

**Policy Brief**

# Transforming land-related conflict:

Policy, practice  
and possibilities

by Stephen Baranyi  
& Viviane Weitzner

*research for a fairer world*



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# Introduction

After years of being relegated to the margins of development debates, land policy and conflict are receiving increased attention in many quarters. From Brazil to the Balkans, from Zimbabwe to Indonesia, there is growing concern among peoples' organizations, governments, civil society networks, donors and scholars about the linkages between problematic land policies and violent conflicts. Many are searching for new solutions to the range of challenges at the nexus of land and violence.

What are some of those challenges? What approaches to land-related conflicts exist at the local level, and what is being learned from them in practice? What are international donor agencies doing at the interface of land and conflict? How are global civil society networks grappling with these issues? What could these and other actors do to promote the transformation of land-related conflicts?

This paper reflects on these questions through a review of primary documents and secondary literature. Section 2 analyzes current debates and practices on the resolution of land-related conflicts. Section 3 examines emerging efforts in selected donor agencies, and scans what four global civil society networks are doing at the nexus of land and conflict. Section 4 brings these threads together to identify some areas for reflection and action by different actors. Other dimensions, such as national strategies, regional initiatives, the role of the private sector and other land policy challenges, are only addressed in passing due to time and space limits. Through this joint product, the International Land Coalition and The North-South Institute aim to inform the efforts of a range of different actors trying to enhance their responses to challenges at the crossroads of land and conflict. Our emphasis is on practical options for these actors, but issues not amenable to easy solutions are also raised to provoke deeper reflection.

## Box 1: Quick definitions

Land is life. It is a surface that people live on, an economic asset, a point of access for other resources like minerals, territory for states and peoples, and a central element informing certain communities' identities and spiritual worldviews. Key concepts associated with land include:

- ▶ Tenure: The statutory or customary regulation of ownership and access
- ▶ Policy: States' and customary authorities' intentions on land tenure, land use and land administration
- ▶ Reform: Major changes in the legal and institutional framework governing land tenure. This includes state-led, market-oriented or hybrid models of land reforms

**Conflicts**, or disputes, are inherent to relations within and between societies. Yet there is increasing concern about the escalation of normal social conflicts into violent disputes, especially armed violence that may lead to open warfare.

- ▶ Management: Helping stakeholders peacefully manage ongoing differences
- ▶ Resolution: Defusing a conflict permanently by addressing its roots causes
- ▶ Prevention: Staving off the escalation of conflict into violence before the fact
- ▶ Transformation: Defusing violence or preventing conflict escalation by transforming stakeholders' approaches, implementing reforms that address underlying causes and providing viable channels for the peaceful management of disputes

Sources: Adapted from EU, November 2004 and FAO, forthcoming.

# Key issues, practical responses and challenges

Rural and remote areas worldwide are becoming increasingly sought after for their land and resources. In-migration due to increasing population pressure, mining, oil and gas activities, agro-industry, logging, dams, privatization of water schemes, establishment of protected areas and bioprospecting augment pressures on local conflict management arrangements. Sometimes these forces connect with other social fault lines and conflict escalates into violence or armed warfare. Paradoxically, warfare sometimes creates opportunities for institutional and structural reforms that address land-related conflicts.

This section provides a snapshot of key issues and responses to land-related conflicts, emphasizing practices and insights emerging from relevant primary and secondary literatures. It begins by considering misunderstandings around property rights systems that have led to policy failure. It then synthesizes several major issues related to the national level: policy incoherence; the weakening role of the state; conflicts between communities and external actors related to participation in decision-making; conflicts related to historic claims, sovereignty issues, Indigenous and Tribal Peoples rights as well as inter-group conflicts;

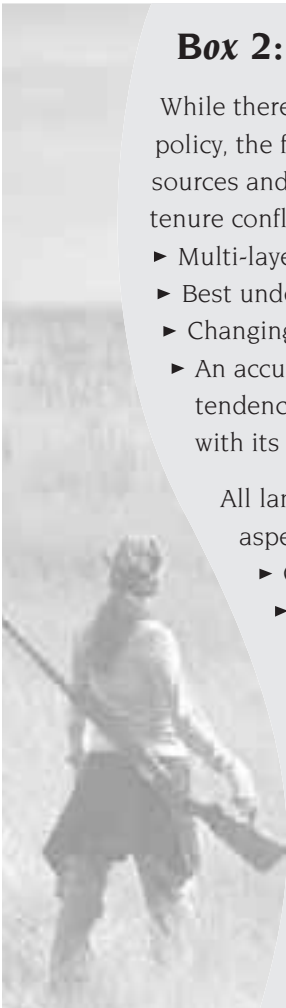
## Box 2: Typologies of local land-related conflicts

While there have been many attempts to draw up typologies of conflicts specifically related to land policy, the forthcoming FAO manual on land and conflict provides a rich discussion of the main sources and dynamics of land tenure conflicts. Highlights include the acknowledgement that land tenure conflicts are:

- ▶ Multi-layered, multi-dimensional and often nested in bigger conflicts
- ▶ Best understood in historical, social, environmental, economic and political contexts
- ▶ Changing over time
- ▶ An accumulation of grievances and multi-level processes including broad economic and political tendencies and specific contextual dynamics. Each land conflict should be considered as an entity with its own history, development and possible resolutions

All land tenure conflicts deal with access, use and security. There is a need to separate political aspects from the object of the conflict itself. Potential sources of conflict include:

- ▶ Competing claims to access rights, tenure insecurity and unequal distribution of land
- ▶ Alterations in the social, political and economic balance, including:
  - ▶ Endogenous population increases leading to more intensive use of and reduced access to resources
  - ▶ Increased commercial agriculture and extensive land use leading to competition over resources
  - ▶ In-migration of exogenous populations to areas with established communities and land tenure systems, leading to conflict over the rules of access to land and types of land use
  - ▶ Changes in land prices and productive potential
  - ▶ Changes in land legislation, or wider socio-economic changes



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intra-community conflicts related to gender; and finally, the treatment of land-related conflicts for peacebuilding and the prevention of armed conflict.

Underpinning this synthesis is the recognition that local level land-related conflicts are complex, context-specific (“history and culture matters”), plagued by power asymmetries at various different levels, often embedded in structural conflict or triggered by macro-economic policies such as market-oriented liberalization, privatization of natural resources and increases in foreign direct investment.

## Tenure frameworks and policy failure

### Issues

Property rights systems are inherently complex. Incomplete understanding, ignorance or disregard for complexities on the ground are at the root of failed policy prescriptions and conflict around land.

Much misunderstanding has been fuelled by Garret Hardin’s influential 1968 article “The Tragedy of the Commons”. In that article, Hardin argued that communal property is synonymous with free-for-all, open-access situations that lead inexorably to resource degradation in the absence of government intervention. According to Hardin and his supporters, the solution to this “tragedy of the commons” is issuing private property rights or ensuring state regulation of those lands.

Common property theorists have dedicated much effort to debunking Hardin’s thesis. They have pointed to many examples where communal property is self-governed by intricate norms and rules that are established, maintained and enforced by members, including customary dispute resolution mechanisms.<sup>1</sup> While theorists posit three “pure” forms of property rights (private, state and common property),<sup>2</sup> they underscore that these “pure” forms never exist as such: multiple or hybrid forms are far more common, and rules of use are often “informal” (or customary) and unwritten.

### Practical responses and challenges

Given the complexities on the ground, blanket prescriptions and approaches to land reform are destined to fail and bring about conflict. According to Elinor Ostrom, a leading thinker on common property, “policy analysts need to move away from viewing any institutional arrangement as a panacea and learn how to use the attributes of a resource system and of the individuals using that system. Sole reliance on the state, the market, or on common property to ‘fix’ any problem is unlikely to succeed.”

While Ostrom advocates the development of new tools to enable problem-solving individuals to utilize a mixture of property-rights systems well matched to the situations they face, she underscores the equal importance of “devising effective, autonomous, and honest court systems and multiple arenas where peaceful contestation can occur.”<sup>3</sup> Appropriate conflict resolution mechanisms and local level training on these issues may be a more efficient means of increasing tenure security than embarking on regime change or land reform, at least in the short term. Many scholars argue, however, that in the long run, clear ownership and title is ultimately the best solution, although the value of acquiring title depends on the institutional and judicial context.<sup>4</sup>

Research is currently being undertaken to identify conditions of local tenure regimes that can lead to efficiency, equity, ecological sustainability and resilience taking into consideration both context-specific and external factors.<sup>5</sup> In addition, new learning on “hybrid” systems that bridge communal property regimes with others is emerging through knowledge networks such as the International Association for the Study of Common Property, the Collaborative Management Working Group of the International Union for the Conservation of Nature (IUCN), the Consultative Group on International Agricultural Research (CGIAR) system-wide program on Collective Action and Property Rights (CAPRI) and the Resilience Network, some highlights of which are discussed in this section. Feeding this learning into practical outcomes and policies is clearly a priority.



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## *Institutional capacity and vertical conflicts*

### **Issues**

There can be situations where a lack of appropriate information and coordination among government departments leads to different institutions issuing concessions and rights to the same piece of land, most likely without consulting the people at the local level whose ancestral territory and livelihoods might be affected.<sup>6</sup> While acknowledging there are issues with regard to the conflicting mandates of government departments, this type of “messy” situation could be prevented with better administrative systems in place, including procedures for integrated planning as well as participatory environmental and social impact assessment. In tandem with this, it is clearly important to strengthen judicial systems to deal with formal complaints regarding land.

A large “structural” or “vertical” conflict for many developing countries is the pressure they are under to attract foreign direct investment to service debts and satisfy expectations from international financial institutions. Rather than building up their regulations to safeguard social and environmental interests and the potential conflicts that could be engendered, there is often streamlining of these in order to pave the way for investment. Behind these changes are multinational corporations and foreign governments.<sup>7</sup> Critics have noted there has been a “hollowing” of the role of the state, as it becomes driven by corporate rather than democratic interests. While some argue that economic growth and foreign direct investment are keys to poverty alleviation, case studies have shown there are often regressive distributive effects where the most marginal and poor – usually rural – populations bear disproportionate costs, while the benefits are shared among a select few, usually in urban centres. As the Extractive Industries Review of the World Bank pointed out, this points to the importance of strengthening governance to maximize the potential benefits of investments to the poorest of the poor.

### **Practical responses and challenges**

In order to “check” the potential conflicts that could emerge due to these situations, there has been increasing pressure on international financial institutions to develop strong safeguard policies to condition loans. A growing number of commercial banks are now subscribing to the “Equator Principles”, which commit them to adhering to the International Finance Corporation’s safeguard policies. Several export credit agencies are also beginning to review and implement policies conditioning loans. Multinational companies are also developing statements about corporate social responsibility, and developing “toolkits” for community development in order to try to get local level buy-in instead of conflict.<sup>8</sup> Multilateral fora such as the OECD and UN have also developed guidelines for transnational corporations that their members should follow, and established national contact points and commissioners to investigate complaints. While these “soft” measures are clearly steps in the right direction, they would be substantially bolstered by appropriate and enforced national regulation.

## *Meaningful participation and consent processes*

### **Issues**

Failure to meaningfully consult and include full and informed participation of communities whose lands, livelihoods, and cultural identities might be affected by the outcomes of decision-making — whether around policies or projects — is a key catalyst for conflict. There is increasing recognition that centralized, top-down decision-making about land and natural resources not only creates social conflict, but also fails to take into consideration local knowledge that could help avert ecological catastrophe.

