

STRENGTHENING THE ECONOMIC DIMENSIONS OF PEACEBUILDING

PRACTICE NOTE SERIES

‘Peacebuilding essentials for economic development practitioners’

Practice note 7: Conflict-sensitive land policy and land governance in Africa

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1: Introduction to series

1.1. About this note

This practice note explains the importance of using a conflict-sensitive approach to land policy and land governance in conflict-prone or conflict-affected contexts. It offers guidelines and principles on how economic development planners and practitioners can promote conflict-sensitive land policy reform and implementation. Conflict-sensitivity in this context denotes the consideration by policy-makers and practitioners of the range of issues that may have, or may in future, cause and trigger violence. As issues related to land are at the root of violent conflict in many developing countries, they need to be addressed in a comprehensive way that maximises the productive capacity of people and natural resources while also minimising the risk of violent conflict and instability. Incorporating a conflict-sensitive approach when designing and implementing land policies and land reform is consequently crucial in order to realise increased equity, greater socio-economic development, food security as well as contribute to peace and stability.

1.2. Who should read this series?

Policy-makers and practitioners, specifically those that are working in conflict-prone and conflict-affected states.

1.3. The series will help you to:

- Better understand key economic recovery challenges and opportunities in conflict and post-conflict contexts;
- Draw on existing good practice for your own economic development planning and programming in this area;
- Maximise the positive contribution your strategy and programme can make to economic recovery and peacebuilding; and
- Ensure that your intervention is conflict-sensitive.

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Section 2:
Key issues, risks
and opportunities

2: Key issues, risks and opportunities

Sustainable growth and development in Africa – as well as the continent’s contribution to, and participation in, the world economy in the 21st century – will continue to rely largely on the manner in which land and land-related natural resources are secured, used and managed, and how property-rights systems function.¹ Land is crucial to Africa’s social and economic development, as the majority of the population depend on land and land-based resources for their livelihoods. Similarly, sound and secure land rights are intrinsically linked to the realisation of inclusive development, as well as natural resource governance.

At the same time, land is also ‘a unique, valuable, and immovable resource of limited quantity and is a central element in the varied and complex social relations of production and reproduction within which conflict between individuals and groups are bred’.² The cultural and psychological significance of how land relates to ethnic identity is of similar significance as land is also about history and belonging: it connects family and generations and it cements belonging. Land is also power; not only power in the economic sense of representing wealth, but also the power to grant access to land, which is generally vested in, and exercised by, traditional and tribal chiefs under customary law. The paradigm of authority, and the inherent tension between customary and modern interpretations and implementation of land rights relate closely to both legitimacy and power, and needs to be understood and recognised by those working on land issues. Weak legal, institutional and customary protections can also feed into the gender dimension of the land and conflict issues, as conflict over land, particularly involving land access and rights, disproportionately and negatively impacts women.³ Land lies at the heart of social, economic and political life in most of rural Africa, and is tied to a complex network of issues ranging from power relationships to economics and from symbolic attachments such as identity to systemic inequities, and addressing land issues effectively demands a comprehensive, conflict-sensitive, and integrated approach.⁴

This practice note presents the case for making improved land policy and land governance a key aspect of peacebuilding and state-building strategies in countries in or emerging from conflict. For this to be achieved, economic and rural development practitioners need to work closely with political and peacebuilding counterparts, within and between development agencies and governments. Unfortunately, inadequate and inappropriate land policy legislation and institutions as well as low levels of implementation have generally continued to hamper land governance in a significant number of African states. The main reasons for this predicament include low political will and a lack of commitment by African governments and their development partners, as well as incoherent involvement of stakeholders at various levels in land policy formulation and implementation on the continent.⁵

1 AU/AFDB/UNECA (2009). *Framework and guidelines on land policy in Africa – Draft 5*, p.64. Available at <http://www.pambazuka.org/aumonitor/images/uploads/Framework.pdf>

2 US Agency for International Development (USAID) (2005). *Toolkit on land and violent conflict*. Available at http://www.usaid.gov/our_work/cross-cutting_programs/conflict/publications/toolkits.html, p.2.

3 For more information, see USAID (2005). *Op. cit.*, p.3; FAO (2009). ‘Land policy development in an African context’, *Land Tenure Working Paper 14*, available at <ftp://ftp.fao.org/docrep/fao/012/ak547e/ak547e00.pdf>; K. Deininger (2003). *Land policies for growth and poverty reduction*, Volume 1. Washington DC: World Bank.

4 USAID (2005). *Op. cit.*, p.3.

5 EU Support to the Land Policy Initiative (2009). ‘Capacity building in support of land policy development and implementation in Africa’, Annex I.

2.1. Key conflict risks

There are numerous land-related factors that can increase the risk of violent conflict in conflict-prone or conflict-affected environments, which need to be taken into consideration when designing land policies or seeking to improve land governance. Land conflicts commonly become violent when linked to wider processes of political exclusion, social discrimination, economic marginalisation, and a perception that peaceful action is no longer a viable strategy for change.⁶ Land issues in these settings are often multifaceted and difficult to resolve, especially in the aftermath of violent conflict, and the conflict risks involved are often complex, requiring a deep understanding of the political economy of a given context.

