



Addressing disputes and conflicts over the tenure of natural resources

Analysing Tenure-Related Disputes and Conflicts

LEARNING OBJECTIVES



At the end of this lesson, you will be able to:

- ▶ identify the causes of different types of disputes and conflicts; and
- ▶ understand how to select and use appropriate analytical tools to assess them.

INTRODUCTION

What is behind a dispute or a conflict over the tenure of a natural resource?



In this lesson, we will review the most common underlying causes of disputes and conflicts and will also look at the normative framework.

Then, we will illustrate a process that can guide the analysis of disputes and conflicts.

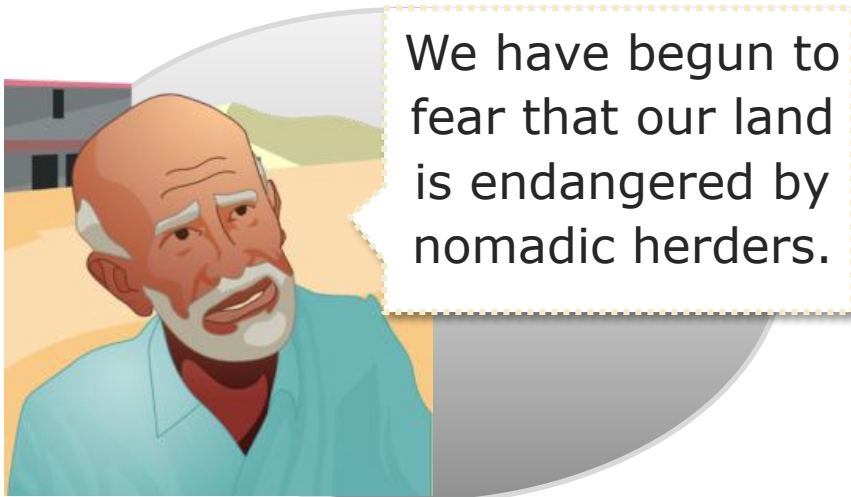
INTRODUCTION

Let's start by looking at the case study below.

Background

In the last few years, climate change has increased the length of drought cycles in the region and raised tensions between...