### **Practical responses and challenges**

Potential solutions have included the decentralization of decision-making in natural resources management, and the establishment of fora to include public participation in decision-making at all levels.

## Co-management

The concept of co-management has emerged as a promising mechanism for potential resolution of local land-related conflicts. Co-management arrangements have been established to manage particular resources, for example wildlife (e.g., CAMPFIRE in Zimbabwe), forestry (e.g., India's joint forestry management schemes), protected areas (e.g., Galapagos in Ecuador), fisheries (e.g., marine fisheries in the Philippines), watersheds (e.g., Chesapeake Bay in the US) and larger territorial areas (e.g. under Aboriginal land claims settlements in Canada). These arrangements have also been established in the midst of armed conflict (e.g., Colombia and the Democratic Republic of Congo).<sup>9</sup>

There is no "blueprint" for co-management arrangements, and each is tailored to its context. They can involve only two social actors (e.g., local communities and state government representatives) or several actors (e.g., environmental NGOs, universities, private sector representatives and others). In light of the diversity of arrangements and the spectrum of power-balancing<sup>10</sup> that is achieved (from arrangements that are based on consultation to those where community members have seats at the table and where there is more control over decision-making), there has been much debate about an appropriate definition of co-management to ensure it is not too broad as to be meaningless. Taking this into account, the Collaborative Management Working Group of the IUCN defines co-management as "a partnership by which two or more relevant social actors collectively negotiate, agree upon, guarantee and implement a fair share of management functions, benefits and responsibilities for a particular territory, area or set of natural resources."<sup>11</sup>

One of the promising features of co-management is that it can enable parties to work together even if there are differences in positions of ownership over the land. In the case of Gwaii Haanas National Park Reserve in Canada, for example, the Haida Nation and Canada have agreed to disagree over who owns the land, and the co-management agreement contains both positions on ownership.

While there are clear advantages to creating local level fora for participation and resolving grievances

with regard to access to and use of resources, case studies have highlighted issues in implementation, many of which have to do with the asymmetry in power relations among those at the table. Key challenges include:

- ▶ Using "Western" processes and language inappropriate at the community level
- ▶ Insufficient funding and number of meetings
- ▶ Inappropriate identification of interested parties at the table, including lack of gender equality and questionable legitimacy of representatives at the table
- ▶ Lack of legal backing and authority to implement decisions
- ▶ Prevailing attitudes and "old ways" of doing things
- ▶ Lack of accountability and information to the local level, and lack of political will to "devolve" real power to the local level<sup>12</sup>

## Local democratic governance

Building on the decentralization research program at the World Resources Institute (WRI), Jesse Ribot offers insights into some of the failures of decentralized decision-making institutions and potential solutions for strengthening their role with regard to land-related conflicts. He argues the answer lies in strengthening democratic local government, which could create an alternative platform for conflict resolution and offer local people a choice. Far from eliminating local customary authorities or other local institutions, democratic local governments could work in parallel. If conflicts are not appropriately resolved when people approach local customary authorities, heads of households or even NGOs, then they have the option of recourse to the elected authorities or courts that are part of the democratic local government. Because they are made up of a residency-based constituency rather than an ethnic based (such as customary authorities) or interest-based (such as NGOs) constituency, democratically elected local governments are more inclusive. Nonetheless, "mechanisms must still be crafted to ensure representation of the most marginal and disadvantaged groups."<sup>13</sup> A further advantage, according to Ribot, is that they overcome some of the problems faced by other local level institutions with regard to "scaling-up" – democratic local

governments have “the characteristics of generalizability and institutional stability, which are necessary for scaling up and sustaining representation.”<sup>14</sup>

It will be interesting to monitor the work of the WRI as these hypotheses are tested. Questions arise regarding the functionality of legal pluralism and parallel systems, and the potential conflicts that could arise. Some argue that land tenure security could in fact be threatened if different sets of rules are applied under different institutions in the same area. There could also be distributive issues due to the different outcomes of decision-making and conflict resolution. In addition, parallel institutions could also lead to competition for the same jurisdiction which could fuel conflict.<sup>15</sup> One member of the ILC, LandNet West Africa, has highlighted that it is precisely the overlap between local authorities and customary institutions that is creating difficulties in the resolution of new disputes between pastoralists and farmers in West Africa, with one outcome being that old disputes remain unresolved.<sup>16</sup>

### **Free, prior and informed consent processes**

While there is ongoing debate and concerns expressed about having a panoply of different fora that might render customary and local democratic mechanisms ineffective or else catalyze conflict, there has also been much discussion regarding free, prior and informed consent (FPIC) processes and the power of communities to say no to proposed land-related developments. As will be discussed later in this section on Indigenous Peoples and in section 4 of this paper, free, prior and informed consent is emerging as an international standard with regard to Indigenous and Tribal Peoples. However, many contend there is a moral obligation to ensure that free, prior and informed consent should be a standard for *all* local communities in decision-making about land-related projects that will have significant impacts on their livelihoods.

Some argue that at the very least local authorities — whether Indigenous or not — should have the right to say no to extractive industries. In Jesse Ribot’s words, “new environmental legislation must give local communities veto power over resource extraction. This right does not threaten the resource. It is a simple way of giving local populations access control.

It also gives them leverage to negotiate with outsiders.”<sup>17</sup> While this right may not threaten the resource, from the perspective of some nation states (and by extension some corporations), it does threaten the concept of eminent domain and the power that states claim to act in the interests of the national public. This very threat is at the centre of arguments against recognizing and implementing free, prior and informed consent. Other states, such as the Philippines, have enshrined the right to free, prior and informed consent in legislation. From the perspective of practical-minded players in the private sector, a social license to operate makes good business sense particularly for long-term investments, both from the point of view of community buy-in and also for risk assessment and appeasing worries of shareholders and potential investors. Consent processes actually bring more certainty — without ongoing consent, without a social license to operate, business would be very high risk. Further research is clearly needed on these issues, particularly to help shed light on whether/how free, prior and informed consent should be applied to non-Indigenous communities not only in relation to extractive industries, but also to other development activities.

## *Cultural survival and inter-group conflict*

### **Issues**

Multiple and extremely complex land-related conflicts affect Indigenous and Tribal Peoples, particularly given their cultural identity and survival is inextricably related to their relationship with their ancestral territories, and their lands and resources are increasingly being sought after by “conservationists”, “developers” and non-Indigenous peasants. At the centre of these conflicts are differing perspectives and positions on:

- ▶ What constitutes development, conservation and poverty
- ▶ Sovereignty and ownership of the land, including resources on, below and above the surface (and a rejection of the concept of eminent domain)
- ▶ Appropriate consultation and consent procedures, including the right to say no to projects affecting ancestral lands
- ▶ (Non-commercial) values of land and resources

Conflicts also emerge when statutory recognition is given to a land base that is far smaller than the customary use areas of Indigenous and Tribal Peoples; when national law or policies related to Indigenous lands are not implemented or enforced; when individual land titles are issued to peasants and Indigenous Peoples who are customarily organized around collective property rights systems;<sup>18</sup> or when previously recognized collective lands become subject to alienability, as in the case of Mexico.

Indigenous and Tribal Peoples face multiple obstacles with regard to acquiring and maintaining secure territorial rights, which the FAO manual on Indigenous land tenure summarizes as:

racism, social prejudices and entrenched forms of discrimination; inappropriate assimilationist social policies towards Indigenous Peoples; lack of legal

recognition of Indigenous rights in national constitutions, laws and land tenure regimes; inflexible or deficient land administration services; and the lack of resources, capacity and political connections or awareness in Indigenous communities to take advantage of existing legal opportunities.<sup>19</sup>

### **Practical responses and challenges**

Despite these multiple obstacles, several initiatives are emerging that could lead to greater tenure security for Indigenous and Tribal Peoples. These include: community-initiated or collaborative mapping and demarcation of Indigenous territories and customary use areas, a critical step on the path to statutory recognition (mapping processes can also engender conflict if there are overlapping claims with other user groups);<sup>20</sup> collaborative management arrangements,

### **Box 3 : Addressing land-related conflict among farmers and Indigenous Peoples in the Philippines**

In the Philippines, conflicts between farmers and Indigenous Peoples have been ignited by land reform programs that have provided land use rights to farmers in areas where Indigenous Peoples have received official tenure recognition through the Indigenous Peoples Rights Act. In other cases, Indigenous Peoples have not been able to afford the requisite land titling, surveying and processing fees, and their title rests with other entities.

This recipe for conflict is exacerbated by the shrinking resource base available for small-scale producers and other resource users as land continues to be converted for agricultural use or is handed out in other types of concessions. There are overlapping and fragmented responsibilities across 19 governmental agencies, conflicting and outdated laws, poor management of land records, and incomplete cadastral information or inconsistent maps. This situation was highlighted as a key priority for action by participants in a 2004 national round table that was facilitated by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). Participants included various ministries of the state, communities (via NGOs, civil society organizations and community groups), bilateral and international agencies.

Following this meeting, several civil society networks initiated a pilot effort to convene multi-stakeholder discussions on the issue of overlapping land claims at the national and local levels, with particular focus on competing claims made by Indigenous Peoples' communities and migrant farmers. This process aims to increase each side's understanding of the other's position, and develop mutually acceptable mechanisms to address land disputes that can then be jointly advocated vis-à-vis government agencies.

Sources: Asian NGO Coalition (ANGOC) Land partnerships mapping study (2004); A. Fuys, Pers. Comm., 2005.



as discussed above; and impact benefit agreements, revenue-sharing agreements and joint monitoring bodies, negotiated particularly around extractive industries. Such potential land conflict resolution mechanisms need to be complemented with appropriate capacity-building programs. They also need to “give space to customary law and conflict resolution mechanisms.”<sup>21</sup>

While initiatives to secure tenure for Indigenous lands are imperative, so too are dealing with the realities of other groups living on ancestral territories and inter-group conflicts that can arise. Aside from acute conflicts with multinational actors such as miners, loggers, agri-business and large conservation NGOs, conflicts on ancestral lands are also catalyzed by in-migration of displaced or landless people (for example, in the case of the armed conflict in Colombia). Pastoralists – whether Indigenous, Tribal or not – who use a large area to engage in their livelihoods also face increasing threats by communities who settle in their livelihood areas, or even individual actors such as farmers or miners whose activities could fragment, pollute and cut-off vital access to pastoralists’ resource use areas. Where livelihoods and resources are already threatened, these types of externally-driven situations can lead to quick escalation of inter-group violence. The Global Drylands Imperative initiative spearheaded by the United Nations Development Programme (UNDP) is attempting to better understand and address these issues.<sup>22</sup>

A major conceptual challenge with regard to Indigenous and Tribal Peoples and other non-Indigenous resource user groups is the existence of different degrees of rights and treatment. The special treatment given to Indigenous and Tribal Peoples can create resentment among other user groups. In this context, and given the reality of groups using Indigenous lands that may be even more disadvantaged than Indigenous Peoples at least in terms of rights recognized under international law, appropriate mechanisms for discussion, conflict resolution and land-use planning are particularly important.

Finally, it should be noted that Indigenous and Tribal Peoples who move away from their territories into urban areas very much assert that they take their rights with them.<sup>23</sup> For lack of space this paper will not enter into issues around urban land, but this area

clearly needs more research attention especially given the large in-migration to cities, not only by Indigenous and Tribal Peoples, but also by non-Indigenous peasants who have been displaced and/or are looking for more viable economic alternatives.