Increased competition and demand for land

In many African countries, violent conflicts are directly related to the competition for access to and use of land and natural resources. Competing claims to land and natural resources and inequitable access to land and inadequate access for the poor has been, and is, a source of conflict in a number of African societies, and the situation is often aggravated during times of food scarcity or when extractive resources are discovered. Similarly, the rapid growth of populations and the increase in agricultural and non-agricultural demand for land aggravate the potential for disputes over land, which are unproductive and, within weak or inequitable institutional set-ups, risk favouring biased solutions.

Inequitable land access and land distribution

It is evident that inequitable land distribution, tensions between traditional and modern land-ownership systems, and poor land administration can lead to, and be a cause of, severe injustices and violent conflict. Similarly, the recent increase in large-scale land acquisitions by well-placed individuals, companies and foreign states has accentuated the need for governments to better define land rights through transparent and coherent land governance in order to ensure that population groups that depend on land are not marginalised, displaced or deceived, whilst on the other hand, companies wishing to invest in a certain context are not put off by insecure land rights.⁷ Even where land is not necessarily at the root of conflict, tenure disputes often emerge in the course of conflict and serve to perpetuate insecurity and instability. As the World Bank has pointed out, a highly skewed distribution of landownership and patterns of land access can foment and further aggravate social conflict and violence.⁸ The likelihood of violent conflict increases considerably when gross inequities characterise land-holding patterns, particularly when a large landless or land-poor population group has limited livelihood opportunities.⁹ Therefore, it is crucial that practitioners and policy-makers understand how the interests of different groups are pursued and countered in a given context prior to developing interventions aimed at improving property right systems and land governance.¹⁰

6 United Nations (2010). *Land and conflict: Guidance note for practitioners*, p.6, available at http://www.undp.org/cpr/we_do/un-eu_partnership.shtml

7 See K. Deininger (2010). 'Rising global interest in farmland'. World Bank. Available at http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf

8 K. Deininger (2006). 'Land policy reforms', in Coudouel and Paternostro (Eds.) (2006). *Analyzing the distributional impact of reforms, Volume One*. Washington, DC: World Bank, p.214.

9 USAID (2005). *Op. cit.*, p.4.

10 See P.Y. Le Meur and C. Lund (2001). 'Everyday governance of land in Africa'. *Bulletin de l'APAD*, Issue 22, accessed October 2010. Available at <http://apad.revues.org/48>

Land-related violence

One of the fundamental building blocks of peace is the institutional capacity to manage and resolve conflicts over resources without their becoming violent. Given the importance of land to the rural economy and to people's sense of security and identity throughout Africa, the equitable and effective governance of land is therefore a critical element of peacebuilding. Issues related to land rights and land access, as well as injustices tied to land, are often structural causes of violent conflict, and when these are not adequately addressed it is difficult for peacebuilding and development to be sustainable.¹¹ Hence, policy-makers and practitioners should ensure that they do not approach land policy and land reform in conflict-prone or conflict-affected states from a purely technical perspective, but adopt a comprehensive and conflict-sensitive approach instead. Land-related violence can frequently be traced back to historical grievances related to land distribution in an economic and governance context characterised by an incomplete and/or inequitable process of transformation from "traditional" to "modern".¹²

Grievances over land distribution

Grievances over land distribution have been a key source of conflict in Kenya. The local population groups lost their rights to traditional lands during colonisation when the British privatised land holdings, and the situation was further aggravated when Kenya's first post-colonial president, Jomo Kenyatta, pushed for the redistribution of land, with his ethnic group ostensibly benefiting disproportionately.¹³ Even more recently, the violence that ensued after the 2007 election was partly a result of continued discontent and frustration with decades of government land policy that favoured certain ethnic groups.¹⁴ In the DRC, land disputes in the eastern provinces have been at heart of violent conflict between different population groups. There have been longstanding disputes and grievances over land use and land rights between farmers and herders, with the situation aggravated by the widespread displacement and movement of the local population through North and South Kivu and Ituri.¹⁵ Currently, tensions are also running high because of the return of Congolese refugees from Rwanda. In Rwanda itself, the 1994 genocide also had links to agricultural land scarcity in one of Africa's most densely populated countries.¹⁶ Distribution and access to land lie at the heart of these disputes and conflicts, and in order to prevent further and future conflicts, these grievances need to be understood and addressed.

The North South Institute¹⁷ has identified a number of different factors to help explain the complexity of land-related violent conflict:

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- 11 FAO (2009). *Land policy development in an African context*, Land Tenure Working Paper 14, p.60.
- 12 N. Pons-Vignon and H.P. Solignac Lecomte (2004), *Land, violent conflict and development*. OECD Development Centre Working Paper, No. 233, France, p.26.
- 13 J. Moore (2010). 'Land disputes at the root of African wars' *Christian Science Monitor*, 30/01/2010. Available at <http://www.csmonitor.com/World/Africa/2010/0130/Land-disputes-at-the-root-of-African-wars>
- 14 J. Oucho (2010). 'Undercurrents of post-election violence in Kenya', in K. Kanyinga & D. Okello (Eds.). *Tensions and reversals in democratic transitions*. Available at <http://www.sidint.net/tensionsreversals/>
- 15 Guardian (2010). 'Fertile land the prize that could reignite ethnic conflict in DR Congo'. Available at <http://www.guardian.co.uk/world/2010/aug/26/congo-rwanda-tutsi-return-tension>
- 16 J. Moore (2010). Op. cit.
- 17 North South Institute (2006). 'Transforming land-related conflict', p.10 available at http://www.nsi-ins.ca/english/publications/policy_briefs.asp