Settled farmers

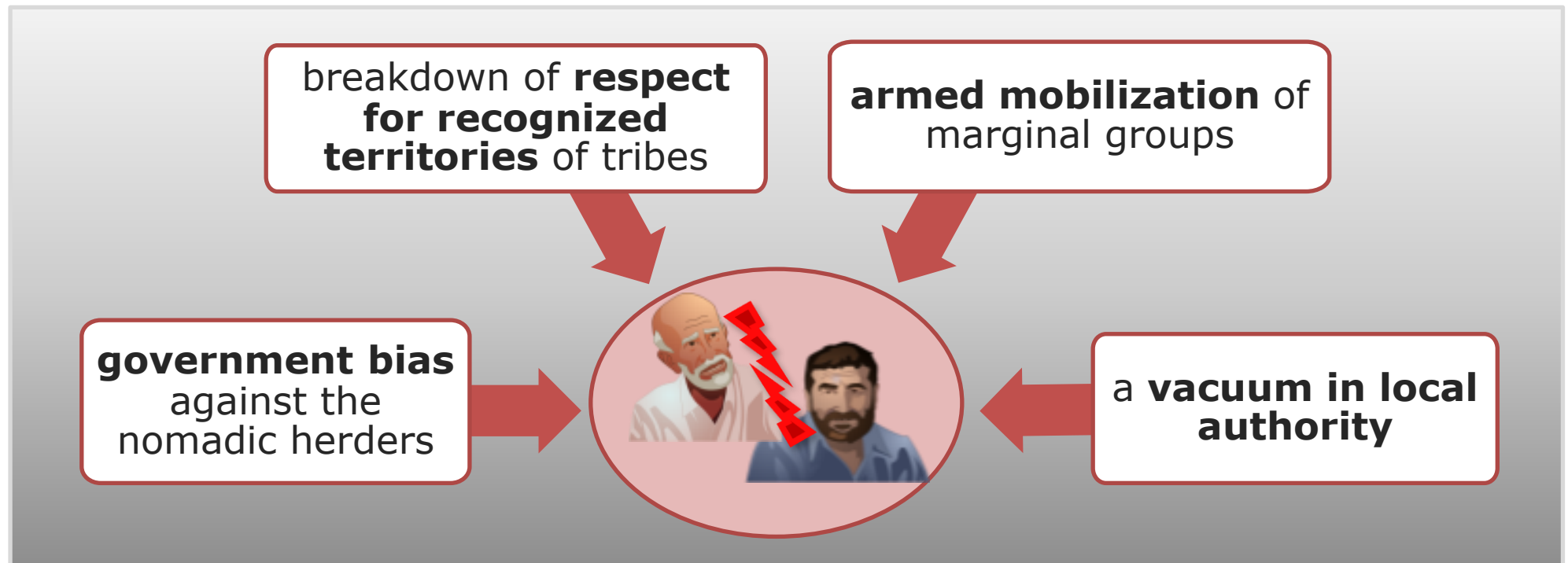


Nomadic herders



INTRODUCTION

Other factors have contributed to the conflictual situation including:



TYPES OF CAUSES



Can you distinguish between pre-existing factors and factors related to recent environmental changes?

	Pre-existing and rooted factors	Factors related to recent environmental change
1 Government bias against the nomadic herders.	<input type="radio"/>	<input type="radio"/>
2 Armed mobilization of marginal groups.	<input type="radio"/>	<input type="radio"/>
3 Overriding of previously respected territorial boundaries.	<input type="radio"/>	<input type="radio"/>
4 Lack of an effective institutional framework for resolving disputes.	<input type="radio"/>	<input type="radio"/>

TYPES OF CAUSES

Different kinds of factors can cause a dispute or lead to a conflict.

Root causes

Root causes are factors related to the broader political, social, economic and cultural contexts.



In the case study, the lack of an effective institutional framework and the government bias towards one of the communities.

Proximate causes

Other factors and events may intensify tensions. These are not static, but can change over time. We call them **proximate causes**.

