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## USAID ISSUE BRIEF

# LAND AND CONFLICT

## LAND DISPUTES AND LAND CONFLICTS

### INTRODUCTION: LAND AND CONFLICT

Land so pervasively underpins human activity that it usually plays some role during war and civil violence. Land-related issues figure into many violent disputes around the world. Ongoing communal violence in Nigeria and Sudan is tied to competition over scarce fertile land and poor resource governance. Disputes over access to land and valuable mineral resources drove wars in Liberia and Sierra Leone, and the nearly 25-year war in Sri Lanka was fought over geographic claims to an ethnic homeland for the country's minority population. Understanding the role land plays in the conflicts of so many nations can help policymakers develop strategies to ease tensions among groups, limit conflict, and potentially avoid violence and the poverty trap that comes from cyclical violence (Collier et al., 2003). Failure to address these bedrock issues may increase the likelihood of conflict and perpetuate poverty. Land is the object of competition in a number of potentially overlapping ways: as an economic asset, as a connection with identity and social legitimacy, and as political territory. Competition over land and its resources is at the center of the nexus between land and conflict. Competition can occur between any number and type of identity groups, whether based on ethnicity, religion, class, gender, or generation. When that competition involves groups of people, rather than individuals, the risk of larger-scale violence increases. Some conflicts grow directly out of competition for land, but land is often not the sole cause of conflict; other factors, such as ethnic or religious tensions or political marginalization contribute to conflict (Baranyi and Weitzner, 2001).

When land lacks adequate legal, institutional, and traditional/customary protection it becomes a commodity easily subject to manipulation and abuse. Weak governance leads to weak tenure systems, often depriving individuals and communities of essential rights and access to land and other natural assets and contributing to poor land and resource management practices, which further degrades the limited resource base. Resolving land injustices may be a stated objective of a war or civil violence. The objective may be achieved, but more often it is not. In such cases, the competition over land may be repressed during the post-conflict period, only to erupt later. The violence may at the same time have transformed the conflict, so that the role land plays—and even the players—change. War, with its major displacements of civilian populations, can give rise to new conflict over the land to which the displaced have resorted for refuge and sustenance, or when displaced persons try to return to lands they fled and find them occupied by others.

Land conflicts can be persistent, and this suggests caution in talking about conflict “resolution.” Particular disputes over

### BOX A. LAND DISPUTES, LAND CONFLICTS, AND TRIGGERS

A “land dispute” involves conflicting claims to rights in land by two or more parties, focused on a particular piece of land, which can be addressed within the existing legal framework. Land disputes may or may not reflect some broader conflict over land.

By contrast, a “land conflict” involves competing claims to large areas of land by groups, of a breadth and depth not easily resolved within existing law. There is often no consensus on the rules to be applied, and the parties may have quite different understandings of the nature of the conflict. As used in this paper, “conflict” implies tension and the danger of violence, but not violence unless this is specified. Long-standing potentials for conflict based in structural or other fundamental problems may be the result of “trigger” events turned violent.

specific lands, which may be expressions of a larger conflict, can be resolved, and this can ease tensions. While local and traditional institutions like village councils, religious and traditional leaders, and other local bodies can often resolve local land conflicts, at a certain stage the state must intervene. When land disputes escalate to the level of governments, often they will only be able to “manage” the conflict, responding in constructive ways that keep the conflict from slipping over the boundary into violence. Assisting governments in identifying and implementing strategies to better manage conflict is, therefore, a vital task. Violence radically affects government’s capacity to deal effectively with land conflict; it negatively affects the abilities of international organizations and donors who support efforts to limit land-related conflict.