## *Gender and intra-group conflict*

### **Issues**

Conflicts with external actors and external pressures clearly highlight and potentially escalate latent conflicts and discriminatory practices that exist within communities. Socially marginalized groups, such as the lowest members within a caste system or women, are likely to feel the greatest impacts in these situations.<sup>24</sup>

Lack of tenure security for women is a critical issue that engenders conflict at the local level. This issue is exacerbated in situations of armed conflict, where large numbers of women become widowed and children orphaned, and figure among the highest numbers of displaced people. In this context, recreating stable communities or building new settlements is clearly more difficult if women do not have tenure security and are not recognized as producers in their own right.<sup>25</sup> There is also increasing concern for widows whose spouses have died of HIV/AIDS in the context of tenure systems where women cannot inherit lands as daughters and/or as widows.

### **Practical responses and challenges**

Potential solutions to increase women’s tenure security are granting joint titles or individual titles. Joint titling schemes have been implemented in countries such as Costa Rica, Nicaragua and Colombia. Individual titles have been issued to former female combatants and displaced women as part of the Peace Accords in El Salvador.<sup>26</sup> Monitoring the outcomes of these schemes, with particular attention to the types of local level conflicts and backlash they might ignite particularly in the short-term, would be critical in generating learning. Catalyzing gender affirmative change in the context of discriminatory land tenure regimes is clearly a long-term, effort-intensive process requiring much awareness-raising and capacity-building.

Before such gender-focused schemes are considered, however, participatory assessments are

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imperative. As Colchester *et al.* point out in their introductory chapter of FAO's manual on land and Indigenous Peoples, "some customary tenure regimes afford considerable security to Indigenous women and individual titling may worsen rather than better their lot."<sup>27</sup> But in other cases, customary regimes may be extremely discriminatory, making the need for gender-affirmative change more urgent, difficult, effort-intensive and conflict-ridden in that it threatens the very integrity and power balance of the customary regime. In the context of such potential conflict, "a case-by-case approach, in which the pros and cons of tenurial reforms are carefully weighed by the communities concerned, with the full participation of Indigenous women, would seem to be the safest route forward."<sup>28</sup>

## *War, peacebuilding and conflict prevention*

### **Issues**

The problems highlighted in the previous sections — such as purist approaches to land tenure or the weakening of state capacities to regulate tenure and use — are relevant to situations in which social conflict has escalated into large-scale, armed violence.<sup>29</sup> Emerging solutions — such as hybrid approaches to land tenure, meaningful participation as well as FPIC processes — are also germane to such situations. Yet there are certain features that are qualitatively different about war-affected or war-threatened societies. As a result, land-related conflicts in such environments require special responses.

What is so unique about land in war-affected societies? First, what is different is the scale of problems.<sup>30</sup> Warfare often aggravates existing problems of insecure land tenure and access. It also generates new land-related challenges. Warfare can damage or destroy already-incomplete property records and cadastres, undermine customary or statutory rights to land ownership and access, and further weaken judicial or traditional instruments for the management of land-related disputes. Wars can eliminate or displace thousands and sometimes millions of peoples in a few years, leaving their lands vulnerable to occupation by others. Landmines

further complicate access and land use. The massive return of refugees and internally-displaced persons to their traditional lands in postwar periods generates new conflicts and pressures for compensation. As noted in the previous section, the gender dimensions of land tenure are particularly acute in contexts where many men have been killed by war, and where women have survived but cannot secure their inherent land rights due to male-centered tenure systems. On the positive side, as will be discussed below, what is unique about some war-affected societies is the scope for change.

While international actors have tended to focus on land issues in postwar contexts, there has been increasing recognition in some circles, particularly since the Carnegie Commission released its seminal report in 1996, that these issues also deserve attention from a conflict prevention perspective. In contexts where social conflict could easily escalate into warfare, the first challenge is one of analysis: to identify land-related issues that could trigger or fuel conflict escalation. The second challenge pertains to early warning: to signal problems in a timely fashion. The third relates to early and appropriate action: to act early enough, using the right combination of instruments, to prevent the escalation of conflict into deadly violence. The final challenge is sustaining appropriate action over time, often over the long periods of time required to reform the attitudes, institutions and practices that underpin conflict. On land issues this might require measures for "operational prevention" such as strengthening local and national mechanisms to manage major land-related conflicts. It might also require measures for "structural prevention", such as promoting effective socio-economic reforms, including redistributive reforms, to meaningfully address underlying grievances. The importance of combining operational and structural approaches to conflict prevention has been recognized in key multilateral documents such as UN Secretary-General Kofi Annan's 2001 Report on the Prevention of Armed Conflict.

### **Practical responses and challenges**

Many of the initial post-Cold War peace settlements generated demand and opportunities for land-related

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measures. From Cambodia to Mozambique to El Salvador, negotiated peace agreements laid the foundations for measures, such as:

- ▶ Granting land titles and some assistance to demobilized ex-combatants, returning refugees, and sometimes to internally-displaced persons (IDPs)
- ▶ Removing anti-personnel landmines to free land for agriculture or other uses
- ▶ Creating or strengthening state institutions to help manage land-related disputes
- ▶ Adopting and implementing new land laws
- ▶ Developing programs to attend to the land tenure needs of wider populations

Yet these postwar experiences often encountered two major difficulties. First, land-related programs for ex-combatants, refugees and IDPs typically reached only a percentage of potential beneficiaries, and usually with inadequate long-term assistance. De-mining programs tended to focus on lands with high commercial potential, at the detriment of lands owned or occupied by the poor. Second, it has been even more difficult to secure the adoption of laws that could benefit broader land-poor constituencies. Even where these have been adopted, for example in Cambodia and Guatemala, their implementation has been extremely limited and usually tilted towards the interests of powerful state officials, private businesses and their foreign associates. There has been virtually no redistribution of high-potential arable lands, credit or technical assistance, in favour of the poor beyond the target groups noted above.<sup>31</sup>

More recent postwar reconstruction operations have tended to be even more limited to short-term land measures directed at de-mining and the immediate needs of uprooted populations. For example, in Afghanistan there are important land tenure elements to reintegration programs for ex-combatants, refugees and IDPs. Yet the government and donors have steered clear of wider land-related problems such as the chaos of overlapping claims, the virtual disappearance of cadastres and property registers, or male-biased customary land rights systems.<sup>32</sup> Similarly in Haiti, there have been no coherent efforts since the intervention in 2004 to address long-standing problems of land tenure uncertainty, particularly for the majority of poor people in

the countryside.<sup>33</sup> This inattention to land policy reforms is symptomatic of a new wave of international interventions since 9/11, which have privileged the use of force by external actors to stabilize violent environments and establish “security first”, with comparatively little attention to long-term development alternatives beyond the Washington Consensus.<sup>34</sup>

There has been progress on land-related reforms for conflict prevention before the fact in certain regions. For example the Inter-Governmental Authority on Development (IGAD) has established an early-warning system to track land and other conflicts in the Horn of Africa, and channel analysis to authorities so that they can address conflicts in time. USAID has developed a toolkit to link land and conflict prevention programming. Yet in most regions there has been little movement beyond increased awareness. This tendency will be addressed more fully in the sections on donors and global civil society networks.

## *In sum: Scaling-up, balancing power and implementing reforms*

This section has highlighted that land-related conflict is fuelled by:

- ▶ Misunderstandings around the complexity and diversity of land and property rights systems
- ▶ Weak governance and shortcomings in policy planning and implementation, particularly environmental and social impact assessment
- ▶ Lack of meaningful and appropriate participation of affected peoples in land-related decision-making
- ▶ Historic claims to land and territory by Indigenous and Tribal Peoples — or lack of recognition to these claims by states and other development actors
- ▶ Women’s lack of secure rights to land, property and natural resources

While there are many more contributing factors to local land-related conflict and emerging lessons, the intent of this section is to underscore the complexity of the issues at stake and progress in experimenting with new ways to address them. Some potential solutions, such as co-management and collaborative mapping, require paradigm changes and new roles, attitudes and skill-sets on the part of

state and other actors — not to mention changes in policy and legal frameworks — that clearly take time, resources and “re-tooling” to develop.<sup>35</sup> Already there are multiple resources to help with this “systems flip”, ranging from tools to help analyse conflicts such as stakeholder analysis and conflict mapping, to manuals to help undertake community and collaborative land-use mapping, consensus-building, co-management and negotiation of impact benefits agreements.<sup>36</sup> Awareness-raising of rights and options, and capacity-building of all parties including the state, is a necessary pre-requisite to facilitate resolution of land-related conflicts. Critical to the success of these tools and capacity-building is ensuring that these efforts are culturally appropriate — adapted to and drawn from the local level — rather than imposed models better suited to a Western context.<sup>37</sup>

A key challenge is documenting and feeding the outcomes of local level conflict into policy change at the national and international levels to help prevent further escalation of land-related conflict. Some of ILC’s partners are already engaging in this type of activity, such as the Amerindian Peoples Association of Guyana with regard to mining on ancestral lands, or the Philippines Association for Intercultural Development (PAFID) which links community-mapping and participatory land management activities to the mediation of conflicting claims to land and ancestral territories. Other ILC partners, such as the Consortium for Agrarian Reform (Konsorsium Pembaruan Agraria – KPA) in Indonesia, have identified the need for bringing together government agencies across sectors as well as peoples’ organizations, NGOs and judicial institutions in a joint effort to address land and agrarian conflicts, and are currently tracking and maintaining databases on local conflicts that can help in scaling-up lessons learned into the multi-sectoral dialogue.<sup>38</sup> Translating the documentation of local conflicts into learning to influence policy and practice is facilitated if conflict resolution mechanisms are “nested”, with parties able to scale-up and scale-down learning. National policy dialogues are also critical, although if not designed appropriately, they can be driven by the more powerful parties at the table.

One of the most daunting challenges in addressing local land-related conflict is balancing

social, economic and political power asymmetries within communities, between local and external actors, between local and national actors, and between national and global actors. Members of the International Land Coalition have expressed concern that unless power asymmetries are brought into balance at the outset, it is unrealistic to expect success from efforts to mediate land-related conflict. Lack of political will to resolve land-related conflict may be correlated to situations “where political elites and the landed classes are linked, if not the same.”<sup>39</sup> This conclusion is drawn from experience in Cambodia, where World Bank-sponsored cadastral commissions tasked with resolving land conflicts are able to mediate horizontal conflicts (such as inheritance disputes among families), but have failed thus far to address vertical conflicts (such as land grabs by rich people, military or state agencies).<sup>40</sup> The ability of land-poor rural men and women to organize and take collective action is fundamental to leveling such power asymmetries.

Recent land-related reforms in postwar contexts reinforce this conclusion. Indeed, while many postwar peacebuilding efforts since the end of the Cold War have included land-related measures such as the provision of land titled to ex-combatants and returning refugees, implementing these measures in pro-poor and conflict-sensitive manners has been difficult. It has been even more difficult to go beyond such measures to secure the implementation of broader institutional and structural measures such as the provision of land titles and sustainable development packages to broader land-poor constituencies. The democratic openings that often accompany postwar peacebuilding have expanded spaces for the land-poor to organize for change, but their pressure rarely balances the pressures from other social actors. The snapshot from Cambodia above is representative in this regard. It has been even more difficult to secure major institutional and structural reforms to prevent the escalation of social conflict into armed violence. Thus helping the land-poor to organize, and enhancing mechanisms for dialogue with other social interests, is critical to consolidating sustainable peace and preventing armed violence.