- First, in conflict-prone or conflict-affected contexts, violent conflict can aggravate existing problems of insecure land tenure and land access, making them deeper, more complex and widening their geographic scope.
- Second, violent conflict also generates new land-related challenges, as it can damage or destroy 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.
- Third, violent conflicts can displace thousands of people in short periods of time, leaving their lands vulnerable to occupation by others. The return of refugees and internally-displaced persons to their lands in post-war periods generates new conflicts and pressures for compensation. In these circumstances, people's rights to specific plots of land as well as their rights as citizens to be allowed to own land at all can be challenged, for example on the basis that their ethnic group are "late comers" without traditional ownership rights. Conflicts of this kind easily become generalised, and increasingly difficult to resolve, as for example in Côte d'Ivoire or the Democratic Republic of Congo in recent years.

Attention to land policy and land governance therefore needs to be a part of any development or peacebuilding effort in conflict-affected or conflict-prone environment, as it is increasingly evident that land policy and land management are intimately linked to peace, social stability and conflict management.¹⁸

2.2. Key peace opportunities

Conflict-sensitive land policy reform and improved land governance can contribute to peacebuilding by tackling a number of key issues.

Addressing grievances and consolidating peace

In 2003, the World Bank acknowledged that 'the deprivation of land rights as a feature of more generalised inequality in access to economic opportunities and low economic growth have caused seemingly minor social or political conflicts to escalate into large-scale conflicts'.¹⁹ Land policy development should take existing sensitivities and grievances into account, in order to better monitor the risks and likelihoods of violent conflict.²⁰ It can play an important and constructive role within strategies aimed at consolidating peace in areas emerging from conflict by ensuring that long-lasting grievances are addressed and not aggravated, as well as help restore a sense of justice and the rule of law.²¹ The caveat is of course that there will be serious obstacles and resistance to land-reform processes in conflict-affected contexts, and policy-makers will have to take strategic decisions to prioritise and sequence the different aspects of the process in order to overcome the different hurdles and challenges.²² In other words, land policy reform inevitably generates conflict, which is one of the reasons comprehensive land-policy reform is often not initiated or followed through, which in turn is the central reason why land policy reform should be carried out in a conflict-sensitive manner.

18 FAO (2009). *Op. cit.*, p.59; K. Deininger (2003). *Op. cit.*, pp.157-164; United Nations and Civil Society Organizations (2008). 'Experiences, challenges and opportunities: Collaboration for pro-poor land governance', p.31, available at <http://www.landcoalition.org/wp-content/uploads/pro-poor.pdf>

19 K. Deininger (2003). *Op. cit.*, p.157.

20 N. Pons-Vignon and H.P. Solignac Lecomte (2004). *Op. cit.*, p.10.

21 *Ibid.*, pp.11-12.

22 R. Wade gives a good overview of prioritising and sequencing reforms in conflict-affected contexts, see R. Wade (2010). *Practice Note 2 – Business Environment Reforms*. London: International Alert, pp.9-10. Available at http://www.international-alert.org/pdf/practice_note2_march2010.pdf

Improving land tenure security

Having secure land tenure is vital, both from an economic and livelihood perspective, but also from a social cohesion and political point of view.²³ When people are not afraid of losing the land that they live and work on, it increases stability. Governments and development practitioners in conflict-prone or conflict-affected countries should therefore prioritise establishing or strengthening a land tenure framework that allows households or individuals to obtain and possess secure rights to the land they use or occupy. Such a framework has numerous benefits, including enhanced investment incentives, reduced potential for violent conflict, the use of land as collateral, and improved equity through increased bargaining power among social groups that have been traditionally marginalised.²⁴ The establishment of such a framework requires addressing a number of interlinked issues, including legal recognition of land tenure rights; the social legitimacy of those rights; land institutions that are accessible, efficient, and responsive to clients; as well as incentives and structures to manage conflicts over land. It can only be done by working inclusively, with governments, development agencies and other non-state actors working together. The existence of sound, well-recognised arrangements for dealing with such conflicts quickly and decisively offers several advantages:

- First, conflict – and the prospect of losing land through the arbitrary pathways conflict implies – undermines the guarantees that encourage investment by users and outsiders in land, particularly the most productive tracts, thus depriving the economy of part of its resources for growth.
- Second, if people cannot trust the state to enforce their property rights or resolve conflicts over land, they will take measures to do so themselves, often in ways that are outside the law, drawing resources from more productive activities, and perpetuating the vicious circle of violence.
- Third, conflict tends to favour the powerful and wealthy, as these groups generally have better access to the information and resources needed to sustain and resolve land-related conflict.
- Finally, given that conflicts over access to land are frequently linked closely to issues of identity such as ethnicity, they can easily escalate into larger clashes with damaging and far-reaching political, social and economic consequences.²⁵