This brief first examines the causes of land-related conflict, then examines how the issues and opportunities change through the conflict cycle: before, during, and after violent conflict. This approach gives less attention to staples of the post-conflict land literature such as restitution and dispute management, but provides a more robust understanding of the longer-term challenges typically addressed by development rather than relief agencies.<sup>1</sup>

## UNDERSTANDING LAND-RELATED CONFLICT: VULNERABILITIES AND TRIGGERS

To address land-related conflict, it is essential to correctly identify the roles played by land in the conflict. What factors create vulnerability to land conflict, heighten unproductive competition, and exacerbate tension? Are these factors the primary cause of conflict, or are there other contributing factors? It is helpful in this context to distinguish between land situations that create vulnerabilities to conflict and “land trigger events.” Some important factors that create vulnerability to land conflict include:

### BOX B. THE DOWNSIDE OF DIVERSITY

The diversity of land tenure patterns is an important factor, especially in countries with diverse customary systems as well as a statutory system of land tenure. Such customary systems are today recognized as capable of providing secure tenure and are worthy of legal recognition, to the extent they are consonant with basic human rights. Managed well, that recognition of diversity can be a source of strength and national unity, and “legal pluralism” is a viable strategy. But this requires that customary and statutory tenure be guaranteed the same protections under law and that it be clear what land falls under each system. Without that, there will often be an unwelcome ethnic edge to contention over land at the interface between these systems (McAuslan, 2005).

- **Land scarcity.** Due to legal constraints on access, skewed distribution among users, or an absolute shortage of land in relation to demand, scarcity can leave many with little or no land and create intense competition for land. This scarcity can result from generally very high person/land ratios but can also be distributional, where one group has appropriated most land, leaving land a scarce good for most others. It can be influenced by demographic shifts and factors such as climate change and can be either national or local. Resentment and economic hardship related to land scarcity in Rwanda are often cited as contributing factors to the 1994 genocide.
- **Insecurity of tenure.** When land users fear that they may be forced off their land, insecurity of tenure can create a response that, in combination with the threat of eviction, can generate conflict. Fear of loss of land and livelihoods is a potentially powerful political mobilizing factor, as when tenant evictions in south-central Ethiopia sparked the 1974 revolution that overthrew the monarchy.

- **The lure of valuable resources.** When valuable resources are discovered or when the demand for existing resources rises (so they become newly valuable), people are motivated to exert control over, and benefit from the sale of, these assets. When land and resource rights are clear and enforceable, this motivation leads to exploration, use, and sale through ordinary market processes. However, when resources are located in areas with conflicting tenure regimes or when local people have insecure tenure over valuable assets, predatory actors (public and private sector) often struggle for control of these assets. This is the case in the East Kivu region of the Democratic Republic of Congo where conflicts over land and minerals are widespread.

<sup>1</sup> This brief draws substantially on the author’s longer *Land and Conflict Prevention Handbook, Initiative on Quiet Diplomacy*, 2011. <http://iqdiplomacy.org/handbook-series>.

- **Historical grievance.** Most often rooted in earlier displacements and land takings, historical grievance can generate a demand for redress that can fuel conflict. After 2000, in Zimbabwe, earlier colonial land takings and the resentment these engendered sparked widespread land occupations. Post-conflict situations are often rife with grievances based on displacements of some communities during the conflict.
- **Normative dissonance.** There may be normative dissonance where coexisting bodies of law of different origins are poorly harmonized and are used as tools by parties in contention over land in that context. The failure of successive Liberian governments to recognize customary land rights was an important factor that contributed to the overthrow of the civilian government by the military in 1980. This issue remains divisive in Liberia (on customary land claims and their appropriate treatment; see Freudenberger and Miller, 2010).

In the presence of such vulnerabilities, violence is often sparked by a trigger event. Trigger events may be situations that expose and intensify a vulnerability; for instance, where an extended drought threatens the viability of existing land use patterns, or where a sudden rise in demand for some crops rapidly intensifies competition for land, or where new climate change mitigation frameworks at the international level (such as REDD+ programs) lead to major shifts in land use. These will often involve displacements that then trigger major insecurity.

Where there are long-standing grievances over earlier land loss, a dispute resulting in a displacement that is itself modest but seems to presage a further and broader loss of land can trigger conflict. Shifting political fortunes can also act as a trigger. A previously subjugated group with land grievances may emerge on the political stage and pursue its land interests with new resolve. Conflict entrepreneurs may realize that an election provides an opportunity to exploit tensions over land. This happened after the December 2007 election in Kenya when grievances related to displacements and land-related corruption fueled violent conflict among members of contending (ethnically oriented) political parties. In some cases, a land-related event triggers a conflict, even though the conflict was not caused by a land issue, as in Box C.