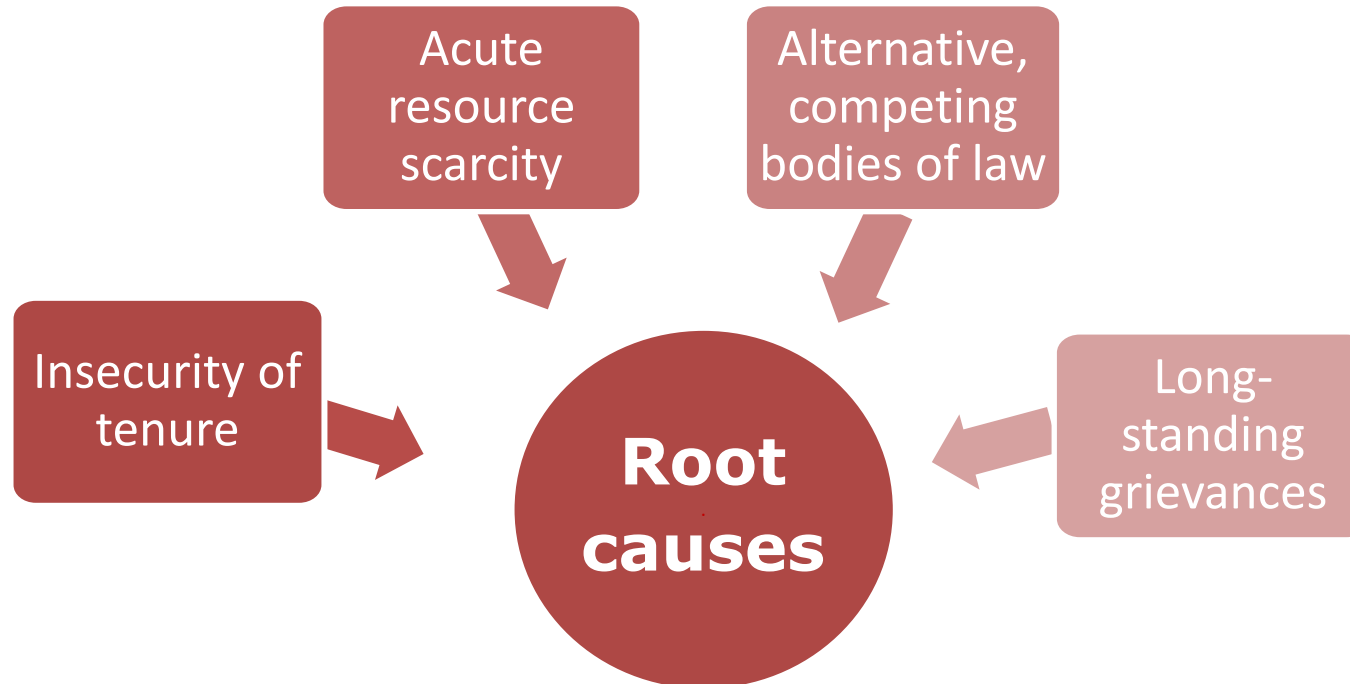


In the case study, armed mobilization of marginal groups and the overriding of territorial boundaries.

TYPES OF CAUSES

Root causes

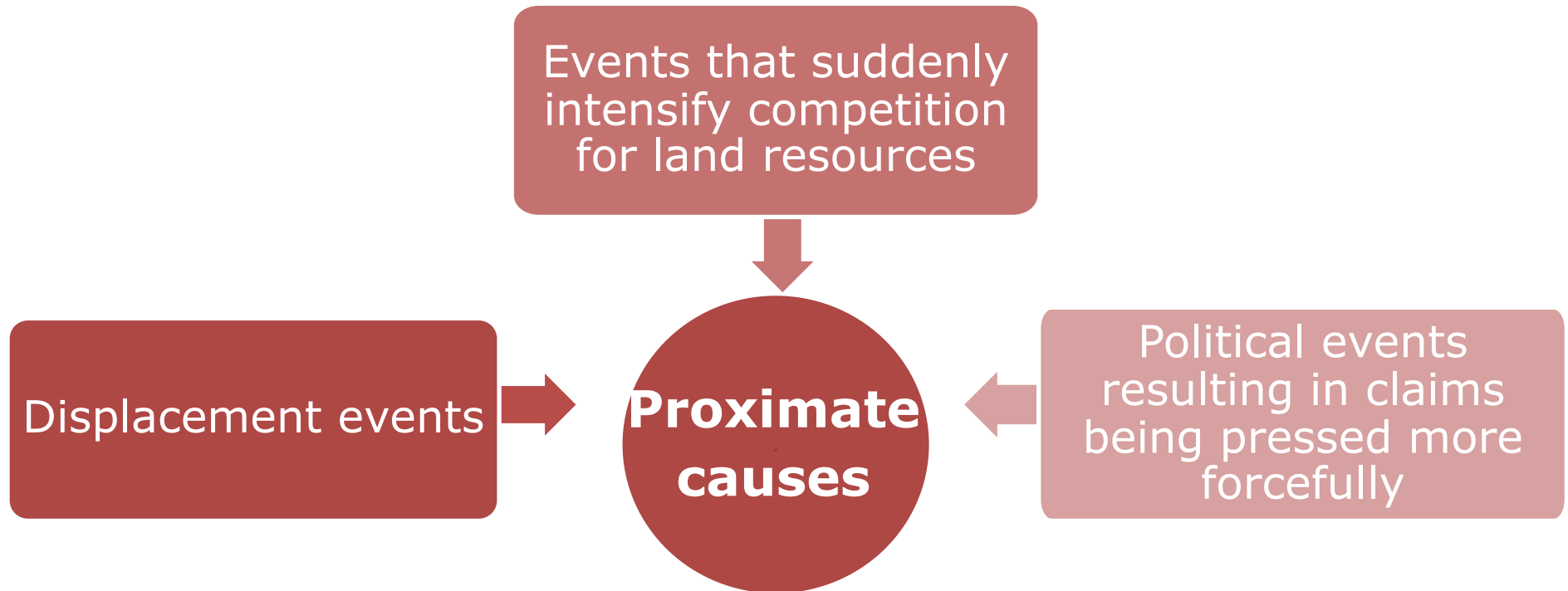
In general, **four key factors** can create vulnerability to disputes and conflict:



TYPES OF CAUSES

Proximate causes

Factors and events that may intensify tensions and create conditions for conflict and violence include:



TYPES OF CAUSES



Try to identify the type of cause.