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# Donors and global CSO networks

## Donors

As ILC noted in its 2005 survey of donors' land policies, there has been considerable movement on land and conflict issues by official development agencies in recent years.<sup>41</sup> This section analyses the significance and limitations of these developments. It focuses on a sample of donors that have been most active at the interface of land and conflict, namely the European Union, the Food and Agriculture Organization (FAO) and the International Fund for Agricultural Development (IFAD), USAID and the World Bank. It also examines a joint initiative, with the OECD Development Centre, on land and conflict. Other donors such as Canadian International Development Agency (CIDA), the UK Department for International Development (DFID), the Swedish International Development Cooperation Agency (SIDA) and German Technical Cooperation (GTZ) are also active on these issues, but will not be examined due to time and space constraints.

### OECD DAC

During the mid-1990s the incipient revival of donor interest on land policy issues began to converge with the growth of donors' work on conflict. The 1997 OECD Development Assistance Committee (DAC) Guidelines on Conflict, Peace and Development Cooperation (CPDC) noted the potential linkages between violent conflict and structural factors such as socio-economic disparities, scarcity of land and changes in land tenure systems. The supplementary CPDC guidelines issued by DAC in 2001 paid more attention to land issues, particularly to the need for adequate policies to reintegrate ex-combatants displaced persons after wars.<sup>42</sup> Yet during this period donors' work on conflict and natural resources tended to focus on resources such as diamonds and oil, strongly influenced by the "greed or grievance" debate initiated by Paul Collier during his tenure at the World Bank.<sup>43</sup>

### World Bank land policies research report

The release of the World Bank's land policies policy research report (PRR) in 2003, by another group of Bank analysts lead by Klaus Deininger, signalled the emergence of a deeper analysis of land issues.<sup>44</sup> The land PRR had many innovative elements including the fact that it was the product of a dialogue led by land policy specialists in the World Bank, DFID, the French Foreign Ministry, GTZ and USAID. Substantively, one of the PRR's contributions was to focus the donor community's attention on the development costs of land-related conflicts, and the possibilities for alternative land policies in postwar settings. It suggested that land rights and their historic negation were at the core of many violent conflicts. It moved beyond the traditional focus on land for ex-combatants and displaced persons to discuss options for rebuilding customary mechanisms to manage land-related disputes. It argued that it is essential to make appropriate land policy reforms a priority from the outset of postwar processes, an argument that ran counter to the conventional wisdom at the time — namely that security should be the top priority. It also drew on growing international interest in early warning by suggesting that systems for conflict monitoring should be strengthened, at the national level and at other levels.

Notwithstanding these advances, the PRR has limitations that are affecting its utility as a tool for mainstreaming conflict-sensitivity in land policies. First, it is not a Bank policy or a toolkit. It is a research report, and despite efforts to disseminate it widely, follow-up on its recommendations remains at the discretion of individual programs. Second, the section on land and peacebuilding does not fully tap the insights in other sections. For example, nuanced arguments — about the limits of orthodox market-oriented land reforms and the acknowledgement that other approaches, including those drawing on traditional institutions or public sector mechanisms, may be useful under certain circumstances — are forgotten in the section on peacebuilding. Third, its arguments about land policies for postwar peacebuilding, and

its mention of early warning systems, only scratch the surface of emerging international thinking on the *ex ante* prevention of armed conflicts. In particular, there is little connection with the rich thinking on structural prevention.<sup>45</sup>

### **EU Land Policy Guidelines**

The preparation of the Bank's land PRR informed an initiative by the European Commission and member states to develop the EU Land Policy Guidelines. The EU Council approved the Guidelines in January 2005, calling on the Commission and member states to coordinate its implementation.<sup>46</sup> The Land Policy Guidelines reiterate many of the Bank PRR's key arguments, including the need for a multi-dimensional and context-specific analysis of links between land and conflict, and the need to build on established national/local conflict management institutions. Yet they go beyond the PRR in many respects. Substantively, the EU guidelines contain a sharper recognition that power relations, including gender relations, have been a thread linking land policies to conflict. They also more clearly acknowledge that certain liberalization measures negatively affect land tenure security and generate violent conflict. The guidelines spell out in more detail the necessary elements of an EU approach. They push the envelope on principles such as including stakeholders in policy/program development. They also highlight the need for independent monitoring of land policy reforms and the need to support sharing of experiences. These are significant advances, particularly given that the Guidelines should be binding on the Commission and on EU member states.

Despite these advances, the EU Guidelines also have limitations. The "key principles" make no mention of the need for integrating conflict sensitivity in land policies. This is surprising given that mainstreaming gender sensitivity is rightly flagged as a priority, and the fact that the EU has made policy commitments on conflict prevention.<sup>47</sup> The "elements" section makes no mention of accumulated knowledge on how to bring conflict analysis into program design, and how to select from the vast menu of options for conflict-sensitive land policy initiatives in different settings, also surprising given accumulated EU expertise in this

regard.<sup>48</sup> The section on monitoring offers macro-level indicators of conflict outcomes that should be tracked, but it does not suggest ways of tracking the conflict impacts of EU involvement on land policy issues.

The EU Land Guidelines have been disseminated to EU delegations and member states offices in developing countries, and training workshops will be held for staff in 2006. Collaboration between the Commission and member states, on land issues in conflict-affected countries such as Guatemala, Namibia, Nicaragua and Uganda, could provide an entry point to deepen EU learning about conflict-sensitive assistance on land issues.<sup>49</sup>

It is worth recalling that the Bank's land PRR and the EU's Land Guidelines each cover many aspects of land policies. Conflict is only one of these dimensions. Moreover, civil society input during the virtual consultations offered limited feedback on the conflict dimensions of land policies.<sup>50</sup> Two other donor initiatives begin to address these gaps.

### **OECD informal experts meeting**

As the Bank was disseminating the PRR and the EU was formulating its guidelines, the OECD Development Centre convened an informal meeting of experts on land, conflict and development in mid-2003. That forum and the paper that came out of it picked up on key PRR arguments such as the imperative of taking early action on land policy reform in postwar settings — but went further.<sup>51</sup> The paper distinguished between the need to manage normal social conflicts and the need to prevent the escalation of such conflicts into large-scale violence. It suggested that "agrarian transformation" is required for both development and peace, and argued that the challenge is how to generate pro-poor transformation. It posited that a key to securing pro-poor change is to foster "new political coalitions" for reforms. The paper also offered more detailed insights:

- ▶ A "pre-typology" of land-related conflicts ranging from those based in grievances over dramatic inequalities to those stemming from colonization programs or processes of mass displacement, from the criminalization of land tenure and use, and from either advocacy for or resistance to redistributive land reforms

- ▶ A menu of donor programming options including:
  - ▶ Combining context-specific conflict analysis and land policy analysis at the country program design stage
  - ▶ Supporting appropriate short-term measures — such as the granting of arable land, credit and technical assistance to demobilized soldiers, and the establishment of land claims commissions
  - ▶ Linking these to the longer-term promotion of broader land reforms and rural development strategies, and gender equality in the same
  - ▶ Pragmatically combining support to statutory and customary dispute management mechanisms
  - ▶ Coordinating efforts among donor agencies
  - ▶ Nurturing the coalitions of national actors needed to underpin reforms

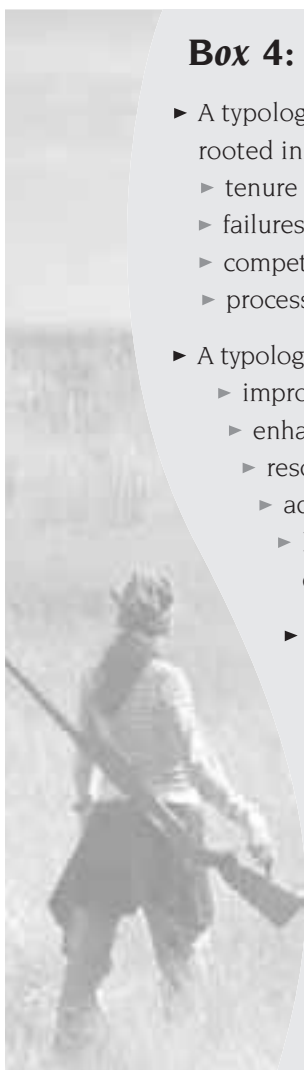
The Development Centre suggested several practical steps to bring land policy and conflict prevention efforts into greater synergy. These included undertaking research on the conflict outcomes of land policies and of donor interventions, and producing a toolkit for donors trying to implement conflict-sensitive approaches to land issues.

### **USAID Land and Conflict Toolkit**

USAID was working on such a toolkit at the time. Released in 2004, the AID Land & Conflict Toolkit builds on the Development Centre’s seminal paper. It presents key tools in an accessible manner, with numerous examples of USAID-supported initiatives to illustrate programming possibilities. It offers useful tips for development professionals and others. AID officials

### **Box 4: Highlights from USAID Land & Conflict Toolkit**

- ▶ A typology of major sources of land-related violent conflicts, distinguishing between conflicts rooted in:
  - ▶ tenure inequalities
  - ▶ failures to provide tenure security
  - ▶ competing land claims
  - ▶ processes of massive displacement or return
- ▶ A typology of solutions to:
  - ▶ improve land access and reduce inequalities
  - ▶ enhance tenure security
  - ▶ resolve competing land claims
  - ▶ address specific postwar needs such as those of ex-combatants
    - ▶ link these steps to complementary solutions such as sustainable livelihoods, broader rural development and justice sector reform – all with effective measure to promote gender equity
- ▶ A checklist of programmatic recommendations such as:
  - ▶ being context-specific at every stage
  - ▶ including land issues in early conflict vulnerability assessments
  - ▶ acting early but not too fast, and committing for the long term
  - ▶ nurturing national and local political buy-in
  - ▶ coordinating with other donors
  - ▶ promoting “out-of-the-box thinking and acting”
- ▶ A Rapid Appraisal Guide with two lists of questions:
  - ▶ questions to inform a general reading of land and conflict linkages in a particular context
  - ▶ specific questions to interview key informants in those contexts



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note candidly that it is a “living document” that should be improved through use and ongoing learning. Two areas deserve attention in this regard.

First, AID decided to defer guidelines for evaluating the conflict outcomes of land policy initiatives to its forthcoming toolkit on monitoring and evaluation (M&E) of conflict initiatives. Yet in the meantime the mini-cases used to illustrate programing options are not based on rigorous M&E. They fail to acknowledge that project-level successes have been accompanied by country-level failures.<sup>52</sup> This underscores the importance of developing tools to rigorously assess the conflict outcomes of land-related programing.

Second, questions might also be raised about major assumptions in the toolkit, particularly the assumption that market-oriented reforms and individual land ownership are inherently optimal, and that state involvement is inherently counter-productive. That may be an article of faith in the current US Administration but it limits the relevance of the toolkit for other donors. Others, including the World Bank and the European Union, are showing greater nuance in their understanding of the costs and benefits of pure market-oriented approaches, generally and from a conflict resolution perspective.

To be fair, the 2005 OECD DAC issues brief on land and violent conflict, which AID played a lead role in drafting based on its own toolkit, goes considerably beyond the Washington consensus on market-oriented approaches.<sup>53</sup> It is also important to recognize that the AID toolkit is part of a broader Agency approach that includes a policy paper on conflict mitigation, a conflict-training workshop in Central Asia, as well as technical assistance on conflict programing to AID missions in Africa and Latin America.<sup>54</sup> Developing a more systematic approach to evaluate the conflict impacts of land policy interventions could enhance AID’s pioneering role in this field.