### BOX C. DID THE BADME INCIDENT CAUSE A WAR?

An armed incursion at the tiny border town of Badme led to a war between Eritrea and Ethiopia (1998–2000) in which an estimated 50,000 soldiers died. The conflict was discussed in the idiom of invasion. Both sides issued strident calls to protect the nation's territorial integrity.

The real causes of the war had more to do a range of other issues: clashes in development strategies, difficulties around the creation of an Eritrean currency, and personal distrust among leadership going back to the years when both led insurgencies.

The Badme Incident, in other words, served as a trigger. The land concerned is marginal economically and lacks any special cultural or political significance, but the conflict has transformed it into a land grievance that may contribute to future conflict (Negash and Tronvoll, 2001).

## THE GLOBAL LAND RUSH AS A SOURCE OF CONFLICT

The last decade has seen a dramatic increase in the global demand for land, driven by growing demand for agricultural products, biofuels, carbon sequestration, and conservation uses. The new demand offers developing countries opportunities for badly needed foreign direct investment and inputs of technical and managerial expertise. While some land to meet this demand is being met through purchases from private international and domestic investors, large areas of land are often acquired from public lands, obtained from national governments on lease or concession. Many developing country governments consider land not registered as private lands to be allocated at will for investors. For this reason, vast expanses of public lands attract the interest of private investors. However, governments and investors alike may fail to take into account that what appears to be vacant and sparsely settled lands are in fact claimed by local communities.

Much of the public land being committed to new uses has been used and claimed under local custom for generations by local communities (USAID, 2011). Large areas of such land, often land used as pasture or cultivated under forest-fallow systems, are now being shifted from smallholder food production to other uses. Traditional livelihoods are negatively affected, and local food security put in question. Bargains struck between investors and governments often ignore customary rights or treat them as having little value, and often communities are not

compensated for the land lost. Government revenue anticipated from new development schemes is prioritized over local benefits. Where there are promises of benefit streams for local communities, such as local development funds and improved employment opportunities, they often do not materialize or are diverted to others. Other arrangements, like land leases, fail to materialize because communities lack the registered property rights that are so necessary to negotiating fair contracts with investors. In the end, land development is slow, leaving land once used by local communities idle or underused while communities struggle to intensify production on their remaining land.

As a result, the initial excitement over the prospects of investment sours and resentment grows; conflict among local communities, investors, and governments can soon threaten the investment's viability. The displacement and sense of grievance generated by neglect of customary rights are pregnant with land-related conflict, and with a potential for violence. This conflict constitutes a serious risk for investors and those who fund their investments. It can also threaten political stability. In 2008, the Government of Madagascar fell after ensuing riots when it became known that it had granted a South Korean firm, Daewoo, a concession for biofuel production over a third of the country's prime land. Similar conundrums now threaten countries like Burma, Cambodia, and Liberia who seek to set up new economic development zones.

International development agencies and other concerned actors, including producer associations, are seeking to mitigate these potentials for conflict. Development agencies are at a disadvantage in that they are not directly involved in these transactions; they are deals between investors and national governments. They have, however, sought to provide guidance for investors and governments that can avoid or mitigate such conflict. Some international organizations have established mandatory standards for their projects. Others have promulgated more broadly applicable but voluntary standards. These standards call for strong consultation processes with local communities, recognition of customary land rights, avoidance of displacement where possible, and where displacement occurs, appropriate compensation for loss of assets and assistance with resettlement. International

#### **BOX D. INTERNATIONAL STANDARDS ON LAND**

Recent years have seen the development of significant international standards on land governance, which identify good practices for dealing with large-scale investments. The Committee on World Food Security (CFS) in 2012 approved Voluntary Guidelines for Responsible Governance of Land, Fisheries, and Forests in the Context of National Food Security. The Food and Agriculture Organization (FAO) developed the technical draft of the guidelines, while USAID chaired the CFS committee that negotiated the final version. Another international effort with a substantial provision on land is the Responsible Agricultural Investment (RAI) Principles (2010), developed in collaboration by FAO, International Fund for Agricultural Development (IFAD), the United Nations Conference on Trade and Development (UNCTAD) Secretariat and the World Bank Group.