3: Major actors, institutions and processes

A variety of actors should be involved in the land policy reform and implementation process and this section will discuss their possible roles and responsibilities. Land policy reform and changes to land governance will be most successful if the political will of the government and the funding priorities of donors are aligned with the needs of the population and take competing interests of different stakeholders into consideration.²⁶

Land users and owners

The primary stakeholders and beneficiaries of land policy reform would be land users and land owners. These groups would play a central role in the process of reforming land policy and formal and informal institutions dealing with land and

23 FAO (2009). *Op. cit.*, p.64.

24 See K. Deininger (2006). *Op. cit.*, for additional input on the importance of a land tenure security framework.

25 K. Deininger (2006). *Op. cit.*, p.221.

26 R. Wade (2010). *Op. cit.*, makes a similar point in relation to business environment reforms, see *Practice Note 2 – Business Environment Reforms*, pp.9-10, available at http://www.international-alert.org/pdf/practice_note2_march2010.pdf

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land tenure. This is not a homogenous group, and there are various and complex interests at stake, and there can also be conflict between land users and land owners. Transparent and informative planning, communication and interaction with these stakeholders is crucial, so as to manage expectations and ensure as much inclusivity and buy-in as possible.

Civil society actors

Civil society has an important role to play in the development of new land policies. They can engage and advocate for national governments to start inclusive land policy reform processes, using for example the framework and guidelines developed by the African Union, Economic Commission for Africa, and the African Development Bank.²⁷ Civil society actors can provide support and insights to regional economic communities and donors involved in these processes. Crucially, they can assume a central role in providing checks and balances in the land policy implementation process and holding governments to account, also in relation to deals made with foreign investors. Different kinds of civil society actors play two critical roles: a) representing the interests and voices of particular groups of people who will be affected by any changes in land policy, especially the poor and vulnerable; and b) monitoring the implementation from a conflict-sensitivity perspective, and drawing the attention of those involved to problems and the need to adapt approaches where necessary. Lastly, they can also raise the awareness of local populations about changes and reforms to land policies.

Large landholders and customary chiefs

Large landholders and customary chiefs are vital target groups for land policy reform. Both groups often have influence or power with the government and the ruling elites, which a thorough political economy analysis should reveal. In societies where rural land ownership is managed through customary chiefs, as is the case in much of Africa, land reform of privatisation would require complex and highly political negotiations that could also fuel political divides and conflict. Large landholders and customary chiefs would have obvious vested interests in maintaining their sway, influence and authority, and if not approached carefully, could become spoilers in the process.

Heads of state and governments

In most African countries, there is a reliance on the use of land and natural resources for livelihoods and food production.²⁸ However, when land access and rights are insecure, investments to increase land productivity tend to be lower as a result of this insecurity.²⁹ African leaders and their governments should therefore acknowledge the importance of sound land governance and land policy to the well-being of their countries and citizens, and take the required steps to initiate the land policy development process in a conflict-sensitive manner. They should also build up the capacity for institutions that deal with the management and governance of land to ensure the success of the implementation phase. This is not an easy or straightforward process, and it is fraught with complications and risks, especially within electoral democracies. Nonetheless, it is essential for longer-term equality, socioeconomic development and stability.

Crucially, there is an urgent need for sustained political will from the highest levels of government to consider making changes to land rights and land governance.

²⁷ AU/AFDB/UNECA (2009). *Op. cit.*

²⁸ FAO (2009). *Op. cit.*, p.62.

²⁹ K. Vlassenroot (2006). 'Households land use strategies in a protracted crisis context: Land tenure, conflict and food security in eastern DRC'. FAO, p.1. Available at <ftp://ftp.fao.org/docrep/fao/009/ag306e/ag306e00.pdf>

Political ownership, willingness and commitment are key factors for the definition, elaboration and implementation of effective land policies.³⁰ It should be noted here that sometimes the lack of political will to resolve land-related conflicts through land reform can be correlated to situations where political elites and the landed classes are linked, if not the same.³¹ In many cases, widespread stakeholder involvement, independent political economy analyses by objective third parties, and overall process transparency can seek to highlight and potentially address this. Lastly, political leaders initiating and driving comprehensive land policy reform stand to gain politically and electorally from the process, especially if underlying issues of tenure insecurity and inequality are addressed.

The Regional Organisations and Regional Economic Communities

The African Union and the Regional Economic Communities (RECs) have a strategic role to play in the implementation of land policy in their member states. The AU and the RECs are very well placed to take this initiative forward and support and guide member states in its implementation. Regional cooperation on land issues is not an issue that has been tackled coherently or consistently by the AU or the RECs, and collaboration and encouragement through regional fora can ensure adequate attention is paid to the importance of land policy reform and land governance.

During a regional summit on land issues in 2009, African leaders called on the RECs to convene periodic regional platforms to facilitate sharing experiences, lessons learnt and dissemination of best practices in land policy formulation, implementation and monitoring based on members states' experiences.³² The AU and the RECs can facilitate the different land reform processes and emphasise the social, economic and political benefits that it can have in both the member states as well as the regional communities.

Development partners

There are a number of ways in which bilateral and multilateral development partners can support conflict-sensitive land policy in Africa. These can be roughly divided into:

- Advocating for appropriate, inclusive and conflict-sensitive land reform;
- Highlighting the importance of political leadership in driving this process forward;
- Ensuring that all stakeholders are consulted and included in the process; and
- Where appropriate, providing the financial and technical assistance for land policy development and land reform processes.