1

A large dam-building project displaces large numbers of occupants who seek land elsewhere or migrate to nearby cities where they compete for unskilled jobs.

2

Extensive urbanization and industrialization have gradually taken space out of use, decreasing the supply of aquatic resource, polluting seawaters and contributing to environmental degradation.

**Root
cause**

**Proximate
cause**

TYPES OF CAUSES



Too narrow a focus can result in treatment of symptoms rather than treatment of the underlying causes.

Tenure- related factors

Other factors
(e.g. ethnic or religious tensions)

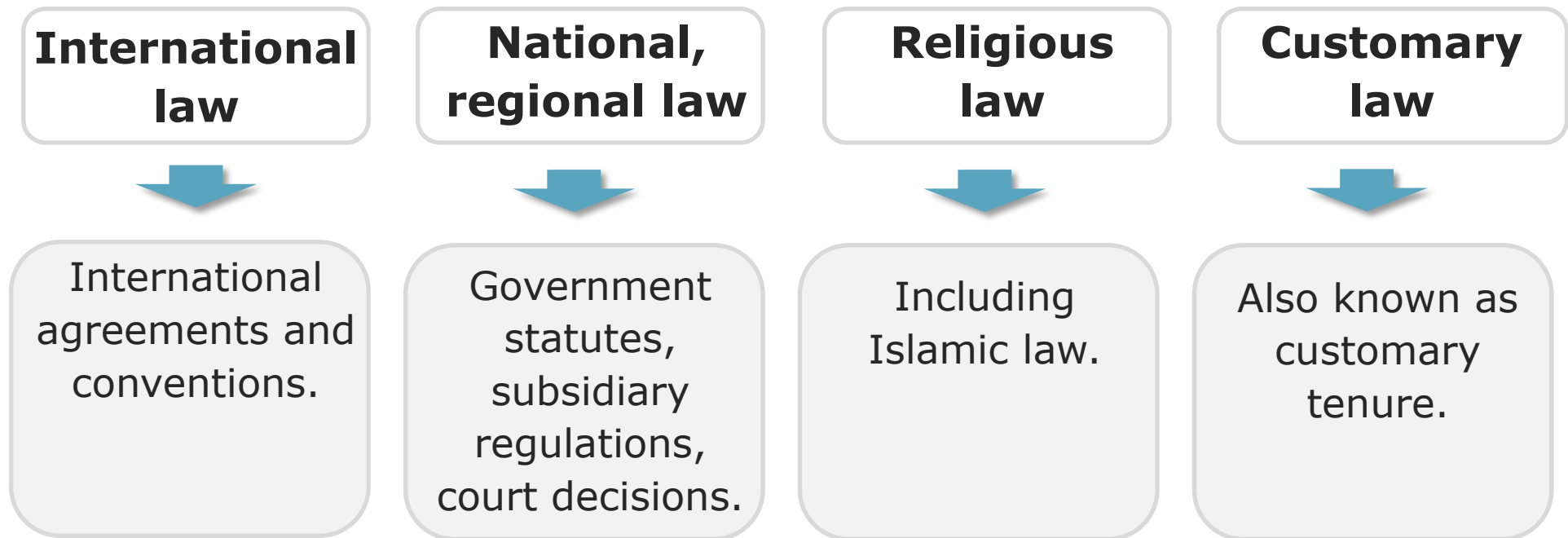
conflict



In some cases, tenure may not be cited as a reason for conflict, but may nevertheless be a **contributing factor**.

THE NORMATIVE ENVIRONMENT

The bodies of law governing the use of natural resources often include a combination of:



THE NORMATIVE ENVIRONMENT

The existence of a variety of sources is known as **legal pluralism**.



In some cases, tenure rights granted in national law take precedence over customary rights. In other situations, customary tenure may take on greater significance.