Donor agencies have also developed standards affecting land acquisitions, and while they are in a position to require compliance by governments and investors receiving their funds, these standards apply only to their own projects. The World Bank's Operational Policy 4.12 and supporting guidance stresses avoidance of displacement and requires that certain standards regarding resettlement and compensation be met where displacement cannot be avoided. Where those guidelines are violated, complainants have recourse to the Bank's Inspection Panel. The International Finance Corporation, as a major funder of international investment, provides guidance under its Performance Standard 5 on Land Acquisition and Involuntary Resettlement and related guidance documents.

Key private actors have also sought to provide guidance. Two important standards are the Equator Principles, developed by the international banking community and referring to the International Finance Corporation's (IFC) Performance Standard 5, and the Santiago Principles, developed by the International Working Group of Sovereign Wealth Funds on the initiative of the International Monetary Fund. Producer associations also sometimes provide guidance, such as the Code of Conduct of the Association on Sustainable Palm Oil. These private sector standards, while stressing principles of responsible investment, tend not to specifically address land matters.

investor and producer associations have also enunciated principles regarding responsible investment, but these tend to not deal specifically with land issues (see Box D).

## MANAGING CONFLICT: BEFORE, DURING AND AFTER WAR AND CIVIL VIOLENCE

Conflicts over land develop prior to war, continue through war, and often reemerge to threaten peace building in the post-conflict period. The conflict resolution and management measures taken during the conflict cycle differ for each period, although some themes are constant.

### *Before Conflict Turns Violent*

Competition over land, at some level, is normal. Land is a limited and multipurpose resource, and most countries depend upon some combination of markets and regulatory frameworks to mediate that competition. If these mechanisms are working well, conflict is unlikely, but markets are often constrained by regulatory and administrative barriers or by information problems, and politicians often thwart good land governance. A modest level of conflict can be constructive if managed effectively to prevent it from escalating into violence. In China, widespread community resistance to takings of rural land for incorporation in urban areas without adequate compensation has led to higher compensation standards and central government endorsement of further reforms. In more progressive municipalities, the challenge is to invest in preventing such constructive conflict from escalating and imposing the much greater social and economic costs associated with violent conflict and remediation. Given that seeds of land-related conflict are often present, what can governments do to prevent unproductive competition and conflict over land from turning violent, and how can donor agencies support those efforts?

The most direct approach is to press forward with policies that reduce vulnerability to land-related conflict.

**Address land scarcity.** Governments can often increase the availability of land through reforms such as opening up state lands while taking account customary claims, removing regulatory and administrative barriers to liberalize land and rental markets, or more directly through legislating land reforms. In Brazil, policies that have allowed access to public lands in the interior have provided a critical release of pressure for lands in more densely populated areas, though at considerable environmental cost. Land scarcity can also be addressed long term through technological innovation, including irrigation and other measures that increase productivity per hectare and allow for more intensive land use.

**Address insecurity of tenure.** Government and communities create property rights in land and natural resources to avoid a destructive free-for-all. Measures that strengthen and/or extend property systems can play an important role in reducing insecurity of tenure. Examples include legal reforms that create more robust property rights (for example, reforms that recognizing previously unrecognized customary land rights or programs that regularize informal settlements and community land demarcation and registration). There are new models for community-based, participatory formalization of land rights and land use planning to reconcile competing land uses that can be implemented much more rapidly than the classic systematic registration models. Those in Mozambique and Ethiopia have attracted attention.