All of these should fit into an approach that is coherent with the recent thinking on statebuilding and peacebuilding, in which donors are recommended to play a careful role supporting the emergence of accountable and effective states.³³

Development partners should avoid purely technical approaches that fail to take political dynamics into consideration, as this could seriously impede the implementation of peacebuilding and statebuilding programmes.³⁴ This means for

30 FAO (2009). *Op. cit.*, p.1.

31 North South Institute (2006). *Op. cit.*, p.12.

32 Declaration on Land Issues and Challenges by African Heads of State and Government, adopted during the African Union's 13th summit held from July 1–3 2009 in Libya.

33 See for example the International Dialogue on Peacebuilding and Statebuilding (2010). 'Dili Declaration: A new vision for peacebuilding and statebuilding', available at <http://www.oecd.org/dataoecd/12/30/44927821.pdf>

34 N. Pons-Vignon and H.P. Solignac Lecomte (2004). *Op. cit.*, pp.10-13.

example that conflict sensitivity should feature prominently in donor interventions related to land policy. A major task for international development partners is therefore to take this into consideration and, when engaging with African governments on this issue, make the point that short-sighted, explorative and speculative land management in a chaotic environment has a high opportunity cost for later economic development and may even result in the outbreak or resumption of violent conflict.³⁵

Also, development partners need to support African leaders, governments, and civil society in the land policy reform processes that are undertaken, and offer financial and technical assistance where required. In playing this role, they need to understand very well and take full account of the role that land plays in the political economy, and therefore in politicians' own strategic calculus and analysis. Land policy reform and implementation is not cheap, nor should it be done on the cheap. Therefore, adequate, if not ample, financial resources need to be made available.

Foreign investors

Foreign investors, be they private companies or foreign states, have become important actors in land acquisition for agricultural development, especially in Africa.³⁶ According to the International Food Policy Research Institute and *The Economist* magazine, an estimated 15-20 million hectares of farmland have been subject to negotiations or transactions over the last few years, which roughly equates to a fifth of all farmland in the European Union.³⁷ Wealthy countries that lack sufficient farm capacity to feed their populations are the major sources of land acquisitions whilst several multinational companies and investors consider agricultural commodities to be a worthwhile investment. The acquisition of agricultural land in developing countries can result in increased capital investment, new technologies and employment for local people, whilst longer-term advantages include the expansion of production of food for a global market.³⁸ Nevertheless, there are serious political and conflict risks involved, especially when land rights and land governance structures are weak and lack transparency. Foreign investors need to be aware of these risks, carry out due diligence procedures, and understand that their operations have a greater likelihood of success if they do not cause disputes over land or violent conflict.

Investment in Northern Uganda³⁹

Private-sector investment in Northern Uganda's economy – particularly agri-business – could harness the region's fertile lands and geographic advantages to significantly raise the region's profile in terms of capital, skills, infrastructure and employment, in the interests of longer-term peace and development. However, for such investments to avoid exacerbating long-standing anxiety and speculation among northerners about land grab by southern and foreign investors, as well as intra-community land tensions

35 FAO (2009). *Op. cit.*, p.61.

36 See K. Deininger (2010). *Op. cit.*; J. Von Braun and R. Meinzen-Dick (2009). 'Land grabbing by foreign investors in developing countries: Risks and opportunities' International Food Policy Research Institute (IFPRI) Policy Brief; *BBC News*, available at <http://news.bbc.co.uk/1/hi/business/8150241.stm>; and *Guardian*, available at <http://www.guardian.co.uk/environment/2010/mar/07/food-water-africa-land-grab>

37 *The Economist* (21st May 2009). 'Outsourcing's Third Wave', available at http://www.economist.com/displaystory.cfm?story_id=13692889, quoted in M. Kugelman and S. Levenstein (Eds.) (2009). *Land grab: The race for the world's farmland*. Woodrow Wilson International Center for Scholars, available at www.wilsoncenter.org

38 D. Correll (2009). 'Land policy in Tanzania: Current issues and social aspects', available at <http://www.icsw.org/doc/LandPolicyinTanzaniaDCSep09.pdf>

39 Drawn from the International Alert (2009) case study on Uganda, *Enabling peace economies through early recovery – Perspectives from Uganda*, available at www.international-alert.org/peace_and_economy/LEO_Uganda.pdf

associated with the region's long years of conflict, investors need to handle land acquisition with conflict-sensitivity. Failure to do so could see commercial agriculture disenfranchise local people by preventing them from peacefully resettling to their own lands. The prospect of large companies dominating entire value chains also meets with opposition by local populations, who would prefer to see local producers supported through improved processing, financial services, infrastructure and access to market, in order to regain the local community's former economic standing. Investors have a business interest in understanding local preferences and tensions, given the costs that conflict can impose on companies should violence erupt near their place of operation. Through proper consultation and analysis, and a readiness to take a long-term approach to working with stakeholders to identify terms of investment, investors can develop win-win proposals that will tap the potential of the region in the interests of its recovery from conflict.