### **United Nations: FAO and IFAD**

Several UN agencies are also working at the interface of land policy and conflict. The Food and Agricultural Agency (FAO) began focusing on this area in 2001, when it initiated a program looking at the management of conflicts related to land tenure. Since then it has published several concept papers, case studies and

practical guides.<sup>55</sup> In 2005 FAO released a guide on *Access to Rural Land and Land Administration After Violent Conflicts*, providing development practitioners with tools to understand and support land-related measures in postwar settings. The guide begins with an analysis of conditions typically found in postwar situations, generally and specifically with regard to land tenure. It then provides guidance on possible land tenure measures when hostilities have just ended, and when emergency assistance is the main instrument used by donors. The following section offers useful guidance on a wider range of land-related instruments for pro-poor, gender-sensitive and human rights-based assistance in the rebuilding phase. This includes thoughtful though preliminary guidance on monitoring and evaluating the outcomes of land-related measures in postwar settings. The guide ends with reflections on how to link such assistance to other measures that could help prevent the resurgence of violent conflict, for example by promoting inclusive policy dialogue to generate consensus on broader land tenure reforms within a reconciliation framework.

Another legacy of this program is the *Land Tenure and Alternative Conflict Management* manual scheduled for release in 2006. The FAO manual is meant to be a training tool for mediators working on land issues. As such it offers practical guidelines to understand different types and dimensions of land-related conflicts — highlighted in Box 1 of this paper. It also offers tools to select and apply appropriate mediation approaches. Despite its tremendous promise, the manual has certain limitations. First, it seems to be most relevant to third party mediators rather than community-based mediators. Second, it focuses on managing conflicts at the local level with little reference to the broader reforms (legal, institutional, etc.) or changes in relations of power, often required to resolve land-related conflicts. Indeed, linking guidance for local-level mediation to guidance for wider reforms remains a challenge for many actors and agencies.

The Eastern and Southern Africa Division of the International Fund for Agriculture and Development (IFAD) has also developed guidelines for addressing land tenure issues in IFAD-supported operations. Among other things they offer guidance to understand

the types and causes of land-related disputes, as well as IFAD's programming options. The emphasis is on making information on land rights available to communities and local governments.<sup>56</sup> These guidelines are an important point of departure. Yet they could be enriched to include other programming options (such as those flagged in the FAO guide), as part of a process to adapt and test land guidelines in other sub-regions.

## *Global CSO networks*

Several global civil society organization (CSO) networks address the relations between land and conflict. Women's, human rights, mine-, dam- and oil palm- affected communities' networks are certainly among these. Regional networks such as the Latin American Coordination of Peasants Organizations (CLOC) also work on these issues. This paper provides insights into a small selection of these networks: Vía Campesina, several Indigenous Peoples' networks, the International Land Coalition and the Global Partnership for the Prevention of Armed Conflict (GPPAC). The first three are the global CSO networks that are most engaged on land issues. GPPAC is probably the global CSO network currently most active on conflict prevention. Together, they also provide a sense of the range of CSO views at the nexus of land and conflict.

### **La Vía Campesina**

La Vía Campesina is a global social movement that brings together organizations of landless peasants, small farmers, rural workers, women and Indigenous Peoples organizations across the world. It emerged out of strong national organizations such as the Movimento dos Trabalhadores Rurais sem Terra (MST) in Brazil, and regional networks such as CLOC in Latin America. It is pluralistic and independent of party affiliations. It has been closely allied with the Food First Information and Action Network (FIAN), particularly in their joint Global Campaign for Agrarian Reform. For the purposes of this paper, Vía Campesina and FIAN will therefore be treated as one coalition.<sup>57</sup>

Conflict has not been one of Vía Campesina's traditional preoccupations. From its inception in the

mid-1990s the movement has focused on advocating food sovereignty and integrated agrarian reforms, and on criticizing the policies and practices of actors it sees as undermining those objectives. It has criticized World Bank land programming for being based on unrealistic assumptions as opposed to solid evidence, for not promoting the inclusion of core stakeholders such as landless peasants and Indigenous Peoples in decision-making, for enduring gaps between principles and practice, and for not providing adequate channels for complaints or redress. It has also opposed World Trade Organization processes, particularly the Doha Round negotiations on agricultural goods, for privileging the interests of large developed economies and potentially wreaking havoc on small producers and rural communities in the South.<sup>58</sup>

Recently this work has converged with growing concerns about violence. Vía Campesina's statements on World Bank practices and trade liberalization processes have begun to link these to the violence experienced by its social base:

In the countryside, violence is ever-present. With the support of governments, large landowners terrorize landless families because they are demanding a piece of land to live on...Persecution, arbitrary detention and killings are only one form of violence...It is still violence when thousands of family farms disappear and entire families are forced to migrate to the slums of the cities. Equally dramatic are the massive suicide [rates] of indebted small farmers in India...<sup>59</sup>

For the past two years Vía Campesina and FIAN have documented major human rights violations directed against their affiliates. Though the rigour of country and case reports vary, it is hard to dispute the conclusion that rural activists working for the fulfillment of their communities' economic, social and cultural rights are experiencing grave violations of their civil and political rights as a result.<sup>60</sup>

Vía Campesina has also taken public positions on violence at the international level, from the standpoint of how this affects its members and their common struggle for food sovereignty. It has joined the World Social Forum's calls for an end to militarism

and war, as well as an end to the occupation of Afghanistan, Iraq and the Palestinian Territories under the guise of the War on Terror.<sup>61</sup> It endorsed and played a key role in shaping the final declaration of the World Forum on Agrarian Reform in 2004, which also denounced these developments and the violence they brought to rural peoples. *Vía Campesina* was also a driving force behind the World Forum's call to:

Strengthen women's movements, build alliances between social movements in the countryside and in cities, and mobilize against systems of exclusion...which constrain and violently repress attempts to actualize rights to land, territory and genuine agrarian reforms!<sup>62</sup>

In 2004 *Vía Campesina* and FIAN released a commentary on the World Bank's land PRR. Three points stand out from their reading of the section on conflict. They suggest that the Bank's recommendations for land policy in postwar contexts do not give enough weight to issues of human rights and justice — such as compensation for forced displacement. They ask whether this reflects the goal of “defusing the most explosive conflicts as soon as possible to create stable conditions for investments”.<sup>63</sup> Third, they

argue that the report places too little weight on the role of autonomous movements of peasants, landless labourers and women who, in struggles for their rights, can be agents of rural transformation in postwar societies. Specifically, their field experience suggests that the Bank has often failed to include peoples' organisations in reviews of Bank-funded projects or in macro-level consultation processes such as PRSPs.

### **Indigenous Peoples networks**

Some of these concerns are shared by other CSOs. There is no single organization representing Indigenous Peoples worldwide, but instead several coalitions who push for changes pertaining to their rights. These include:

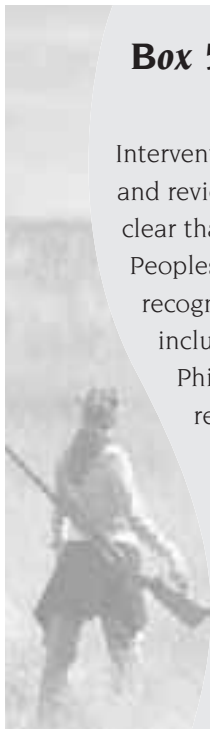
- ▶ Regional organizations, such as the Coordinator of the Indigenous Organizations of the Amazon Basin (COICA)<sup>64</sup> and the Inuit Circumpolar Conference<sup>65</sup>
- ▶ Women's organizations, such as the Asian Indigenous Women's Network<sup>66</sup> and the African Indigenous Women's Network<sup>67</sup>
- ▶ Issue-specific networks such as the Indigenous Environmental Network,<sup>68</sup> the Aboriginal Mapping Network<sup>69</sup> and the International Indian Treaty Council<sup>70</sup>

## **Box 5: FPIC and the role of the UN Permanent Forum on Indigenous Issues**

Interventions in global fora such as the World Commission on Dams, the Extractive Industries Review and reviews of the World Bank Group's and Inter-American Development Bank's safeguard policies, make clear that for Indigenous Peoples meaningful consultation *includes* the concept of consent. Indigenous Peoples' and supporting advocates have been successful in ensuring that several international policies recognize that resettlement cannot occur without Indigenous free, prior and informed consent, including ILO Convention 169 and the IDB's resettlement policy. And at the national level, the Philippines Indigenous Peoples Rights Act, and Supreme Court decisions in Canada have also recognized that consent is required in certain cases.

Nonetheless, there is ongoing debate about how to operationalize free, prior and informed consent.

Aside from applied research being conducted on these issues, the UN Permanent Forum on Indigenous Issues's current standard-setting exercise will help in this endeavour. The Permanent Forum also provides a platform for dialogue among a wide range of Indigenous Organizations, as well as with governments and international agencies, on best practices for the management of conflicts relating to land and territorial rights.



While statutory recognition of ancestral territories is at the top of the agenda for most Indigenous organizations, their analysis of issues at the interface of land and conflict relate to the full bundle of rights inherent to them as Indigenous Peoples: self-determination, autonomy, development on their own terms, as well as FPIC.

Indigenous Peoples increasingly link their land-related conflicts to global forces such as trade liberalization, globalization, structural adjustment programs and the US-led “war on terror”. As stated in the powerful March 2004 Baguio Declaration, for example, signed by over 100 Asian Indigenous women:

Globalisation is accelerating the alienation, privatization, commercialization and theft of community forests, lands, waters and traditional medicinal plants causing impoverishment and generating ill health for our peoples.

The violation of Indigenous Peoples’ prior rights to ancestral territories, lands, waters and resources, including the requirement to obtain our free, prior and informed consent to all program and projects affecting our lives and welfare is causing community strife and conflict. Free, prior and informed consent should include the full and effective participation of Indigenous women in the decision-making process. Violations of customary use rights, particularly women’s access to and control over natural resources, have been especially undermined.<sup>71</sup>

The militarization of Indigenous territories in furtherance of “development aggression, particularly by extractive industries”<sup>72</sup>, and the links between these processes and the wider “war on terror” are also garnering alarm by Indigenous Peoples worldwide.<sup>73</sup>

Indigenous demands are rooted in their analysis of current land-related conflicts. Key demands include:

- ▶ State recognition of Indigenous Peoples’ inherent right to self-determination
- ▶ Collaborative (State and Indigenous Peoples’) delimitation and demarcation of Indigenous lands, territories and resources “fully respecting the Indigenous normative systems of jurisprudence within a framework of international judicial pluralism”<sup>74</sup>

- ▶ Acknowledgement that Indigenous Peoples are not just as another stakeholder, but “rights-holders” in a government-to-government relation with the State
- ▶ Appropriate free, prior and informed consent procedures for decision-making about projects and policies affecting ancestral lands, regardless of whether Indigenous lands have been officially recognized by the State (see box)
- ▶ Application of the Akwe:kon Guidelines for environmental, cultural and social impact assessment for projects affecting ancestral lands<sup>75</sup>
- ▶ Appropriate benefit-sharing agreements for projects that do go ahead with Indigenous consent
- ▶ Appropriate participation in dialogues and policy-making at the local, regional, national and international levels, with equal representation of women<sup>76</sup>
- ▶ Ratification of the UN and OAS Draft Declarations on the Rights of Indigenous Peoples

Indigenous responses to land-related conflict resolution are complex and varied. Some opt for more collaborative and negotiating tactics, while others resort to alliances with outside groups, pressure tactics, direct action and use of the media to level the playing field and make gains; still others using a combination of these two approaches.

