LAND GOVERNANCE AND STATE-BUILDING IN CONFLICT CONTEXTS: NINE COUNTRY CASES

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Abstract

Land Governance and State-Building in Conflict Contexts: Nine Country Cases

> **Through the analysis of ten country case studies, this paper illustrates how good land governance contributes to peace and stability in conflict affected contexts by strengthening the capacity, the institutions and the legitimacy of the state (state-building) and addressing land-related root causes of conflict.**

Although wars between countries are in sharp fall, the number of countries experiencing internal unrest, violent confrontations between different groups, and civil wars is on the rise.

Such conflicts lead to significant loss of lives and livelihoods, exponentially increase human rights violations, undermine the social and economic development gains achieved through decades of hard work by government and citizens that are now struggling to lift themselves out of poverty. Millions are forced into displacement and migration, in which take the highest tall on women and children.

There is increased evidence that land-related issues are one of the main root causes of civil unrest and violent conflicts globally, and they contribute to protracting conflicts in fragile states. Good land governance is therefore more and more considered to be a key element for the prevention, mitigation and resolution of conflicts and for the early recovery of societies emerging from war. Further, internal conflicts seem to have higher incidence in states where institutions are weak, capacity is low and the legitimacy of the government is questioned.

Land governance interventions are also crucial for strengthening the capacity, the institutions and the legitimacy of the state, aspects that can be considered as building blocks for state-building.

State-building in conflict settings enhances the capacity, institutions and legitimacy of the state. In regard to land, capacity is the ability of the state to design and implement land related policies and laws, maintain rule of law and protect people from forced evictions. In regard to legitimacy, which is about whether the people trust the government, land policy processes develop the legitimacy of the state. Land administration systems must legitimise land tenure relationships between citizens and the state in a way that people can trust the government. Institutions are arrangement that structure political, economic and social interaction such as laws or customary practices. Land related examples are land laws for restitution, customary rules such as territorial agreements for stock routes, land record systems for forcibly abandoned houses. All of this builds land governance.

It is therefore considered that land governance provides a solid foundation for conflict prevention, mitigation, resolution, early recovery and development as it addresses land as a root cause of conflicts and land governance process contribute to state-building and peacebuilding.

The paper analyses ten case studies of countries affected by conflicts where land interventions were undertaken to illustrate the virtuous relationship among good land governance, state-building and conflict prevention, mitigation and resolution. The case studies describe fit-for-purpose land tools and approaches developed and implemented by different United Nations' Agencies, UN Missions, and international and local NGOs in partnership with governments, traditional authorities, civil society and local organisations.

The Darfur, Sudan community negotiations led to agreement on the settlement of displaced communities. In South Sudan, traditional authorities composed by nomadic tribes' and farmers'

leaders reached consensus with the support of formal authorities on the migration routes to be used to avoid conflicts and maximise the use of shared resources. In the Democratic Republic of Congo, a combination of land mediation and early warning systems carried out in collaboration by different UN and non-UN stakeholders, including communities and government, led to the mitigation of violent conflict on the access and use of fertile land in North Kivu. In Somalia, negotiated tripartite agreements between government, internally displaced population's communities and the Norwegian Refugee Council led to the signature of lease agreement protecting the displaced from evictions.

In Iraq, innovative land administration practices provide tenure security documents to minorities, supporting their return from displacement and preventing further waves of it. In Brazil, capacity development of community leaders and judiciaries on housing and land rights led to an increase of tenure security. In Colombia, land and housing restitution is used to address the displacement and injustices caused by conflicts triggered by illegal armed group. In Honduras, civil society, UN and cadastral agencies work together to ensure that forcibly taken properties do not benefit criminal armed groups.

In the cases described, good land governance processes contribute to addressing the root causes of conflict and to state-building. The results achieved include the provision of temporary shelter, the reconstruction of houses, the development of local economies and safe trade routes across national boundaries, and the maintenance of peace and stability among other things. This is supported by financial instruments, new forms of land records, rural land use zoning based on negotiations with traditional authorities, to the use of policy processes to build the legitimacy and capacity of the state, to the role of peacekeepers when forced evictions by large land grabbers take place.