**Address land grievances.** Grievances are often based on past land loss or displacements and are difficult to address. However, it is sometimes possible to turn back the clock. In southern Malawi, a government-financed, willing-buyer willing-seller program supports groups of landless from communities displaced by colonial land appropriations to buy back land taken from them. In Rwanda, faced with successive waves of returning refugees, the government successfully implemented “land sharing” between households from groups that had perpetrated and suffered genocide a few years earlier (Bruce, 2007).

### **BOX E. EARLY WINS—JUST STOP!**

Often existing government programs contribute directly to land-related tensions. Liberia has a long-standing public land sale program under which the state sells rural lands used by customary holders to elite “buyers” for nominal prices. The government has suspended the program and is moving to reform it in fundamental ways. Ending or reforming such programs can provide a relatively quick “win” in reducing potentials for violent conflict.

If opportunities for such programs are limited or if the programs are unlikely to be effective soon enough to prevent conflict from escalating, governments can take steps to reduce tensions or slow their escalation:

- **Improve land governance.** Corruption, malfeasance, and lack of capacity in public land management and land administration exacerbate and heighten tensions over land. Reforming these processes can lower tensions and buy time. Concrete reforms for governments to enact include developing clear and widely publicized service standards and fee structures; decentralizing land administration services; improving transparency in all stages of land programs; prosecuting proven cases of corruption; eliminating practices that discriminate between different groups in competition for land (including discriminatory staffing in the land agency); and instituting mechanisms such as complaint lines and an ombudsman.
- **Improve land dispute resolution.** Land disputes can trigger more serious conflict, and their expeditious resolution can ease tensions. The combination of poor records of land rights and cumbersome court procedures often delays resolution, allowing disputes to fester, resulting in major backlogs of land disputes in the courts. Measures that can help include reinforcing traditional dispute resolution mechanisms; upgrading capacity in local courts; simplifying court procedures by allowing for plain language submissions or submissions in local languages; adopting paralegal and legal aid programs (see Box F) targeted toward land and natural resource rights; and providing other, non-court modes of land dispute resolution—for example mobilizing nongovernmental and civil society organizations (NGOs and CSOs) to mediate land disputes (see Box G).
- **Empower communities, particularly the poor and marginalized, to pursue their land rights.** Those seeking justice often lack an understanding of how best to pursue it. Programs that can empower them include public education on land law and administrative procedures, training of community-level paralegals to act as a bridge to the formal legal system, creation of fora in which aggrieved communities can voice their concerns, and support for responsible leadership (as opposed to conflict entrepreneurs) in those communities. Building the capacity of local communities to negotiate fair contracts with external domestic or international investors for rental or leasing of community lands can go a long way toward creating a level playing field and greater transparency between all parties.

#### BOX F. LEGAL AID AS CONFLICT PREVENTION

In Kazakhstan in 2003, when a new law finalizing the process of de-collectivization was enacted, a legal aid program that advised both local officials and private stakeholders collected data on disputes and fed this back into the implementation process to allow course corrections that reduced potentials for conflict.

#### BOX G. NRC LAND DISPUTE MEDIATION IN LIBERIA

The Norwegian Relief Commission (NRC) has engaged land issues in connection with its protection activities for returning refugees and those internally displaced in this post-conflict context. NRC instituted a program of land dispute resolution through mediation, filling a gap left by the virtual collapse of the country's court system. The program has registered 3,001 and resolved 1,755 land dispute cases. Mediation and property rights trainings have reached 10,417 beneficiaries. While there are questions concerning the long-term sustainability of these resolutions, the program has played an important role in relieving post-conflict tensions over land. (Source: <http://www.nrc.no/?did=9167938>)

#### **During Violent Conflict**

Once violence spreads and escalates, options for government action are far more limited. Contending forces struggle over land to control people and resources. In some situations, control of high-value natural resources such as diamonds can be critical. In Sierra Leone, whole populations were displaced from diamond-mining areas by rebel forces. This enabled the rebels to control revenues generated from those mines. In turn, the revenue can fund weapons purchases and sustain and expand conflict. Conflict that is profitable is far less easily settled than conflict starved of resources.

Violence radically constrains the possibilities for many of the measures discussed in the section above, but some constructive avenues of action remain open to those seeking to reduce the role of land in conflict.