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Section 4: Emerging good practice and guidance

4: Emerging good practice and guidance

Listed below are some of the key considerations that policy-makers and economic development practitioners need to take into account when addressing issues related to land policy and land governance in conflict-prone or conflict-affected contexts:

Carry out a political economy analysis of land ownership, land use and markets to assess options for reform efforts and inform interventions

Land policy interventions often neglect conflict and power dimensions. Whilst land policies promoting agricultural development are important for securing peace and stability in the long run, the technical prescriptions that are often made by policy-makers and practitioners tend to pay little or no attention to preventing the outbreak of violent conflict or the resolution of disputes.⁴⁰ It is obvious that land policy cannot be created or started from scratch, as every country has different kinds of existing laws, regulations and policies in place. Nevertheless, there is always scope for adding a conflict lens to existing policies, or incorporating a conflict-sensitive dimension when adjusting, or designing, land policies.

It is critical to understand and acknowledge that all land policy reform and implementation will cause new tensions and conflict, as any sort of intervention in this area is by nature political, linked to power relations, and will not benefit everyone to the same extent as land reform includes directly or indirectly some form of redistribution of power.⁴¹ A conflict-sensitive approach is therefore *essential*, so that such conflicts can be managed and resolved as part of the reform package.

Identify suitable areas for reform

Comprehensive reform is rarely feasible, because of the disruption it causes and the difficulty of implementation on a large scale. Therefore, it is usually more realistic to identify "pockets" of potential reform areas within an incremental process that builds momentum around reforms.

⁴⁰ N. Pons-Vignon and H.P. Solignac Lecomte (2004). *Op. cit.*, p.13.

⁴¹ Adapted from International Alert (2009). *Sustaining business and peace*, available at <http://www.international-alert.org/publications/pub.php?p=404>

Rapid appraisal for potential reform areas

The *USAID Toolkit on Land and Conflict* offers a set of guiding questions that can help identify pertinent, and achievable, areas of reform.

KNOWLEDGE OF LAND LAWS AND LAND RIGHTS:

- Are land holders clear about their land rights? Is there (some) confusion or competing notion of rights? Is there a common understanding that is contradicted or undermined by law or other rights holders?
- Do rights holders have documents to support their claims? What other types of evidence do they use or are considered acceptable to prove claims?

GOVERNANCE AND LEGAL ISSUES:

- Are the main governmental and quasi-governmental institutions relevant to land and property issues doing an adequate job? Are specific institutions particularly weak? If yes, in what areas? Are specific services regarding land issues needed but not available (i.e., are specific institutional roles not provided)?
- Is the law and policy regime regarding land and property matters adequate? Do important gaps or other weaknesses exist in terms of legislation and/or policy (on paper)? Is the relevant legislation and/or policy being applied in practice?
- Is there adequate institutional capacity to manage or resolve land disputes? What types of conflict resolution mechanisms need to be strengthened (e.g., the courts, alternative dispute resolution processes)?
- Is corruption involved?

OPERATIONAL ISSUES:

- Are the human capacities regarding land and property issues adequate or do they need to be strengthened? If so, in what areas do they need to be strengthened?
- Are there any particular processes or procedures relevant to land and property matters that are deemed weak, corrupt or that do not seem to exist?
- Are there particular processes and procedures relevant to land and property matters that exist but are not sufficiently accessible (i.e., because of cost, service availability, or access to information about the services available)?

POLITICAL CONSIDERATIONS:

- Does the government have the political will to address the relevant land and property issues?
- Are there other key stakeholders/actors that need to be supportive of programmatic interventions in order to make the interventions politically viable? (e.g., landowners, traditional power structures, peasant farmer associations, women's groups, etc.)
- Are there strategic ways to address certain dimensions of land and property issues that would be more politically acceptable than others?

OTHER SPECIAL CONSIDERATIONS:

- What timeframe would be involved in addressing the issues (immediate/urgent, short, medium and long-term)? Can the issues be strategically targeted to affect the potential timeframe(s)?
- Are the main land issues rural, urban, or both?

- Have gender issues been overlooked in the land and conflict dynamic? How can particular attention be given to gender issues and how they relate to land access and land-related livelihood options?
- Is land considered a resource? Is it contested as a resource because of access to riparian resources, differences in soil fertility, or proximity to transportation and markets?
- What flashpoints or trigger events could most likely bring about violent conflict?
- What are the actor's comparative/strategic advantages and limitations (e.g., legitimacy, know-how, resources)?
- How can land issues be framed in order to avoid unproductive intra-institutional "politics" that could slow things down? (i.e., are there ways to avoid arguments about whether land issues should be exclusively within the domain of democracy and governance, economic growth, environmental or financial markets, etc.)
- What level of intervention is required? Are interventions needed at the national level (national government agencies, law, policies, national projects), at the local level (geographic hotspots, community-based conflict management mechanisms), or is some combination of both required?