1. Introduction

Land is a critical aspect in many conflicts. Clashes between different groups may lead to evictions, displacement and ethnic cleansing. Weak governance and chaotic urbanization may also lead to forced evictions. People who are forcibly displaced need to find somewhere to live, and they may be prevented from returning to their homes after the conflict is over. Disputes over land and land-based resources may be the root cause of a conflict, or part of a conflict that has other roots. Problems over land may cause a conflict to flare up again, or may hinder stabilization and recovery after the violence is over. For the 65.6 million refugees and internally displaced people in the world (UNHCR, 2017), and the organizations supporting them, land is often critical to the development of sustainable solutions. There is increased evidence that land-related issues are a key root cause of civil unrest and violent conflict globally, and they contribute to protracted conflicts in fragile states (United Nations, 2015; United Nations, 2016).

Through a comparative analysis of nine country case studies of work being done by nine different UN or INGO entities, the paper will show that good land governance using a range of fit for purpose land tools and approaches can contribute to conflict prevention, mitigation and resolution and the early recovery of societies emerging from conflict. It will show that peace and stability in some conflict contexts is connected to tackling land governance by addressing root causes of conflict that are linked to land. The cases are about programs from national to local scale, and are drawn from different stages in the conflict cycle, from emergency, peace and stability operations, through recovery to development. They include both urban and rural settings, and situations involving extractives, food security, urban reconstruction and development. The land tools and approaches described broadly fall under the rubric of land policy, land administration, land reform, capacity development and dispute resolution.

The nine countries are: Honduras, the Democratic Republic of Congo, Iraq, Somalia, Sudan, South Sudan, Peru, Brazil and Colombia. (There were ten case studies but due to current political sensitivity one case study was withdrawn.) The case studies describe fit for purpose land tools and approaches developed and implemented with partners by different entities namely: Three UN missions (MONUSCO, UNAMID, UNMISS), the United Nations Department of Political Affairs, the Office of the United Nations High Commissioner for Refugees, the Norwegian Refugee Council, Habitat for Humanity, Landesa/Colombian Commission of Jurists, the United Nations Development Program and UN-Habitat. For many of the organizations in the cases, land is not in their mandate, but they are working on it as a part of their broader programme. Land is not necessary front-and-centre, but is a part of a larger goal. Land is at times the main issue being addressed and at times a small but critical element of conflict resolution. It is integrated with other elements of the programming.

This paper is based on a book about to be published, produced as a collaborative effort by the INGO and UN entities' authors at a UN-Habitat/Global Land Tool Network led writeshop (UN-Habitat/GLTN and IIRR, forthcoming).

2. Defining What is Land-related Governance and State-Building in Conflict Contexts

The country cases show that land governance can be a key element of any effort designed to rebuild state-society relations. They show that in conflict contexts land governance is largely about addressing the root causes of conflict linked to common human rights abuses associated with land, which are forced evictions and land grabbing. A root cause is a long-term invisible factor underlying violent conflict. Land is one of a number of potential root causes of conflict (see Table 1. below) (UN-Habitat/GLTN, 2018). The cases show that while the elements of land governance in conflict and non-conflict development contexts are similar, they are applied very differently.

Using the OECD (2008, 2011) and World Bank (2012)) definitions of state-building and building on evidence from the case studies, state-building in conflict settings enhances the

capacity, institutions and legitimacy of the state by fostering state-society relations. These three dimensions of governance are required for states to acquire resilience and exit fragility. Capacity means the ability of the state to design and implement land policies and laws, maintain rule of law and protect people from forced evictions. Legitimacy involves sound, participatory land-policy processes that can develop trust and confidence in the state – making it more legitimate. Land administration systems should seek to legitimize land rights and use relationships. This will encourage citizens to trust the government on issues such as land and property regimes and regulations on land use, especially when significant parties are in conflict. Institutions are arrangements that structure political, economic and social interaction such as laws or customary practices. Land related examples are land laws for restitution, customary rules such as territorial agreements for stock routes, land record systems for forcibly abandoned houses.

The cases demonstrate that land governance and state-building in conflict contexts are deeply connected. They are connected firstly through direct capacity building of state entities, including re-purposing them. Secondly, they are connected because it is about strengthening the relationship between the state and society, through empowering communities to engage better with the state. These are described in more detail in the paper.