For example, in Ghana...

THE NORMATIVE ENVIRONMENT

National law



Customary law



Effective practice today emphasizes the coordination of customary tenure systems with statutory law.



Refer to V.Gs
5.3 & 4.4

THE NORMATIVE ENVIRONMENT

International law and practice provides:

- a useful framework for analysing and addressing tenure-related disputes and conflicts;
- a source of leverage to both national actors and international actors in pressing for measures that will prevent conflict.



THE NORMATIVE ENVIRONMENT

**National
law**



Disputes and conflicts are less likely to develop in situations where **national law** governing access to – and security in – land and other natural resources is perceived as just, clear and enforced.

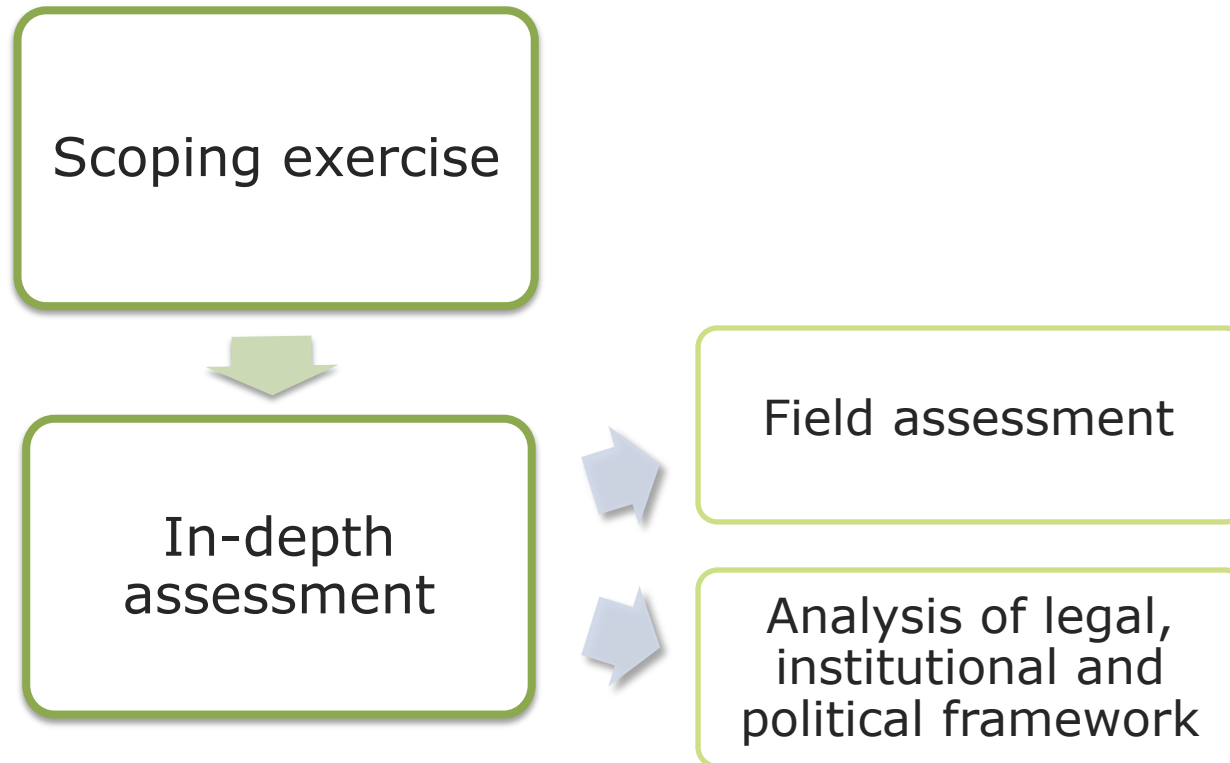


*Refer to V.Gs
25.4 & 4.3*

ANALYSING DISPUTES AND CONFLICTS

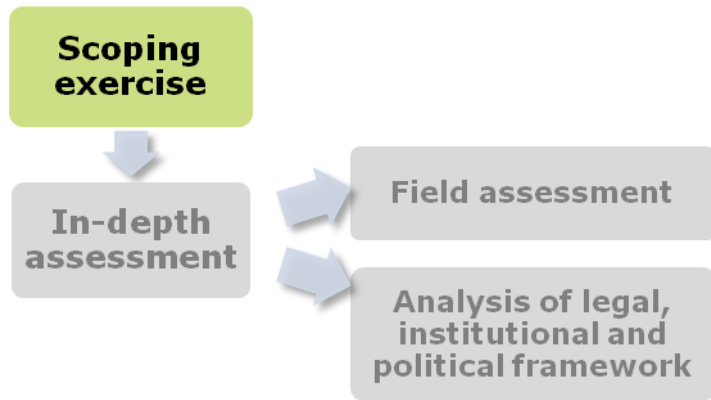
Let's now look at the **process of analysis** that can be undertaken in those situations in which disputes and conflict exist or may emerge.

THE ANALYSIS PROCESS

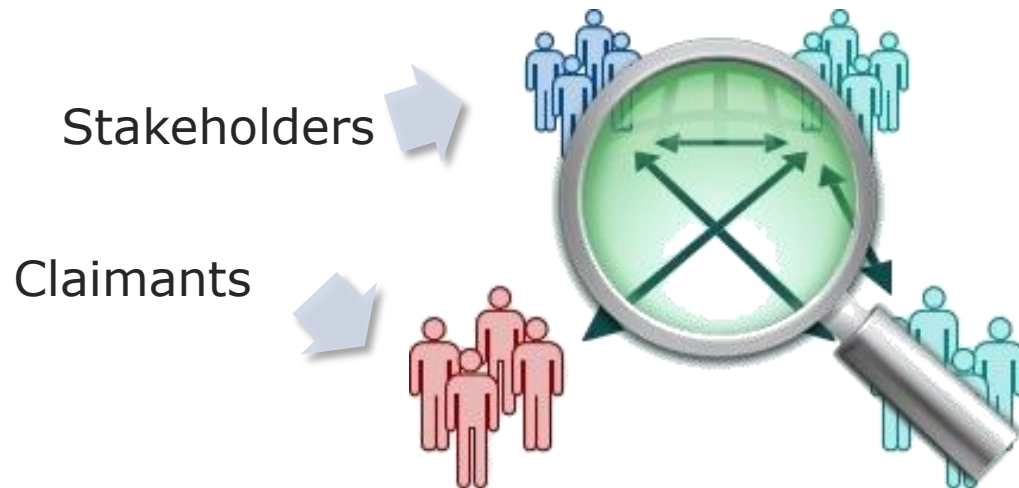


SCOPING

THE ANALYSIS PROCESS



The process of **scoping** involves the identification of claimants and other stakeholders and of the evolution and nature of their claims.