### The International Land Coalition

The International Land Coalition is a global network that includes intergovernmental agencies, governments and civil society organizations with a focus on increasing secure access to land and other resources for poor men and women. Civil society organizations hold eight of 14 positions on the ILC’s governing council, with intergovernmental agencies holding the other six, and CSOs make up the majority of ILC activity partners.

ILC had been supporting initiatives at the nexus of land and conflict for several years.<sup>77</sup> For example it supported the Asian Coalition for Agrarian Reform’s land-related conflict mapping initiative highlighted in Box 3. It supported the development of a training manual by the Coordinadora de Desarrollo Rural (CODER) to help resolve land-related conflicts in Nicaragua, using participatory mapping as a technique for opening up discussion and negotiation within and among communities. As explained in the

previous section, ILC and several of its members also participated in the development and testing of the FAO manual for mediators in land-related disputes.

At the March 2005 ILC Assembly in Bolivia, several members suggested that the Coalition should scale up its work on land and conflict, and particularly to strengthen the leverage of farmers' unions, indigenous peoples associations and other rural peoples' organizations to influence directly land-conflict management and other aspects of land policy. On that basis, ILC chaired a special Ministerial Roundtable on land and conflict at the ECOSOC 2005 High-Level Segment, in which a representative of the Amerindian Peoples Association (APA) of Guyana participated as a featured panelist. The background paper for this ECOSOC session suggested that:

- ▶ Resource-based conflicts, especially over rights of access to land, are increasing in frequency and intensity

- ▶ Armed conflicts are often both the cause and effect of land conflicts
- ▶ Streamlining administrative procedures and tenurial instruments by which poor urban and rural households can gain binding land rights could prevent conflict
- ▶ Developing policies and programs in anticipation of conflicts is also essential
- ▶ Enforcing the rule of law where by poor households are confident that the state will protect their legal entitlements to land could help prevent conflicts
- ▶ Providing legal assistance or training para-legals so that land-poor households can defend their rights could also help defuse and resolve conflicts<sup>78</sup>

### **Box 6: Excerpts from the Declaration of the Second Indigenous Peoples Summit of the Americas, Buenos Aires, Argentina, October 27-29, 2005**

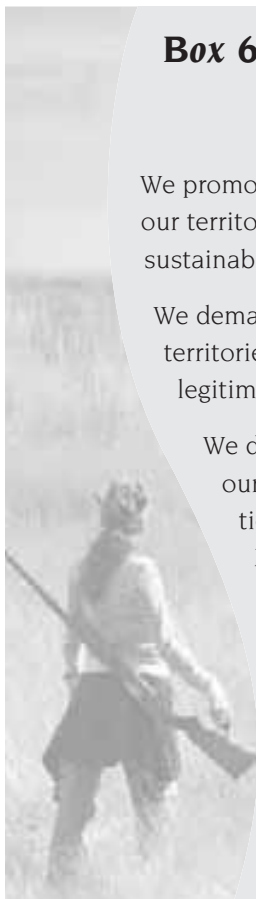
We promote land regularization, self-demarcation and titling of lands in order to secure the legality of our territories, which we have owned, used and occupied from time immemorial and to secure sustainable development that conforms to and guarantees Indigenous Peoples' identity.

We demand that States recognize and legally guarantee our collective rights over our original lands, territories and resources; and over our political, social and economic life, thus ensuring ancestral legitimacy and title and recognizing the principle of the right to exercise these.

We demand the implementation of public policy that is clear, transparent and effective to protect our life and environment from the actions and policies of financial and governmental corporations that are of a multinational, international or national nature, such as the International Monetary Fund, the World Bank and the Inter-American Development Bank. It is urgent and essential to prevent the ongoing pollution and irreversible loss of biodiversity; and in particular, we emphasize the pollution caused by extractive industries and activities.

We urge States to stop the actions and programs that are anti-terrorist, anti-drug and anti-subversion in our territories, where they interfere with our right to self-determination and assimilate our cause into movements in which we are not involved.

We urge the States to implement policies to prohibit the militarization of the territories and the violation of the human rights of Indigenous Peoples.





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These ideas were amplified in a joint policy brief tabled by ILC and NSI at the International Conference on Agrarian Reform and Development in March 2006. Drawing on ILC's experiences and NSI's research, the brief highlighted a number of actions that have helped transform land-related conflicts in certain conflicts. These include:

- ▶ Increasing public participation in land demarcation, including through participatory land mapping
- ▶ Increasing people's awareness of their rights and development options through land literacy or community-based action research
- ▶ Strengthening the negotiating position of poor men and women through community organizing, network-building and collective action
- ▶ Ensuring that peace agreements include meaningful provisions to reform institutions and practices that fuel land-related conflicts, and that the implementation of such measures is full and timely<sup>79</sup>

### **The Global Partnership on the Prevention of Armed Conflict**

The Global Partnership on the Prevention of Armed Conflict (GPPAC) is a network of NGOs, thinktanks and peoples' organizations that was initiated by the European Centre for Conflict Prevention in 2001. After years of consultation and network-building from the national to the global levels, it convened a global conference in July 2005 to advance a CSO agenda on conflict prevention. UN agencies, governments and regional organizations participated in dialogue on this agenda and on follow-up opportunities.

As a global entity, GPPAC has not taken well-developed positions on land tenure and violent conflict. The August 2005 Global Agenda for the Prevention of Violent Conflict does not mention land at all. The section on natural resources focuses on the links between the natural resources that have attracted the greatest attention in conflict prevention circles — namely oil, diamonds, timber and minerals. As such its recommendations, for example strengthening international mechanisms to increase accountability for the exploitation of these commodities, are tangential to land policy and conflict prevention challenges, as currently conceived by the land policy community.<sup>80</sup>

However many of other recommendations in the Global Agenda are relevant to issues now being debated in the land policy community. This includes recommendations to:

- ▶ Strengthen national and international capacities for early warning and timely responses to human rights violations and other forms of conflict escalation
- ▶ Implement comprehensive approaches to postwar peacebuilding, linking appropriate measures from the short to the long term ("We commit to the long-term goal of transforming the conditions that gave rise to conflict...")
- ▶ Build on local and national conflict prevention mechanisms, including customary institutions, ensuring that these are compatible with global human rights norms
- ▶ Reduce poverty through the attainment of the Millennium Development Goals, in order to prevent violent conflicts
- ▶ Combine efforts with networks dedicated to human rights, development and environmental issues
- ▶ Learn from practice by practicing transparent and participatory approaches to the evaluation of peacebuilding and conflict prevention activities

Several of the regional networks in the GPPAC process adopted more explicit positions on land tenure and conflict prevention. For example the Latin American and Caribbean Regional Action Plan called for the implementation of laws to ensure "free, prior and informed consent...in particular regarding indigenous, rural and afro-descendant peoples' right to land, control over territories and use of natural resources."<sup>81</sup> These positions were reflected in the document that synthesized voices from the regions. That paper included a call to "review land policy issues, including land reform and where appropriate granting of titles to land, territory and natural resources to the indigenous and customary users of the land."<sup>82</sup> Although these views from the South were lost in the sifting of priorities by GPPAC leaders in mid-2005, they suggest that there may be openings for cooperation with certain regional networks, and some GPPAC members in the North, to advance common agendas.

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## *In sum: Growing awareness and common ground*

There have been important advances by donors working at the interface of land and conflict. Several donors including the EU, FAO, USAID and the World Bank have engaged in considerable reflection on the nexus between land and conflict. The EU, USAID and a division within IFAD have adopted relevant policy guidelines. The European Commission is using its guidelines to train staff and collaborate with member states on land issues in several countries. FAO and USAID have developed toolkits for practitioners. USAID has initiated training for staff working on land and conflict.

Yet there is room for progress. First, it seems important for more donors to adopt policies akin to the EU Guidelines. The World Bank is an obvious candidate here, but UN agencies also have pending work at this level. Although FAO has been a pioneer in this field, the almost complete silence of the Millennium Review Summit Outcome Document on land policy issues reminds us that there is a need for advocacy to raise the profile of these issues in the UN system.<sup>83</sup> This paper has also suggested ways in which newer policy statements could improve on the EU and IFAD guidelines.

Second, it seems important for donors to more actively experiment with innovative policy options for conflict-sensitive land programming. FAO's guide to land programming after violent conflict provides many tips in this regard, as does USAID's land and conflict toolkit. Other donors may have to develop their own guidance in this sensitive area. Third, though all the major documents reviewed in this section flag the importance of tracking conflict outcomes, systematic follow-up on this commitment is lagging badly. FAO's guide provides initial guidance here, and USAID's forthcoming toolkit on M&E of conflict programming may provide more tips. The OECD DAC's work on M&E of peacebuilding and conflict prevention programming, which builds on the Utstein Peacebuilding Study, could provide another forum for developing M&E tools.<sup>84</sup>

Finally, most of the suggestions noted so far are amenable to timely follow-up by donor agency officials. Others will require more study and dialogue. One of these is the tension that may exist between conflict prevention and orthodox market-oriented approaches to land, rural development or liberalization of trade in agricultural goods. Indeed the logic of conflict prevention may lead stakeholders away from market-oriented reforms where these could undermine the consolidation of peace or aggravate conflicts in pre-war situations. Existing donor guidelines and toolkits hardly address this possibility, and provide few insights to explore alternatives to market-oriented approaches when these could generate more conflict.<sup>85</sup> That is one of the major issues that could be an object of joint analysis and experimentation with civil society organisations.

In recent years there has also been growing awareness about the links between land, violence and conflict among some global CSO networks. Indigenous Peoples' networks, *Vía Campesina* and the International Land Coalition are concerned about the violence experienced by some of their members as a result of their advocacy on land rights. Some CSOs tend to see land-related violence as results of local/national power imbalances, aggravated by globalization and militarization. Others place more emphasis on factors such as weak state institutions and inadequate consultation with stakeholders.

These analytical distinctions underpin different strategies and policy recommendations. *Vía Campesina* and some Indigenous networks are committed to the anti-globalization movement and see integral land reform or self-determination as keys to building new societies. Other Indigenous Peoples' organizations, the ILC and some regional networks in GPPAC focus instead on reforms like the consistent implementation of free, prior and informed consent on ancestral lands, enhancing capacities for early warning and timely responses to human rights violations and other manifestations of violence, or securing the implementation of land policy and institutional reform measures in key peace accords.

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Several of these CSO networks try to link their global advocacy to their members' work on the ground. A common challenge in this regard is that of supporting and learning more from their members' efforts in the field, working with members to more rigorously monitor the efforts of other actors such as donors, and channelling this field-based learning more systematically into advocacy in UN and other global fora. Despite their many differences, some of these CSO networks may find common ground in their attempts to grapple with the challenges of achieving greater understanding and influence on the basis of better micro-macro linkages.

Finally, there are a number of issue-specific networks whose work intersects with land conflicts, including CSO networks that monitor resource-based sectors such as mining, dams or plantation crops, as well as CSO networks that focus on gender and women's access rights to natural resources. While this paper does not address these networks specifically, the growing inter-linkages among regional or global networks and issue- or sector-specific networks could offer new opportunities to identify the underlying roots of land-related conflicts and strengthen the position of affected communities to influence conflict transformation efforts.