3. Identifying Land Issues as a Root Cause of Conflict Prior to State-Building and for Peacebuilding

A critical element of peacebuilding is conflict analysis. Programming in conflict contexts should be based on a thorough analysis of the root causes of conflict rather than just addressing the symptoms (United Nations, 2015, UNDG, 2016). This also applies to tools and approaches for improving land governance when associated with peacebuilding. The root causes of conflict in the nine country cases are described below showing that conflicts can have more than one root cause, and land issues may be one of them. Land issues may also be intermingled with other root causes. The cases reflect a wide variety of root causes as well as the kinds of land-related problems associated with them (Table 1).

Table 1. Root causes and land-related problems in nine country cases

Country	Main root causes	What land-related problems are created
Honduras	Weak governance; Criminality	Forced evictions; Illegal sales; Erroneous registration
Democratic Republic of Congo	Weak governance; Capture of state instruments; Population pressure; Plural legal systems; Land	Competition and ethnic tensions over increasingly scarce land; Youth bulge without secure land rights; Land grabbing; Forced evictions
Iraq	Nation state fragmentation; Politics of exclusion	Identity groups grab land from other ethnic/religious groups; Migration of displaced people; Forced evictions and destruction of homes
Somalia	Weak governance; Population pressure; Chaotic urbanization; Natural resource exploitation	Competition over land; Forced evictions, including of displaced people; Dysfunctional land systems

Sudan	Competition over natural resource; Politics of exclusion	Displacement through armed insurgency; Competition between host community and displaced people over scarce resources
South Sudan	Competition over scarce natural resources between farmers and pastoralists; Transnational conflict; Population pressure	Identity groups compete for land use and access; Destruction of agricultural land; Dysfunctional conflict management system over land use
Peru	Widening of territorial development gaps; Trade and investment; Natural resource exploitation; Water	Competition and social conflicts over land use and access in territories between private investors and indigenous groups; Environmental degradation
Brazil	Unequal land distribution; Chaotic urbanization; Poor land management; Socio-economic inequalities	Lack of capacity of rights holders in claiming land rights; Lack of capacity of officials to meet their obligations to deliver land rights; Forced evictions; Large inequalities in access to land; Informal settlements
Colombia	Unequal land distribution; Poverty and inequality; Capture of state instruments; Weak governance	Large inequalities in access to land; Land grabbing; Displaced population returns after violent conflict; Forced land abandonments and dispossession; Increased marginalization of historically discriminated groups for access to land (women, indigenous communities, Afro- descendants)

Table 1. shows how common forced evictions and land grabbing are in the nine case and that this behavior is associated with a range of root causes: criminality, weak governance, the politics of exclusion and discrimination against identity groups, chaotic urbanization, and investment in extractives or agriculture (UN-Habitat/GLTN and IIRR, forthcoming).

Working on land governance for improving peace and stability in conflict contexts involves a conflict analysis at the outset to identify the different types of root causes of conflict and their inter-play with land. As the cases show this can mean analyzing a range of land issues depending on the context including the fragmentation of nation states and its impact on the territory and land rights of identity groups, to unequal distribution of land, to weak land-related governance, to competition over scarce land and natural resources and evictions.

4. Evidence from the Field of Land-related State-Building and Peacebuilding in Conflict Contexts

The Darfur, Sudan community negotiations led to agreement on the settlement of displaced communities. In South Sudan, traditional authorities composed of nomadic tribes' and farmers' leaders reached consensus with the support of formal authorities on the migration routes to be used to avoid conflicts and maximise the use of shared resources. In DR Congo, a combination of land mediation and early warning systems carried out in collaboration by different UN and

non-UN stakeholders, including communities and government, led to the mitigation of violent conflict on the access and use of fertile land in North Kivu. In Somalia, negotiated tripartite agreements between government, internally displaced population's communities and the Norwegian Refugee Council led to the signature of lease agreement protecting the displaced from evictions.