From: USAID (2005) *Toolkit on land and conflict*, Washington, DC. Available at http://www.usaid.gov/our_work/cross-cutting_programs/conflict/publications/toolkits.html

Improve capacity and quality of dispute mediation mechanisms

If issues related to access and ownership of land are not handled appropriately and comprehensively, a rise in land disputes and conflicts can undermine social stability, especially during the crucial stages of post-war reconciliation.⁴² It is obvious that it is essential for governments and non-state actors to ease tensions and prevent new flashpoints from turning into the cause of renewed violence. Therefore, the effective resolution of land conflicts should be a central part of the overall strategy to consolidate peace and promote future development in states that have been affected by, or are prone to, violent conflict.⁴³ What is therefore required is a strong focus on establishing a secure land tenure framework and building up the capacity of land mediation structures that are able to resolve land disputes and conflicts in impartial and effective ways. In its informative guide on land and conflict issues, the UN's Interagency Framework Team for Preventive Action provides an overview of common land dispute resolution institutions, and their relative strengths and weaknesses.⁴⁴

Land Dispute Resolution in Liberia⁴⁵

Land dispute resolution is considered to be challenging in Liberia, as it is a context where tenure insecurity is high, where the legal and institutional framework is often ambiguous, where the land administration system is relatively fragile, and where dispute resolution is carried out by a wide range of state and non-state actors. In response, the Land Commission established a Land Disputes Task Force, undertook an inventory of disputes, organisations and approaches to dispute resolution, and initiated the clarification of the institutional framework. The Land Commission, through its Dispute Resolution Program Initiative has mediated in numerous land dispute cases with the hope

⁴² FAO (2009). *Op. cit.*, p.81.

⁴³ *Ibid.*, p.73.

⁴⁴ UN (2010). *Land and conflict: Guidance note for practitioners*, pp.38-39.

⁴⁵ Drawn from UN (2010). *Land and conflict: Guidance note for practitioners*, p.40.

of resolving some of them through the Alternative Dispute Resolution methods and seeks to conduct meetings with land claimants geared towards resolving land disputes.⁴⁶

The benefits of a conflict-sensitive approach

Carrying out an analysis of the conflict actors, causes, profile and dynamics in a given context can help ensure that projects or programmes do not inadvertently increase the likelihood of violent conflict, but rather serve to reduce potential or existing violent conflict. Planning a conflict-sensitive intervention requires careful and detailed exploration of the potential impacts, direct and indirect, of the proposed activities on the actors, causes, profile and dynamics relating to conflict or potential conflict within the context, and the impacts of the actors, causes, profile and dynamics on the proposed activities.⁴⁷ In Zimbabwe for example, a more coherent and conflict-sensitive approach to land reform could have prevented some of the associated violence of land invasions, food insecurity and displacement.

Incorporating a conflict-sensitive approach to land policy has the potential not only to reduce the likelihood of the escalation of violent conflict, but also of increasing the overall stability, food security and economic potential of a country. However, if policy-makers ignore the conflict dimension, and view land reform as a technical exercise, the possibility of instability and land-related violence increases significantly.

Work towards closing the implementation gap

There is frequently an “implementation gap” between policy commitments on paper and actual changes in practice and governance. Indeed, more often than not, policy commitments related to land issues are simply ignored in practice because of the inherent complexities, sensitivities, and challenges discussed above. Despite the adoption of different land policies and initiatives, this will continue to be the case in many countries because the short-term political calculations of those in power make it extremely difficult for them to provide the leadership and action needed, even when they wish to do so. However, if the wide range of stakeholders discussed above can be involved in these reform processes, and if this results in greater equity and distribution of opportunities related to land ownership, this can in turn be a driver of greater political and social change in societies.

5: Where to find out more

AU/AFDB/UNECA (2009), ‘Framework and guidelines on land policy in Africa’, <http://www.pambazuka.org/aumonitor/images/uploads/Framework.pdf>

S. Baranyi and V. Weitzner (2006), ‘Transforming land-related conflict’, North South Institute, http://www.nsi-ins.ca/english/pdf/LandConflict_Eng_Web.pdf

Conflict-sensitive approaches to development, humanitarian assistance and peacebuilding: A resource pack, (2004) London, UK, <http://www.conflictsensitivity.org>

⁴⁶ *Liberian Observer*, 28/09/2010, ‘Donors want roundtable confab for Land Commission’,

⁴⁷ International Alert et al. (2004). *Conflict-sensitive approaches to development, humanitarian assistance and peacebuilding: A resource pack*, London, UK.

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Section 5: Where to find out more