**Consider export embargoes.** Export embargoes of critical land-based resources (timber, oil), and initiatives such as the Kimberly Process Certification Scheme, which tracks diamonds from their point of extraction to point of sale to stem the illicit flow of conflict diamonds, can be established to help reduce the revenue streams fueling armed conflict.

**Engage with contending leadership.** Engage, if possible, the leadership of groups contending over land issues to shape their perceptions of fair and effective land solutions. Those leading insurgencies are often cut off from information and may come to power enamored of outdated land ideologies. They may be accessible in the areas they control, and dialogue with them on key land issues can be constructive. Slogans can become intelligible programs through such dialogue, providing potentials for compromise. They may even be pursuing land reform programs in the areas they control and discussions related to those programs are potentially helpful.

**Safeguard existing land records.** Safeguard existing land records from damage, theft, and tampering by removing those records to safe locations and securing them. Land records in Uganda largely survived many years of conflict due to careful protection of those records by land registry staff. Where government still exercises considerable control in spite of local violence, it can be supported in constructive measures that accommodate those displaced by violence, such as the identification of available land for resettlement programs. Caution is needed here. Such programs have often resettled displaced individuals on land already claimed by others. Even where that land is nominally owned by the state, such programs can sow the seeds for future land conflict.

#### BOX H. PEACE AGREEMENTS

In Sudan, the carefully crafted provisions of the Peace Agreement on oil revenue sharing between north and south have created a mutual interest in peace that allows for the continued flow of revenue.

**Participate in peace negotiations.** Peace negotiations can provide opportunities to identify points of agreement among the parties related to land and other natural resources, and it can highlight differences in perceptions of land issues. Recognizing and including provisions devoted to addressing land issues in peace agreements can reduce the potential for future violent conflict.

#### *After Violent Conflict*

Post-conflict countries often grapple with unresolved and continuing tensions over land. Refugee return and restitution processes can give rise to disputes that threaten to escalate into broader conflict. Collier and Hoeffler (2004) find that one legacy of violent conflict is a high risk of further violent conflict. Their work argues that post-conflict countries have a 39% chance that peace will collapse within the first five years and a 32% chance that it will collapse in the subsequent five years. There is a growing realization that it is essential to manage land-related disputes effectively and to begin to address the more fundamental land policy problems of which those disputes are symptoms, lest the post-conflict country slip back into violence.

In the post-conflict period, policymakers should recognize that land issues that contributed to conflict might have been transformed by events. War may have changed alliances and even the local social landscape. Traditional authorities with one set of land values may now share power with younger leaders who emerged that have different priorities concerning land. In the post-conflict government itself, the parties in power may view land issues differently than they did before when they were in opposition or differently from former government officials.

In addition, new land issues will have emerged. Violent conflict, whether episodic or prolonged, usually causes significant changes to land tenure and its administration. In times of conflict people may be indiscriminately or forcibly removed from their land, often without fair compensation or due process, or they may abandon their land because of fear of violence. Upon return (sometimes after weeks, months, or years of displacement), former owners often find others occupying their property and utilizing their land. The process of displacement and return due to violence (or the threat of violence) can be cyclical and often results in multiple claims to the same parcel of land. Competing claims can then spawn conflict due to weak, biased, or nonexistent enforcement of land tenure regimes, whether customary or statutory. Displaced and marginalized populations, especially in a post-crisis context, are then forced to compete among themselves or with newly settled groups for access to land and

productive assets for survival. In a post-crisis context, this sort of competition can lead to new rounds of violence and/or environmental destruction, exacerbating and spreading the initial crisis.

Women and vulnerable groups' land and property rights are commonly the most negatively affected by war and displacement. This is due to their already weak status in society and their more limited bundle of rights to property. Women often gain access to land and property through natal and marital affiliations. When this is severed due to the departure or death of the male head of household, women find themselves more vulnerable to having their land taken away by male heirs or other more powerful community members (Giovarelli and Wamalwa, 2011.) The HIV/AIDS epidemic feeds on conflict, and raises new land problems for the vulnerable (Giovarelli and Wamalwa, 2011).