In Iraq, innovative land administration practices provide land documents to minorities, supporting their return from displacement and preventing further waves of it. In Brazil, capacity development of community leaders and judiciaries on housing and land rights led to an increase of tenure security in informal settlements. In Colombia, land and housing restitution is used to address the displacement and injustices caused by conflicts triggered by illegal armed groups. In Honduras, civil society, UN and cadastral agencies work together to ensure that forcibly taken properties do not benefit criminal armed groups.

The nine country cases demonstrate that improving land governance is directly connected to state-building for peace and stability. They show that land interventions for these purposes function in a number of ways. State-building can take place at the national, regional, municipal or customary levels and can involve re-purposing of government entities. All nine country-cases included state and community capacity development, which was found to be crucial to success. All nine country-cases included some form of land-related mediation, again as a critical factor for success. Also, communities need to be empowered for land-related society-state building – an inviolable rule of good land governance. Finally, even in emergency there can be a land-related state-building dimension to humanitarian assistance. These are described below.

4.1 Land-related State-Building can Take Place at the National, Regional, Municipal or Customary Level Including Re-Purposing Government Entities

Land governance is a key element of any effort designed to rebuild the state during peacebuilding. States are legitimate when people trust the government and when there is security of tenure and access to land without fear of forced eviction and with access to affordable due process for dispute resolution. Sustainability often requires new laws and regulations, setting up new government institutions or adding new functions to existing institutions. This can happen at national, regional, municipal or customary level. Many of the cases show that often interventions are at the local or decentralized levels

In Colombia a national law for displaced victims was passed, and a land-restitution unit and special judges were created to implement it. In the short term this has contributed to formalizing land rights, ensuring women's land rights and strengthening communities. In Brazil civil society used multi-stakeholder hubs, linked to the government's Cities Councils, to institutionalize its proposals to prevent forced evictions in informal settlements. The proposals were then implemented by building the capacity of judges presiding over eviction cases. This regional project is now being scaled to national level.

In Somalia capacity development was key for state-building in land interventions for displaced people. The Norwegian Refugee Council supported elements of the state to put in place a land-management process to give land documents to displaced people. The elements included the municipality, the courts and notaries. In South Sudan customary institutions reached large-scale territorial agreements and resolved disputes, albeit outside the national legal framework. This in turn contributed to cross-border peace and stability and better relations with neighboring Sudan.

The cases show that conflict context land governance related actions for state-building include both technical and political assistance to the state, with the state being widely understood to mean national, regional, municipal or customary. This assistance covers a wide range of issues.

New laws and regulations can be required. Entirely new government institutions might need to be set up or existing one's re-purposed for new conflict sensitive roles. The cases show that land governance in these settings needs to also focus on the judiciary – an area not always part of land administration programs. They also demonstrate that territorial agreements, not just land plots, can be key land governance interventions in conflict contexts. Finally they show that land record systems, something considered to be technically complex to implement, can be implemented at a decentralized level even in emergency conditions.

4.2 Empowered Communities and Land-Related State-Building

State-building is about fostering state–society relations. The other side of the state-building equation is community empowerment. This relates to the extent to which people affected by the conflict are able engage in its resolution and build certainty over their future. Community empowerment is a top prerequisite for land-related peacebuilding and sustainable land governance solutions. The relationship between people and land is particularly important where individuals and communities have strong cultural and identity ties to the land and territory. Strong bonds can leave them vulnerable to political exclusion and land invasion, but can also facilitate group resistance to attempts to take their land. These same bonds are equally important for resolving land conflict. The cases show that community leaders are in the critical path for dispute resolution; involving them means harnessing networks, sharing experience and supporting information flows. Local knowledge is critical to dispute resolution.

Community empowerment means supporting communities to take part in resolving the dispute. The opportunity to do so depends on the country's institutional or democratic development and the local context. The cases demonstrate that empowerment often means making them aware of their individual and collective rights under international and national law, and showing how they can protect and promote them.

The cases show that land tools that empower communities need to be well adapted to the situation. Community empowerment is often built on existing socio-cultural contexts and context-specific approaches. In Brazil women from informal settlements under threat are trained to articulate their concerns and opinions about evictions to judges. This has enabled the judiciary to create a new jurisprudence that better addresses land claims from informal settlements.