SCOPING

Once stakeholders, claimants and claims have been defined, scoping involves:



assessing on-going disputes



gauging risk of escalation



identifying 'spoilers' (i.e. those that actively seek to obstruct or undermine conflict resolution).

SCOPING

Information sources are wide-ranging and may include:



Key informant
interviews with
important players



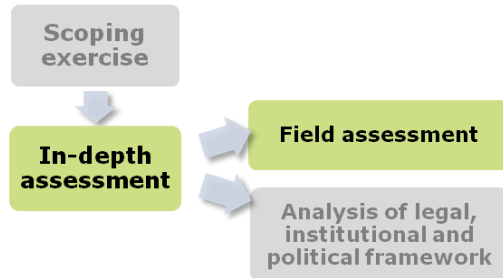
Studies may provide
valuable information.



Data on land
disputes

FIELD ASSESSMENT

THE ANALYSIS PROCESS



For a **field assessment** more ambitious data-gathering tools than are used for scoping are required. They can include:



**Household case studies
and focus groups**



**Large group meetings and
community assessments**

FIELD ASSESSMENT

When conflicts are intracommunity in nature, these analysis tools can be used:



Participatory mapping of community land use and rights.



Walking community boundaries



Methods of gauging priorities and preferences of community members

FIELD ASSESSMENT

For example

This land conflict matrix was used with villagers in Madagascar to quantify land disputes by placing seeds in the boxes.