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# Conclusions and recommendations

Stepping back from the details, it is striking how much activity is taking place today at the interface of land tenure and conflict, two fields that had been compartmentalized for decades. At the local level in many countries, there has been a growing awareness of the range and development costs of land-related conflicts, and of the corresponding range of solutions. Much experimentation is taking place with approaches that combine customary, statutory and alternative mechanisms, including collaborative management of natural resources, as well as multi-sectoral and multi-stakeholder dialogues.

There has also been much activity at the international level in recent years. This is most striking in the donor community where awareness has grown, where there has been considerable policy development, crafting of operational guidelines and programming tools, and initial training for new approaches to programming. Awareness has also grown among global CSO networks. Some of these are increasing their advocacy on solutions to land-related violence, and most are trying to link this to work in the field.

Yet many major challenges endure. Some of these are related to entrenched, structural and systemic issues that are the product of power imbalances among a variety of players. This includes power imbalances within communities, for example between local elites and more marginalized groups such as poor people and women. It includes imbalances between communities and external actors such as extractive industry developers. It also includes power imbalances between nation-states and global actors that deeply influence or constrain national development decisions, such as international financial institutions. Balancing these power asymmetries is a necessary and long-term prerequisite to more equitable and appropriate land-tenure arrangements. Of course this could in itself fuel conflict, as it implies challenging the status quo at several levels.

Indeed, while this paper has given a snapshot of some of the responses to land-related conflict that help prevent escalation to violence, it is important to emphasize that all the approaches involve creatively harnessing the tensions that underpin the different

backgrounds, approaches, world views and even ideologies of parties involved in land-related conflicts. The goal is not to prevent conflict *per se*, but to harness conflict and transform it positively while attempting to avoid violence and loss of life. Political will is a key ingredient, as are time and financial resources, changes in organizational cultures and working methods, skills-building for local and national institutions, and improved access to information for all actors involved.

Many organizations working at different levels could make valuable contributions to addressing challenges at the interface of land and conflict.

## Actors at the local level could:

- ▶ Strengthen local institutions and peoples' organizations, and expand awareness- raising and capacity-building in conflict-affected communities — especially training about land rights, rights to participation and innovative approaches to land-related conflicts, including awareness about existing conflict resolution mechanisms at the national and international levels. These efforts should be culturally appropriate — adapted to and drawn from the local level — rather than imposed models better suited to Western contexts
- ▶ Systematically monitor and evaluate local land-related conflicts and conflict transformation efforts using participatory processes, with meaningful participation by the poor, women and youth
- ▶ Utilize monitoring and research findings in evidence-based policy dialogue at the local, national and international levels
- ▶ Facilitate exchanges among conflict-affected communities to enhance two-way learning and raise awareness of potential impacts and solutions

## National actors could:

- ▶ Develop new tools to enable problem-solving individuals to use a mixture of property-rights systems well matched to the situations they face, instead of relying solely on orthodox state-driven or market-oriented approaches to land reform

- ▶ Implement reforms to offer more effective, autonomous and honest court systems where peaceful contestation can occur and formal complaints lodged
- ▶ Strengthen inter-ministerial coordination, planning and assessment procedures in a territorial approach to policy-making and land-use planning, along with meaningful participation by directly affected communities
- ▶ Strengthen environmental and social impact assessment regulation and procedures to ensure the meaningful participation of communities that will be directly affected by a proposed development project
- ▶ In postwar contexts, ensure that adequate provisions to attend to the land-related needs of ex-combatants, refugees and internally-displaced peoples are incorporated into peace agreements. Also ensure that peace agreements include adequate provisions for broader land reforms, where these are critical to prevent the resurgence of armed violence. Finally, work with stakeholders to ensure the timely implementation of these land-related programs and reforms
- ▶ Undertake participatory conflict analysis before embarking on any major land policy initiative. This can lead to the identification of alternatives that highlight the risks of the proposed policies with regard to creating or exacerbating conflict

**Global and regional networks** could:

- ▶ Systematically monitor, analyse and compare land-related conflict situations and identify lessons learned. This will help strengthen national networks' advocacy and conflict prevention activities within countries. This could also lead to cross-regional learning since many resource-based conflicts have similar causes
- ▶ Explore ways of bridging the efforts of networks that focus on land issues, and those like GPPAC that focus on conflict prevention. Also explore creative ways of combining efforts by global social movements and NGO-based networks
- ▶ Foster cooperation at the national or regional level where peoples' organisations, NGOs and multi-stakeholder mechanisms already exist

**Donors** could:

- ▶ Continue updating their policies, to incorporate lessons and policy options emerging from other agencies, peoples' organisations, NGOs and researchers
- ▶ Develop inter-agency processes to promote and apply promising conflict-sensitive approaches systematically in selected countries, drawing on emerging best practices compendia such as the FAO guide and the USAID toolkit
- ▶ Monitor and evaluate the results of these pilot activities, using emerging tools such as the OECD and USAID guidelines to assess conflict programming.
- ▶ Provide sustained financing for further research and priority actions identified at the local, national and global levels

This paper has only touched on other important actors such as international financial institutions, the private sector and large conservation NGOs. Because their actions often lead to land-related conflict, they too should advocate and undertake rigorous environmental and social impact assessments, including conflict impact assessments, with meaningful participation and consent processes. Upholding fundamental human rights should be central to their policies and practice. They should also undertake their own monitoring and evaluation activities and be involved in key policy dialogues.

In addition, this paper has not focused on national action though our scan suggests there is also renewed awareness at this level. In countries such as Brazil, India, Indonesia and South Africa this is being translated into promising national initiatives. Yet from Bolivia to Colombia, Côte d'Ivoire to Zimbabwe, the Palestinian Territories to Nepal, inappropriate land policies mesh with other factors to fuel costly armed conflicts. There does, however, appear to be scope for policy dialogue, innovation and South-South learning to foster more conflict-sensitive approaches by developing country governments. More systematic studies of national policies and practices are needed to identify concrete opportunities and constraints in particular countries.

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The paper identified **other knowledge gaps** where further research could help inform local, national and international action, including:

- ▶ The functionality of legal pluralism and overlapping jurisdictions for the same area, and the role of the state in discriminatory customary regimes
- ▶ Documenting collaborative territorial mapping efforts to deepen understanding of how participatory mapping can help address land-related conflicts
- ▶ Documenting interactions between local communities, governments and extractive industries around free, prior and informed consent processes, negotiation of impact benefit agreements and other innovative practices. In addition, further research is needed on whether/how free, prior and informed consent procedures should apply to non-Indigenous communities, in relation to extractive industries and to other development activities.
- ▶ Monitoring joint and individual titling schemes as potential mechanisms to provide tenure security for women, with special emphasis on the short-term backlashes and conflicts these may engender
- ▶ Targeted research on land and conflict in urban settings
- ▶ Research on the mix of dialogue processes, land and other reforms that can prevent the escalation of land-related conflicts into war where peace is fragile
- ▶ Looking at tensions between market-oriented and conflict-sensitive approaches, and options for blending appropriate market-based solutions with enhanced public sector involvement and community-based collective action, in order to promote the transformation of land-related conflicts

If there is a common thread linking many actions at the crossroads of land and conflict today, it is the growing realization that pure approaches (statutory or customary, state-led or market-oriented) often aggravate land-related conflicts while mixed approaches, drawing on the strengths of many stakeholders, take more time to build but may be more sustainable over the long run. Transformation takes time, but it is well worth the effort.

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# Glossary of Acronyms

- AMN** – Aboriginal Mapping Network
- ANGOC** – Asian NGO Coalition for Agrarian Reform and Rural Development
- APA** – Amerindian Peoples Association
- CAMPFIRE** – Communal Areas Management Programme for Indigenous Resources Project
- CAPri** – Collective Action and Property Rights
- CEESP** – IUCN Commission on Environmental, Economic and Social Policy
- CGIAR** – Consultative Group on International Agriculture Research
- CIDA** – Canadian International Development Agency
- CLOC** – Latin American Coordination of Peasants Organizations
- CMWG** – IUCN Collaborative Management Working Group
- CODER** – Coordinadora de Desarrollo Rural
- COICA** – Coordinator of the Indigenous Organizations of the Amazon Basin
- CPDC** – Conflict, Peace and Development Cooperation
- ECCP** – European Centre for Conflict Prevention
- ECOSOC** – United Nations Economic and Social Council
- EJ** – Economic Justice
- EU** – European Union
- FAO** – Food and Agriculture Organization
- FEWER** – Forum on Early Warning and Early Response
- FIAN** – Food First Information and Action Network
- FMRA** – Foro Mundial Sobre la Reforma Agraria
- FOCAL** – Canadian Foundation for the Americas
- FPIC** – Free, Prior and Informed Consent
- FRIDE** – The Fundacion para las Relaciones Internacionales y el Diálogo Exterior
- GIS** – Geographic Information System
- GPPAC** – Global Partnership for the Prevention of Armed Conflict
- GTZ** – German Technical Cooperation
- ICES** – International Centre for Ethnic Studies
- ICMM** – International Council on Mining and Metals
- IDP** – Internally-Displaced Persons
- IEN** – Indigenous Environmental Network
- IFAD** – International Fund for Agricultural Development
- IGAD** – Inter-Governmental Authority on Development
- IIED** – International Institute for Environment and Development
- IITC** – The International Indian Treaty Council
- ILC** – International Land Coalition
- IUCN** – International Union for the Conservation of Nature
- KPA** – Konsorsium Pembaruan Agraria (Consortium for Agrarian Reform)
- M&E** – Monitoring and Evaluation
- MODE** – Mobilization and Development
- MST** – Movimento dos Trabalhadores Rurais sem Terra
- OAS** – Organization of American States
- OAS PROPAZ** – OAS Culture of Dialogue: Development of Resources for Peacebuilding in Guatemala program
- OECD** – Organisation for Economic Co-operation and Development
- OECD DAC** – OECD Development Assistance Committee
- PAFID** – Philippines Association for Intercultural Development
- PRIO** – International Peace Research Institute
- PRSP** – Poverty Reduction Strategy Papers
- SDF** – Social Development Foundation
- SIDA** – Swedish International Development Cooperation Agency
- UNDP** – United Nations Development Programme
- UNESCO** – United National Educational, Scientific and Cultural Organization
- UNGA** – United Nations General Assembly
- UNU** – United Nations University
- USAID (AID)** – United States Agency for International Development
- WIDER** – UNU World Institute for Development Economics Research
- WRI** – World Resources Institute