In DR Congo the local communities can trigger a response from the UN mission. Community-based human-rights committees provide early warnings about large-scale land-grabbing and evictions to the mission. The mission and its partners act as an interface between the state and local communities to protect civilians and prevent further human rights abuses. In Peru community empowerment involved developing the capacity of community leaders to exercise their leadership to promote dialogue to prevent and manage territorial conflicts. This was key to successful three- way dialogues with the government and mining companies to resolve conflicts.

In South Sudan the territorial agreement builds on customary governance structures, networks, information- sharing methods and land-use patterns. It uses experience-sharing and local knowledge to protect and manage land-use rights. The nomads and farmers, including women, are given voice and speak through their customary leaders.

In Somalia and Iraq a key first step to support displaced IDPs involved participatory community exercises to mobilize the community, raise awareness about options for alternative land documents, and get buy-in for the projects. These exercises also empowered the communities to protect themselves against the threat of subsequent evictions. In Somalia the project focused on the host community and the relationships with the displaced people. In Iraq it focused on Yazidi villages where all the occupants came from the same minority group.

Where both statutory and customary or indigenous systems, law and practices exist, these are often a root cause of conflict (as in Peru and DR Congo). Dialogue and cooperation between government and the customary/indigenous authorities depends on the position of government towards the people. Harmonizing laws and pragmatic solutions are needed for sustainable conflict resolution. While Peru has made numerous advances in this area, for example by domesticating the ILO 169 convention on indigenous rights (ILO 169, 1989), in DR Congo it is still necessary to find a way forward.

In conclusion, the cases show that community empowerment is also a vital part of state-building in conflict settings. Land governance, as outlined in the seminal Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012), is firmly based on community empowerment and the tools typically associated with it, such as community mobilization, awareness raising, capacity development and getting buy-in for projects. These cases show that land governance in these settings is also about protection issues and making communities aware of their human rights under international and national law. It is also about states domesticating international human rights standards that protect vulnerable people in conflict. From another angle, it is about building on customary/indigenous governance structures and making space for them to be integral in dispute resolution and conflict management, even in large scale conflicts and covering significant amounts of territory. It is about giving local communities voice, including women, plus being able to trigger action by the INGOs and UN if under threat of eviction.

4.3 Capacity Development

Interventions for land-related state-building for peace and stability need to be institutionalized (or linked with institutional processes) where possible, or there should be a future prospect to do so. This is necessary to avoid establishing parallel systems that might weaken the state-led system that is ultimately critical in land issues. But if the state has no capacity, it is very difficult. The cases demonstrate that preventing, managing and resolving land-related conflict is a complex endeavor that often involves a series of (sometimes technical) undertakings by different partners and stakeholders, including humanitarian and development actors. All the cases show that capacity development is necessary (and can be done) for these undertakings for target audiences such as the state, civil society and local communities.

The cases illustrate that a wide variety of capacity development for state-building is needed in conflict contexts. In Peru territorial agreements for development between local communities, government and mining companies were developed. A needs assessment was done to ensure that delivery of the territorial agreements for development was being done by government at all levels in terms of processes, policies, procedures, systems and human resources. In Brazil new regulations passed by government (Cities Council) to address forced evictions were implemented by improving the capacity of the judiciary to respond to land claims after a needs assessment identified this as an issue.

In Somalia, using targeted capacity development approaches, existing institutions were re-purposed for land administration, including to support IDPs. The municipality took on additional functions related to security of tenure, and the local courts started storing the newly created land records. In Honduras the land registry/cadastre is being re-purposed by documenting abandoned housing and land. This is to facilitate lasting solutions at some point in the future for those who have been forcibly displaced. In DR Congo capacity development was undertaken to ensure the Congolese armed forces do not engage in forced evictions, and instead protect civilians.

The nature of land work, whether in emergency of development, often means that capacity is a key constraint to designing and implementing solutions. Organizations working in emergency environments walk a fine line in regard to developing solutions to address human suffering on

the one hand and their ability to build the state to do the work on the other hand. In the Iraq case study UN-Habitat currently manages the land information system/GIS for returnees land in the hope that it will be able to hand this function over to the municipality later. But it is concerned about handover mechanisms from the emergency to the development phase and the lack of funding available in the development phase for the municipality to sustain the interventions.

