS/EPER Analytical Framework. Working Paper N° 2, 02/2015, Zurich, February 2015.
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