# Endnotes

- <sup>1</sup> See for example, Berkes, 1987; McKean, 1992; Netting in Ostrom, 1987.
- <sup>2</sup> *Private property* (an individual or corporation has the right to regulate the resource and exclude others); *state property or state governance* (government has exclusive rights to control access and regulate use); and *communal or common property* (an identifiable group of users regulates the resource and can exclude others). (Berkes, 1996).
- <sup>3</sup> Ostrom, 2001: 144.
- <sup>4</sup> See Deininger 2001; IFAD 2004.
- <sup>5</sup> See for example Agrawal, 2001; Baland and Platteau, 1996; Pinkerton and Weinstein, 1995; Murphree, 1994; Ostrom, 1990; Wade, 1988. See also FAO, 2002.
- <sup>6</sup> FAO, 2002.
- <sup>7</sup> See Jimeno 2002, for an analysis of these issues in relation to the Colombian mining code.
- <sup>8</sup> The International Council of Minerals and Metals has recently issued such a toolkit. ICMM, 2005.
- <sup>9</sup> For an extensive description of these and other collaborative management arrangements, see Borrini-Feyerabend *et al.*, 2004.
- <sup>10</sup> Co-management is often described as “power-sharing”. Weitzner, 2000 takes issue with this concept, noting that because of the different sources of power and accountabilities each party brings to the table, it would be more appropriate to use the term “power-balancing”.
- <sup>11</sup> Borrini-Feyerabend *et al.*, 2004: 69.
- <sup>12</sup> Recent literature on decentralization in natural resources management, particularly joint forest management in India, has highlighted troubling trends that question the political will of states to devolve real power to the local level, and underscore the potential of local joint management schemes to co-opt and threaten customary decision-making and therefore outcomes (E.g., Ribot, 2004; Sarin *et al.*, 2003; Agrawal, 1999; Forest Peoples Programme, 2005). The rapidity with which devolution schemes are undertaken is an oft cited factor contributing to these trends, and research is currently being undertaken to examine ways in which these trends could be reversed.
- <sup>13</sup> Ribot, 2004: 70.
- <sup>14</sup> Ribot, 2004: 70.
- <sup>15</sup> Jean Daudelin, personal communication, 2006.
- <sup>16</sup> Andrew Fuys, personal communication, 2005.
- <sup>17</sup> Ribot 2004: 82.
- <sup>18</sup> Plant and Hvalkof, 2001.
- <sup>19</sup> Colchester *et al.* 2004: 10.
- <sup>20</sup> For a recent review of mapping techniques, see Chapin *et al.* 2005. While some are Indigenous-initiated and some are collaborative efforts with the state, mapping is a useful means for Indigenous Peoples to document their collective rights and customary land use as a step on the road to statutory recognition.
- <sup>21</sup> Colchester *et al.*, 2004: 22.
- <sup>22</sup> See for example the Challenge Paper Series on Drylands tenure issues at <http://www.undp.org/drylands>.
- <sup>23</sup> Carlos Rosero, President of Proceso de Comunidades Negras (a national Afro-Colombian organization), has commented that in practice, the right to prior consultation and consent enshrined in Colombian law “has been limited to collective territories and does not encompass ethnic integrity”. He asks, “What about elsewhere? In urban centres? You don’t lose your Indigenousness or Blackness if you are outside of your territory”. In NSI, 2006 (forthcoming).
- <sup>24</sup> Sunil Bastien, personal communication, 2006.
- <sup>25</sup> Carmen Diane Deere, personal communication, 2006.
- <sup>26</sup> Deere and Leon 2001.
- <sup>27</sup> Colchester *et al.*, 2004.
- <sup>28</sup> Colchester *et al.*, 2004.
- <sup>29</sup> By “large-scale armed violence” we mean over 1,000 war-related deaths per year. This is the standard benchmark for distinguishing between situations in which there is social conflict or criminal violence, and situations in which violence has escalated into warfare. Admittedly this figure is arbitrary, particularly since it does not take proportion into account. The point, however, is to distinguish between situations in which land-related conflicts cause modest human losses every year, and situations in which they cause massive loss of life, forced displacement and other grave human rights violations. The 1,000 deaths/year helps us make this distinction. See Ploughshares, 2005, for a standard use of this benchmark.
- <sup>30</sup> This analysis is informed by Pons-Vignon and Solignac Lecomte, 2004, and Unruh, 2004. Most of the official literature on peacebuilding uses the term “post-conflict” to describe situations in which shooting wars have ended and reconstruction is underway. We avoid this term since many forms of conflict pre-date and outlast war. Normatively and politically, the problems are violence and warfare as an extreme form thereof, rather than conflict per se, since conflict is endemic to all social relations.
- <sup>31</sup> On Cambodia, see Cooper, 2002. On Guatemala, see the summary analysis in Baranyi *et al.*, 2004.
- <sup>32</sup> On Afghanistan, see Willy, 2003 as well as Zakhilwal and Thomas, forthcoming.
- <sup>33</sup> On Haiti, see Jadotte and Pierre, forthcoming.
- <sup>34</sup> On this post-9/11 tendency see Baranyi, 2005b and Woodward, 2005.
- <sup>35</sup> Stephen Tyler, 2001.
- <sup>36</sup> Training in all of these approaches is offered at a variety of institutions, ranging from the University of Peace in Costa Rica, to Harvard University’s Program on Non-Violent Sanctions and Cultural Survival, with some institutions focusing on training around specific sectors and types of conflict management, such as the CANARI institute in Saint Lucia with co-management of fisheries.
- <sup>37</sup> Jean-Paul Lederach’s (1995) model for “elicitive” training in local conflict management is helpful in this regard.
- <sup>38</sup> ILC, 2005c.
- <sup>39</sup> ILC, 2005f: 1.
- <sup>40</sup> ILC Secretariat, personal communication, 2006.
- <sup>41</sup> ILC, 2005a.
- <sup>42</sup> The 1997 and 2001 guidelines are in OECD DAC, 2001.
- <sup>43</sup> Collier, 2001.



- <sup>44</sup> Deininger, 2003, especially the section on conflict, pp. 157-164.
- <sup>45</sup> There is a rapidly-growing policy literature on conflict prevention. See Carnegie Commission, 1997; UN Secretary-General, 2001; Schnabel and Carment, 2004.
- <sup>46</sup> Mikos, 2004; ILC, 2004b; EC, 2004; EU Taskforce, 2004; European Council, 2005.
- <sup>47</sup> See IA, January 2004.
- <sup>48</sup> For a manual on conflict-sensitive development programing, produced by a consortium of European NGOs, see International Alert, 2004.
- <sup>49</sup> Philip Mikos, European Commission, personal communication, December 8 and 12, 2005.
- <sup>50</sup> ILC, 2004b.
- <sup>51</sup> The experts meeting was held in Paris on 19-20 June 2003. It led to the revision and publication of Pons-Vignon and Solignac Lecomte, 2004.
- <sup>52</sup> For example in Guatemala, while the OAS PROPAZ project did foster dialogue between government and civil society leaders on land policy issues, few of the legislative and institutional reforms they discussed were adopted and implemented by the state, thus leaving the land reform agenda rather threadbare after almost a decade of peace – as admitted by the current government. See Baranyi, 2005.
- <sup>53</sup> OECD, 2005.
- <sup>54</sup> Cynthia Brady, USAID, personal communication, January 10, 2006.
- <sup>55</sup> See for example Daudelin, 2003 and Unruh, 2004.
- <sup>56</sup> IFAD, 2004.
- <sup>57</sup> See Borrás, 2004 for more detailed and nuanced analysis of *Vía Campesina*.
- <sup>58</sup> See <http://viacampesina.org> for recent press releases and historic declarations.
- <sup>59</sup> *Vía Campesina* and FIAN press release, April 17, 2004.
- <sup>60</sup> *Vía Campesina* and FIAN, 2005.
- <sup>61</sup> World Social Forum, 2004.
- <sup>62</sup> FMRA, 2004, authors' translation.
- <sup>63</sup> *Vía Campesina* and FIAN, April 2004.
- <sup>64</sup> Founded in 1984, COICA integrates 9 countries that share the Amazon basin. See <http://www.coica.org>.
- <sup>65</sup> Founded in 1977, ICC has flourished and grown into a major international non-government organization representing approximately 150,000 Inuit of Alaska, Canada, Greenland, and Chukotka (Russia). The organization holds Consultative Status II at the United Nations. See <http://www.inuitcircumpolar.com>.
- <sup>66</sup> The Asian Indigenous Network was founded in 1993. It organized an Indigenous Women's Tent at the 1995 World Conference of Women in Beijing, which led to the issuance of the Beijing Indigenous Women's Declaration. The Second conference of the Network was held in Baguio City, Philippines from March 4-8, 2004, resulting in the Baguio Declaration of the 2<sup>nd</sup> Asian Indigenous Women's Conference. Indigenous women from 13 Asian countries participated in this conference. See [http://www.tebtebba.org/tebtebba\\_files/unpf/pf3/pf3aiwn.pdf](http://www.tebtebba.org/tebtebba_files/unpf/pf3/pf3aiwn.pdf).
- <sup>67</sup> A Network founded at the First African Indigenous Women's Conference held in April 1998 in Agadir, Morocco.
- <sup>68</sup> "Established in 1990 within the United States, IEN was formed by grass-roots Indigenous Peoples and individuals to address environmental and economic justice issues (EJ). IEN's activities include building the capacity of Indigenous communities and tribal governments to develop mechanisms to protect our sacred sites, land, water, air, natural resources, health of both our people and all living things, and to build economically sustainable communities. IEN accomplishes this by maintaining an informational clearinghouse, organizing campaigns, direct actions and public awareness, building the capacity of community and tribes to address EJ issues, development of initiatives to impact policy, and building alliances among Indigenous communities, tribes, inter-tribal and Indigenous organizations, people-of-color/ethnic organizations, faith-based and women groups, youth, labor, environmental organizations and others. IEN convenes local, regional and national meetings on environmental and economic justice issues, and provides support, resources and referral to Indigenous communities and youth throughout primarily North America - and in recent years - globally." See <http://www.ienearth.org>.
- <sup>69</sup> "The Aboriginal Mapping Network (AMN) was established in 1998 as a joint initiative of the Gitksan and Ahousaht First Nations and Ecotrust Canada. Over the years the network has grown from its humble beginnings as a knowledge sharing forum for local First Nations technicians, leaders and decision makers to become a valuable strategic resource for practitioners of traditional knowledge mapping around the world. The AMN now has a mandate to support aboriginal and indigenous peoples facing similar issues, such as land claims, treaty negotiations and resource development, with common tools, such as traditional use studies, GIS mapping and other information systems." See <http://www.nativemaps.org>.
- <sup>70</sup> Founded in 1974, the IITC is an organization of Indigenous Peoples from North, Central, South America and the Pacific working for the Sovereignty and Self-Determination of Indigenous Peoples and the recognition and protection of Indigenous Rights, Traditional Cultures and Sacred Lands. It has consultative status at the UN, and focuses on building Indigenous Peoples' participation in key U.N. fora such as the Commission on Human Rights, the Working Group on Indigenous Populations, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Conference of the Parties to the Convention on Biological Diversity, UNESCO and the Commission on Sustainable Development. See <http://www.treatycouncil.org>.
- <sup>71</sup> Baguio Declaration, 2004.
- <sup>72</sup> Baguio Declaration, 2004.
- <sup>73</sup> Held on November 2-4, in Mar del Plata, Argentina, 2005.
- <sup>74</sup> Continental Summit of Indigenous Peoples and Organizations, 2005.
- <sup>75</sup> This is a recommended requirement for all projects to take place under the UN's second decade of Indigenous Peoples (2005-2010).
- <sup>76</sup> Indigenous Women's Declaration of the 2005 Summit of the Americas.
- <sup>77</sup> ILC, 2005c.
- <sup>78</sup> ILC, 2005d.
- <sup>79</sup> ILC and NSI, 2006.
- <sup>80</sup> GPPAC, 2005.
- <sup>81</sup> CRIES, 2005: 7.
- <sup>82</sup> ECCP, 2005: 29.
- <sup>83</sup> UNGA, 2005.
- <sup>84</sup> Smith, 2003. The current DAC initiative to develop tools to M&E peacebuilding and conflict prevention programing is lead by the Norwegian Ministry of foreign Affairs. An output should be available in 2006.
- <sup>85</sup> We thank Sunil Bastian and Roy Culpeper for having flagged this in their comments on our draft.

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