In South Sudan the UNMISS Civil Affairs Division supports the development of cross-border territorial agreements between nomads and farmers when over 10 million cattle cross the border between South Sudan and Sudan annually. But these agreements have little legal or institutional support from the South Sudan national authorities due to the larger-scale conflict in the country. Without a national legal framework, the agreements may fail and the area may return to large-scale, violent conflict.

In DR Congo under the current legal framework, customary authorities are not responsible for the land. Yet because of the weakness of the state they have *de facto* responsibility. The customary authorities are critical to peace and to finding sustainable solutions. Solutions for this plural legal situation still need to be found.

To conclude, the cases show that a wide range of land governance related capacity development for state-building in conflict contexts is needed. It cannot be formulaic or general capacity development but instead has to be targeted for the local context and the people who are suffering. A capacity needs assessment is an important tool but needs to be tailored to urgent demands. Targeted technical capacity development is often needed which supports weak and dysfunctional government structures. Strategic decisions need to be taken when creating land governance solutions to try and balance weak country capacity, which is exacerbated by protracted conflict, with sustainable and durable solutions. Capacity development is also often needed of perpetrators of abuse and violence.

4.4 Land-related Mediation for State-Building and Peacebuilding

Dispute resolution through mediation plays a vital role in resolving and preventing conflict over land and is important in addressing overall conflict. Mediation involves the assistance of a trusted, fair and mutually acceptable third party, a mediator, who does not have authority to make a binding decision or impose an outcome but helps parties in dispute to negotiate a mutually acceptable agreement that resolves a conflict. Mediation is especially useful in highly polarized situations, where parties have either been unable to initiate a productive dialogue, or have started talking and reached an impasse.

In the Sudan and South Sudan cases the UN missions' Civil Affairs units set up dialogues between parties in conflict over land and natural resources. Once the conflict had decreased, they went on to create local and territorial agreements for peaceful use of the land and resources. In Honduras UNHCR is playing a mediating, supportive role on behalf of people who have been forcibly displaced. It supports the government to protect people's rights over abandoned housing and land by supplying technical assistance and by executing its protection and solutions mandate. The Norwegian Refugee Council also played this role in Colombia at the national level. In Brazil, Habitat for Humanity played a mediating role between local communities being evicted and the judiciary.

These cases show that dispute resolution using mediation is an important part of land governance in conflict settings. The cases demonstrate that in these contexts political issues are central to land governance. This means that those working on land governance need to be ready to support dispute resolution and mediation in a range of conflict contexts. These include political interventions at national to local community levels, and mediation between a range of

stakeholders including technical, customary, identity groups, elites, armed groups, and different levels.

4.5 The Land-Related State Building Dimension of Providing Humanitarian Assistance

Land issues play a major role in displacement-related humanitarian interventions. Improved land governance takes on a whole new meaning when seen through humanitarian eyes. The Agenda for Humanity's recommendation to respect the "rules of war", based on the Geneva Conventions, states that civilians and civilian property should be protected. This recommendation complements the international body of humanitarian and human rights law commonly used to address land-related human rights abuses and violations such as the Pinhero Principles (2005), the Basic principles and guidance on development-based evictions and displacement (2007) and the International Bill of Human Rights (OHCHR, 1976a and 1976b), including the Universal Declaration of Human Rights (1948).

The cases show that land tools and approaches to improve land governance and build peace and stability can be central for finding lasting solutions for addressing human rights abuses, for displacement and for returnees. In DR Congo the UN Mission (MONUSCO) collects information on displacement caused by evictions for the humanitarian response by UN agencies, the authorities and partner organizations. It does this through an early warning system of human rights committees among communities and by engaging with protection actors. It then works with the government to improve compliance and accountability with human rights standards. It also demonstrates political leadership in working to prevent forced evictions of small farmers, even though land is not explicitly in its mandate.

In Honduras UNHCR is supporting the government to collect information on forcibly abandoned housing and land where criminals have evicted people. The information can be used to protect the rights of displaced persons and for later restitution. In Somalia the Norwegian Refugee Council promotes principled humanitarian action by mobilizing international and local civil society to promote compliance with international human rights law, including the right to adequate housing, and to respond to displacement. It strives to leave no-one behind by prioritizing women as beneficiaries of land documents and shelter.