<i>Disputants</i> <i>Nature of Conflict</i>	<i>Between villagers</i>	<i>With neighboring villages</i>	<i>With strangers</i>	<i>With the State</i>
<i>Trees</i>	1	—	6	—
<i>Land</i>	1	—	4	—
<i>Grass/pastures</i>	6	6	—	—
<i>Water</i>	—	—	—	—
<i>Animals</i>	60	90	75	—

Source: Karen Schoonmaker Freudenberger. *Tree and land tenure rapid appraisal tools*. Rome: FAO, 1998. Available at: www.fao.org/docrep/t1700e/t1700e00.htm.

FIELD ASSESSMENT

A group of researchers is conducting a broad conflict analysis in the southern region of the country where tensions between two fishing communities is a persistent source of conflict.



Following several discussions with the main stakeholders and claimants, the team is now discussing how to involve the linguistic minority group that lives in the region and that has not participated in the meetings and interviews conducted up until now.

FIELD ASSESSMENT



Which tool would you suggest using to reach the team's objective?

- 1 Large group meetings.
- 2 Focus groups.
- 3 Community assessments.

FIELD ASSESSMENT


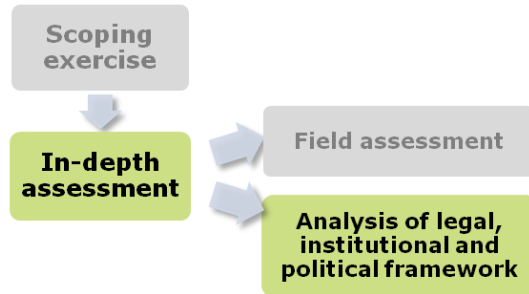


The information previously gathered allows us to:

- prepare **stakeholder group profiles**;
- undertake a **stakeholder group interest analysis**;
- understand how conflict is conditioned by the **economic, political and legal system**.

ASSESSING THE LEGAL FRAMEWORK

THE ANALYSIS PROCESS



Refer to V.Gs
3B Principle 7,
5.1, 5.2 & 5.3

To assess the existing national legal framework:



Consult sources of national law on natural resources



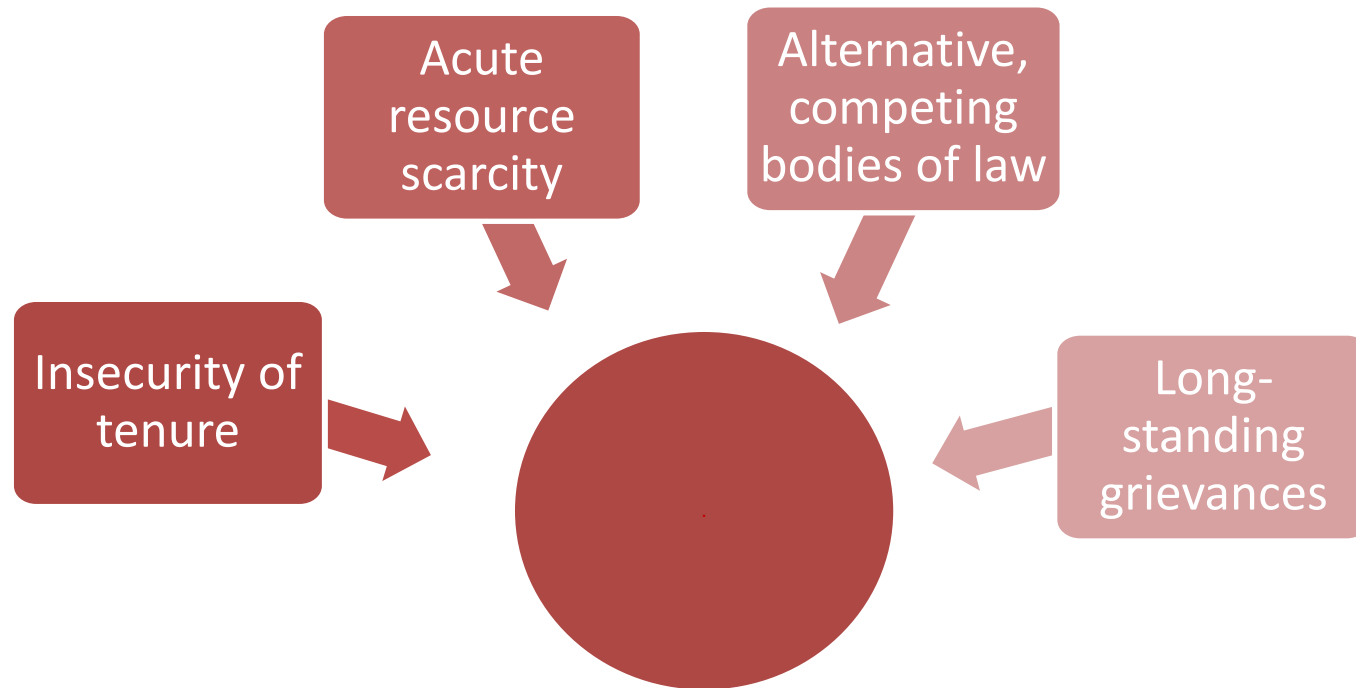
Ascertain customary rules



Assess the compatibility of all norms with international law

ASSESSING THE LEGAL FRAMEWORK

To identify failures in the normative framework, it may be useful to answer a series of questions.



ASSESSING THE LEGAL FRAMEWORK

Normative failures may also take the form of **failures in the legal system** which leave it weak or incomplete.



“There are regulations for everything, but people don’t follow the law.”



“Some people refuse to follow the law because they do not believe the authority introducing it is legitimate...”

Refer to V.G.
5.5



ASSESSING THE LEGAL FRAMEWORK

Other examples include:



“The legal framework is confusing, and the complexity of its rules means ordinary people do not understand the basics of laws affecting their tenure”.



“Too many key legal provisions are entrenched constitutionally or in religious law. In other cases, new laws are not being implemented effectively due to a lack of funding”.

ASSESSING THE LEGAL FRAMEWORK

Finally, disputes and conflicts may arise because of ignorance of the law.

Laws may exist and be fairly clear, but not easily **available** and not well **disseminated**.



ASSESSING THE ORGANIZATIONAL FRAMEWORK

Tenure systems include the organizations which make, implement and enforce rules and regulations. To understand their role, consider:



Extent (and legitimacy) of the powers of the executive

Capacity of and coordination between relevant ministries



Capacity and functioning of commissions



Relationship between national legal and customary institutions



ASSESSING THE POLITICAL FRAMEWORK



The last step of the analysis process consists of assessing the **political-administrative environment** in which the conflict and disputes occur.

This last step of the analysis can help to gauge the parameters for possible reforms and the prospects for change.



[On-line training programme on land, natural resources and conflict](#)

This on-line training programme focuses on how to formulate and operationalize measures to address natural resources conflicts within a development framework. The course begins with a global overview to enhance understanding of the connection between natural resources and conflicts, and their overall effect on development and the UN-EU interventions in managing them.

THINK ABOUT YOUR COUNTRY...



If you wish to apply what you have reviewed to the specific situation of your country, you may use the following questions as the basis for your assessment.

- Who are the different stakeholders in the dispute or conflict? Do you have sufficient information? If more information is required, what are the potential sources?
- What are the broad objectives of different claimants and stakeholders and specific interests?
- What are the obstacles and main challenges to achieving these objectives?
- How far would realization of different objectives address the underlying causes of conflict not just the symptoms?
- Is there a risk that they would sow seeds of more conflict? If so, how can those risks be mitigated?
- Are there any immediate potential triggers of violent conflict?

SUMMARY

Different kinds of factors can cause a dispute or lead to a conflict:

- **Root causes** are structural conditions that create vulnerability to conflicts.
- **Proximate causes** may intensify tensions and create conditions for violence.
- **Trigger events** can tip the balance from tense but peaceful conflict.

Understanding the **normative environment** is required to understand the nature of disputes and conflict in a given context.

The process of **analysing disputes and conflicts** requires a scoping exercise and a more in-depth inquiry, possibly involving a field assessment as well as analysis of the legal, institutional and political frameworks.