- K. Deininger (2003). *Land policies for growth and poverty reduction, Volume 1*, World Bank
- K. Deininger (2006). 'Land policy reforms', in A. Coudouel and S. Paternostro (Eds.). *Analyzing the Distributional Impact of Reforms Volume One*, World Bank
- K. Deininger (2010). 'Rising global interest in farmland', World Bank, http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf
- EU Land Policy Guidelines (2004). http://ec.europa.eu/development/icenter/repository/EU_Land_Guidelines_Final_12_2004_en.pdf
- EU Support to the Land Policy Initiative (2009). 'Capacity building in support of land policy development & implementation in Africa', Annex I
- FAO (2009). *Land policy development in an African Context*, Land Tenure Working Paper 14
- C. Huggins and J. Clover (2005). *From the ground up: Land rights, conflict and peace in Sub-Saharan Africa*, <http://www.iss.co.za/pubs/Books/GroundUp/Contents.htm>
- M. Kugelman and S. Levenstein (Eds.) (2009). *Land grab: The race for the world's farmland*, Woodrow Wilson International Center for Scholars, www.wilsoncenter.org
- P.Y. Le Meur and C. Lund (2001). 'Everyday governance of land in Africa' *Bulletin de l'APAD*, issue 22 2001, accessed October 2010, <http://apad.revues.org/48>
- J. Moore (2010). 'Land disputes at the root of African wars' *Christian Science Monitor*, 30/01/2010, <http://www.csmonitor.com/World/Africa/2010/0130/Land-disputes-at-the-root-of-African-wars>
- J. Oucho (2010). 'Undercurrents of post-election violence in Kenya', in K. Kanyinga and D. Okello (Eds.). *Tensions and reversals in democratic transitions*, <http://www.sidint.net/tensionsreversals/>
- N. Pons-Vignon and H.P. Solignac Lecomte (2004). 'Land, violent conflict and development', OECD Development Centre Working Paper, No. 233, France
- United Nations and Civil Society Organizations (2008). 'Experiences, challenges and opportunities: Collaboration for pro-poor land governance' <http://www.landcoalition.org/wp-content/uploads/pro-poor.pdf>
- USAID (2005). *Toolkit on land and conflict*, http://www.usaid.gov/our_work/cross-cutting_programs/conflict/publications/toolkits.html
- J. Vidal (2010). 'Global food crisis forecast as prices reach record highs', *the Guardian*, 25 October 2010, <http://www.guardian.co.uk/environment/2010/oct/25/impending-global-food-crisis>
- K. Vlassenroot (2006). *Households land use strategies in a protracted crisis context: Land tenure, conflict and food security in eastern DRC*. FAO. Available at <ftp://ftp.fao.org/docrep/fao/009/ag306e/ag306e00.pdf>
- J. Von Braun and R. Meinzen-Dick (2009). 'Land grabbing by foreign investors in developing countries: risks and opportunities', International Food Policy Research Institute, <http://www.ifpri.org/publication/land-grabbing-foreign-investors-developing-countries>
- United Nations Interagency Framework Team for Preventive Action (2010.) *Land and Conflict: Guidance Note for Practitioners*, http://www.unep.org/conflictsanddisasters/Portals/6/ECP/GN_Land_Consultation.pdf

Websites:

<http://un-foodsecurity.org>

BBC News <http://news.bbc.co.uk/1/hi/business/8150241.stm>

Guardian <http://www.guardian.co.uk/environment/2010/mar/07/food-water-africa-land-grab>

About the Practice Note Series

This practice note forms part of a series of Peacebuilding Essentials for Economic Development Practitioners that Alert is producing, in partnership with leading experts and practitioners from relevant fields, in the course of 2009-2011. The aims of the series are to:

- Introduce economic development practitioners to key economic recovery and peacebuilding challenges in conflict-affected and post-conflict contexts;
- Share lessons and good practice on how to strengthen the economic dimensions of peacebuilding;
- Provide practitioners and planners with the knowledge and tools to ensure that their interventions are conflict-sensitive;
- Promote experience-sharing between economic development and peacebuilding practitioners, to enhance synergies between the two.

Topics covered in the series to date include:

- Market Development in Conflict-Affected Contexts
- Socio-Economic Reintegration of Ex-Combatants
- Foreign Direct Investment in Conflict-Affected Contexts
- Business Environment Reforms in Conflict-Affected Contexts
- Supporting the Economic Dimensions of Peace Processes
- Natural Resource Governance in Conflict-Affected Contexts
- Conflict-sensitive land policy and land governance in Africa

About the Project

'Strengthening the Economic Dimensions of Peacebuilding' forms part of International Alert's wider work, ongoing since 1999, on improving business conduct and promoting a peacebuilding approach to economic interventions in conflict-prone and conflict-affected contexts. Our firm belief is that just and lasting peace requires broadly shared economic opportunities, including decent work, to redress economic issues and grievances that fuelled violent conflict in the first

place, and to address the economic impacts of conflict on the livelihoods and lives of conflict-affected populations. Indeed strengthening the private sector and market-based economies has become a key concern for development assistance in recent years, including in countries affected by conflict. But while the links between peacebuilding and the economy may be obvious, it is less clear how a peacebuilding approach to such economic interventions can be achieved in practice, and how they can be made conflict-sensitive. Understanding the ways in which these interventions can interact with pre-existing conflict dynamics is crucial given that the allocation of resources and economic opportunities feature prominently as root causes in many conflicts; therefore any external intervention targeting the economic sphere is bound to interact with core conflict issues and the economic legacies left by violent conflict. This will be to the detriment of the local conflict context, and programmes, alike.

The objectives of the overall project are three-fold:

1. To identify lessons in order to generate evidence-based resources and guidance for policymakers and practitioners to improve the conflict-sensitivity and peacebuilding impacts of economic interventions
2. To promote uptake of such good practice
3. To put the links between economic recovery and peacebuilding on the agenda of relevant national and international actors through advocacy, outreach and networking

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To find out more, visit <http://www.international-alert.org/ourwork/themes/peaceandconomy>

About International Alert

International Alert is an independent peacebuilding organisation that has worked for over 20 years to lay the foundations for lasting peace and security in communities affected by violent conflict. Our multifaceted approach focuses both in and across various regions; aiming to shape policies and practices that affect peacebuilding; and helping build skills and capacity through training.

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