In Iraq the UN-Habitat Iraq office has been supporting the municipality to integrate the protection of land rights with the rehabilitation of houses. They are doing this through certificates of occupation which better enable displaced communities to return to their homes, protects them from forced eviction and prevents further land-related disputes within the community and secondary evictions.

The cases also show that land solutions can be developed with local communities even in the midst of security challenges. Fit-for-purpose approaches designed for humanitarian assistance can be used to resolve needs through reinforcing local land systems. In Somalia and Iraq the Norwegian Refugee Council and UN-Habitat have developed solutions with the local municipality and community using a participatory approach to create land records. Investing in local capacity helped to prevent conflict, eviction and secondary displacement. In South Sudan and Sudan UNMISS and UNAMID respectively supported inclusive decision-making to address and prevent conflict by creating land-use zoning agreements with different identity groups in conflict. Again investing in local capacity was the key to success.

However, none of the cases gave evidence that the divide between the emergency phase and the development phase had been successfully transcended. This is a critical problem for the creation of durable (humanitarian parlance) and sustainable solutions for peacebuilding and the prevention of future conflicts. The cases demonstrate this. For example in South Sudan while territorial agreements work well to address and prevent conflict, they are not yet formalized in a national legal and institutional framework. This would be a necessary step for sustainability.

In Iraq UN-Habitat have funds for one year to provide land documents and rebuild houses. The future is not clear in regard to institutional strengthening of the municipality (which would hold the land records) and the national land legal framework (which would enable conversion of local land records to full title in the national land system).

These are examples that show that more work still needs to be done on how to improve land governance in conflict settings from emergency to development phases. Humanitarian actors need to work along with development actors to ensure an adequate understanding of long-term consequences and opportunities of the land interventions carried out in the humanitarian phase. This will also guarantee that land-related humanitarian operations do not constrain or undermine longer-term recovery and development gains, but rather constitute their foundations. By doing so, the investments made in land-related systems and processes during the humanitarian phase will not be lost, but will be capitalized on once the recovery, reconstruction and development phase starts. Development actors, on the other hand, need to be better able contribute to the land discussions for conflict prevention and in the immediate aftermath of conflicts. They need to better understand objectives and consequences of humanitarian land-related interventions and advise how to make them more relevant, sustainable and able to contribute to the strengthening of the capacity and legitimacy of the state and its institutions.

Creating some sort of hand over and predictable funding from emergency to development is critical for sustainable (durable) land governance solutions. However, these cases demonstrate that the first steps to durability or sustainability have been taken as integrating the land dimension in a humanitarian intervention can contribute to the durability of its results.

In conclusion, the country cases show that improved land governance in emergency settings is possible, even to the setting up of local land record systems. They also show that addressing evictions and human rights abuses should be front and center of any land-related interventions in these contexts. This involves demonstrating political leadership about land issues rather than putting it on the back burner as being too politically sensitive or too technical to manage, a common response. It means early awareness raising of governments as to their responsibilities towards vulnerable people and women. It also means involving the local communities right from the outset: through their early warnings about evictions; for credible information for the land registry system about who has been evicted; for participatory territorial land use zoning agreements and for the ongoing management of conflict; and through participation in establishing their land rights and innovative forms of land documents. Finally, the cases show that more work needs to be done on building land governance programs that are undertaken from emergency through to the development phase, with predictable funding across the emergency to development funding divide.

5. Conclusion

Land governance provides a solid foundation for conflict prevention, mitigation, resolution, early recovery and development when it addresses land as a root cause of conflict and when land governance process contribute to state-building and peacebuilding.

The nine country cases show that addressing land can be critically important despite it being politically sensitive, technically complex and often avoided for these reasons. They give a window into both the type of land problems found in conflict contexts, particularly violent conflict, as well as some innovative land governance solutions. They show that the major problems are land grabbing, evictions, displacement and human rights abuses and violations by a range of perpetrators from criminals, to armed groups, to government entities, identity groups, elites and business –big and small, national and international. They also show that problem oriented land governance, linked to state-building and peacebuilding, has to be front and center in any land programs in conflict contexts to address these issues.