In the post-conflict context, it is likely that the government's capacity to deal with land issues effectively will have been seriously diminished, particularly where the contest for power has been protracted. Land records and survey equipment—even buildings—may have been destroyed and technical competence of staff reduced by flight abroad and lack of training. Reconstructing and revitalizing the land governance and land administration system is a major challenge (UN Habitat, 2007). Some post-conflict governments come to power and quickly launch land programs, but more often they are preoccupied by political survival tasks such as feeding and accommodating combatants and developing revenue streams. These necessities push action on land matters further down a crowded agenda.

In the early days after the violence ends, assistance by humanitarian agencies tends to focus on urgent needs for food and shelter. These agencies have understandably tended to prioritize shelter issues, and with respect to land, to be preoccupied with land restitution. Insofar as they grapple with a broader range of land issues, their protection programs for returnees tend to lead them to support short-term measures to reduce tensions, such as alternative land dispute resolution. Mistakes have often been made and some efforts are failing. Returning refugees have been resettled on sites whose ownership is unclear or on terms that are unclear. Efforts to rebuild the capacity of land agencies lag badly, often for several years, in part because “peace-building funds” can only be made available for activities that produce immediate results. This is shortsighted. The humanitarian agencies have recently made serious efforts to improve their understanding of land issues and how these issues should be integrated into post-conflict programming, but they lack a strong capacity to support to governments in this area (UN Habitat, 2010).

What can those seeking to effectively minimize future land conflict do in the post-conflict context? Early and significant investments need to be made to rebuild the capacity of the land governance and administration entities before ambitious programs are undertaken. In the immediate post-conflict period, humanitarian agencies, donors, and governments can:

- **Carry out rapid tenure appraisals.** Work with international and national teams of land specialists to conduct rapid land tenure appraisals to better understand underlying and remaining potential for land-related conflict and assess how best the government can address these concerns.
- **Engage with governments and investors.** Seek to engage governments and investors on ways to avoid and mitigate conflict around land concessions and leases; in particular take into account customary rights in minimizing displacement, providing compensation and assisting with unavoidable relocations.

## BOX I. LAND REGISTRATION AS A POST-CONFLICT TOOL

Today, donor-funded programs of systematic land registration are usually justified on an economic growth rationale. But in Africa, the early uses of systematic land registration were in post-conflict situations where it was employed to solidify settlements of conflict: registration of *mailo* lands in Uganda after the Buganda War in the early 1900s; registration of lands along the Nile in the wake of the Sudan's Mahdist Rebellion late in the 1800s; and registration of consolidated holdings in the Kikuyu highlands in the wake of Mau-Mau in the 1950s. Today, Rwanda is using this tool to regularize existing holdings after conflict and restitution (Bruce, 2007). The impacts are still too early to assess in Rwanda.



- **Encourage land restitution strategies.** Develop land restitution strategies (especially in regard to resettlement) that “do no harm” and minimize future land-related conflict.
- **Develop property claims registries.** As with an innovative USAID project in East Timor, explore possibilities of instituting a land claims inventory linked to dispute resolution as a way to address root causes of civil strife (USAID, 2010).
- **Resolve land disputes.** Increase opportunities to resolve land disputes, relying not only on courts, which may be disabled, but on traditional authorities and NGOs through use of mediation and/or arbitration.
- **Encourage transparent resource management.** Institute systematic planning for accountable and transparent management of high-value natural resources, taking the rights of local people into careful account.
- **Strengthen capacity of civil society institutions.** Encourage the development of national and local NGOs and civil society with a land focus.
- **Integrate land issues into humanitarian work.** Ensure active involvement of land agencies and land NGO staff in all activities of humanitarian organizations.