While there are similarities between land governance approaches found in non-conflict development contexts and conflict settings, there are also enormous and important differences. Some of the characteristics that occur in both are forms of land administration (including land use zoning), dispute resolution, capacity development, policy processes and land reform. Also, emergency and some development scenarios share some of the strategies for building land governance. These include: institutional strengthening of state institutions, community mobilization and empowerment, gender responsiveness, giving people a voice and space in dispute resolution and conflict management, participatory community approaches built on socio-cultural local context and institutions, awareness raising, and capacity development.

However, as the nine country cases illustrate, the specific way these characteristics are manifested in conflict settings is often very different from non-conflict development contexts. That is, land tools and approaches need to be designed specifically for state-building and peacebuilding in conflict contexts. The cases show that land governance in these settings is about protection issues and making communities aware of their human rights under international and national law. It is also about states domesticating international human rights standards that protect vulnerable people in conflict.

The cases demonstrate a number of conflict context land governance innovations. Decentralized land record systems can be created outside of national regulatory frameworks providing they are in local government structures. In some contexts territorial issues are more important than individual plots or sites, unlike in development situations where there is often a large focus on land rights linked to individual land parcels. Land use zoning is not a static one off top down process but instead needs to be an exercise continually re-negotiated within a multi-party conflict management framework.

Another innovation is that multi-stakeholder land policy processes occur at multiple levels of the state and are not so much nationally guided top down processes as is usually found in development contexts. In conflict contexts these policy processes are problem oriented and address root causes of conflict and its impact on tenure security, and are often also only single sector based. That is, they are not all encompassing national policies trying to fix the land system as a whole as is often found in development contexts. Likewise, targeted problem oriented capacity development is done rather than the general capacity development associated with purely development contexts, including in many situations capacity development of perpetrators of conflict.

Also, ongoing land-related dispute resolution, with some form of ongoing mediation at its heart, is central to all these conflict contexts. These include political interventions at national to local community levels, and mediation between a range of stakeholders including technical, customary, identity groups, elites, armed groups, and at different levels. This differs from purely development contexts where often it is only about creating agreed final evidence of land rights and the land system issuing land documents with the expectation that the courts will handle any disputes, often seen as just technical actions. Land governance solutions can even be critical in the midst of violence in emergency settings. Demonstrating political leadership about the land issues of the vulnerable is critical here, as well as supporting the displaced in their need for land for protection, shelter, food, and to return to their homes and land. Finally, a number of the land interventions in the cases are about land being a part, albeit an important part, of a much larger program. This is different from straightforward land programs in development contexts that tend to be stand alone programs.

What these nine cases also show is that land interventions in conflict contexts cannot produce durable or sustainable solutions on their own. A hand over from emergency to the development phase is critically important, accompanied by predictable funding. This is vital to prevent the re-occurrence of conflict involving land. Importantly these cases show that the types of land tools and approaches being used are generally capable of being incrementally upgraded or

regularized and could fit into a development phase, if there was some kind of coordinated and funded hand over from the emergency to the development phase. This would ensure sustainable land governance solutions.

Finally, the cases demonstrate the type of results that good land governance linked to state building and peace building can achieve. The results include the provision of temporary shelter, the reconstruction of houses, the facilitation of people returning to their homes and land, the development of national and local economies as well as safe trade routes across national boundaries, strengthened local food security and a sharing of resources, and the maintenance of peace and stability. This is supported through targeted capacity development (e.g. the judiciary), new forms of land records, rural land use zoning based on negotiations with traditional authorities, the use of policy processes to build the legitimacy and capacity of the state, and the role of peacekeepers when forced evictions by large land grabbers take place, among other things. That is, the land governance solutions presented in the nine country-cases address the root causes of conflict such as criminal behaviour, weak governance, the politics of exclusion and discrimination against identity groups, chaotic urbanization, and investment in extractives or agriculture and their impact on land tenure and local communities; and strengthen peace and stability.

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Tables

Table 1. Root causes and the land-related problems in nine country cases