### BOX J. THE LAND COMMISSION EXPERIENCE

In a number of post-conflict countries, the government has established a National Land Commission to address fundamental land tenure issues. In the post-conflict context, there is often more openness to reform because vested interests are disorganized and there is a sense of urgency to avoid a return to conflict. Such a commission can work across sectoral concerns and achieve breakthroughs in policy and law reform, as did Mozambique’s post-conflict Land Commission. In Liberia, an independent National Land Commission established under the Constitution by the legislature is developing both interim measures and long-term programs. But in Sudan, delays by the national government in creating the National Land Commission envisaged in the peace agreements have largely squandered the opportunity of such a commission to contribute to resolution of land issues dividing the north and south. Land commissions are more likely to be successful if they remain focused on policy and law reform issues rather than getting involved in implementation of programs, which tends to create tensions with sectoral ministries and reduce the commission’s ability to build consensus within government.

- **Rebuild capacity of government land institutions.** In the next phase (two to three years after peace returns), once some parameters of problems are clearer and the government has given preliminary consideration to land issues, it can begin, with the assistance of donors, to rebuild the capacity of those government agencies, including the Ministry of Justice (formal court system) that play key roles in land dispute resolution, as well as key private sector actors such as estate agents, conveyancers or other members of the bar, and surveyors and notaries.
- **Confront urgent land issues.** Consider promulgating tightly targeted laws on topics of some urgency, which might include restitution, the definition of abandonment, land occupation by those displaced in war, the use of eminent domain, and strong penalties for land fraud.
- **Reduce land tensions.** Focus on reducing land tensions in the short run by improving land governance, strengthening dispute resolution, and enabling local communities to pursue their rights—engaging NGOs in this process.
- **Support widows and families on inheritance.** Provide support to widows and families to document and submit inheritance-related claims to property.
- **Develop preliminary land policy.** Consider, even at this early stage, a brief interim policy statement on land; it will necessarily be relatively short and simple but can still reassure citizens as well as potential domestic and foreign investors.

- **Encourage creation of a Land Commission.** Where serious land problems threaten peace building, consider appointing an independent Land Commission to systematically review land issues, develop land policies, and propose needed legal and institutional reforms (see Box J).
- **Pilot land security interventions.** Once the capacity of government land agencies has been rebuilt to some degree, it is possible to consider piloting some of the measures mentioned in the pre-conflict portion of this brief. Minimizing and managing land-related conflict is a key governance task in the post-conflict period, just as it is before violent conflict erupts. The tools that are relevant in limiting conflict and reducing tensions in the pre-conflict period are just as relevant now, but many can only be deployed after a major investment has been made in rebuilding government capacity.

## CONCLUSION

When governments and communities successfully manage land disputes and prevent (or limit) land-related violent conflict, they avoid staggering human and economic costs. Collier (2006) has estimated that the typical conflict reduces GDP relative to counterfactual by about 15% by the end of the conflict. The costs of the initiatives discussed here to manage conflict are minor by comparison. Cost-efficient and effective investments may include good early warning diagnostics: frequent land disputes can signal the existence of the potential for broader conflict and careful analysis of the legal and social framework in areas (in some cases commons) where rights tend to be less clear or rights enforcement less effective can be very useful (Alden Wily, 2008).

It is important to note that the tools that can reduce potentials for land-related conflict include many of the same tools that development agencies deploy in support of economic growth and development, such as reforming the legal and regulatory framework, providing reliable records of land rights, and strengthening rule of law through effective dispute resolution. This is because secure property rights play such a critical role in both processes. There is considerable capacity in many development agencies and among the contractors who work with them in the use of those tools. The difference lies in how they are deployed and targeted (USAID, 2005).

This suggests that development agencies should consider the potential of these tools for conflict prevention and mitigation, and assess the recent learning from humanitarian agencies as to how they can best be used in the conflict context. In this context, the balance struck in land policy and its implementation between recognition of cultural diversity and avoidance of divisiveness is particularly critical.

However, in the end, the role played by national institutions—Ministries of Land, Environment, Justice, etc.—is decisive. For this reason, this brief stresses the need for capacity building in land governance and administration institutions as well as in the formal and informal legal systems. The ability of national governments to own and sustain programs to increase land tenure security and effectively resolve land disputes will determine whether these programs are able to reduce conflict and support human and economic development.

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