



# LAND AND CONFLICT

LESSONS FROM THE FIELD ON CONFLICT SENSITIVE LAND GOVERNANCE  
AND PEACEBUILDING

*SECURING LAND AND PROPERTY RIGHTS FOR ALL*

LAND AND CONFLICT

*Lessons from The Field on Conflict Sensitive Land Governance and Peacebuilding*

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## FOREWORD

Conflicts are becoming more intractable. They are longer – more than 20 years on average – meaning that the people they displace are spending ever-increasing amounts of time away from their homes and communities. They are more complex, as armed groups compete for control over state institutions, natural resources and territory – and as extremist groups often leave little room for diplomacy.

Over the coming decades the land-conflict nexus will become more important, with the cumulative effects of mega-trends like population growth, urbanization, food insecurity, water scarcity and climate change, which have heightened competition for resources, tensions and instability. Mounting pressure on land and natural resources will increase the role of land in driving conflict dynamics at global, regional, national and local levels. There is growing recognition of the link between land and armed conflict and more and more concern that land can be a cause or trigger for conflict, a critical factor causing its relapse, or a bottleneck to post-conflict recovery. Almost every major peace agreement from 2005 to 2014 contained land-specific provisions.

As a result of all types of conflict, 65.6 million people have been forcibly displaced from their homes: the largest number ever recorded, according to UNHCR. Most – 40.3 million – are people displaced within their own country. Refugees who have fled to another country make up the next biggest group, at 22.5 million. Around the world, someone is displaced every three seconds, forced from their homes by violence, war and persecution.

Land-related conflict is also linked to natural resources. Since 1990 at least 17 violent conflicts have involved the exploitation of natural resources. Research further suggests that over the last 60 years at least 40 percent of all intrastate conflicts have a link to natural resources.

The 2030 Agenda for Sustainable Development provides us with a clear, credible and common roadmap in relation to development. The Sustainable Development Goals include Goal 16, dedicated to “peace, justice and strong institutions”. This book gives a window on how land-related conflict prevention and peacebuilding is being done in nine countries by a range of UN actors, governments and national and international NGOs from conflict through to development.

We must bring the humanitarian, development and peacebuilding spheres closer together from the very beginning of a crisis to support affected communities, address structural and economic impacts and help prevent a new spiral of fragility and instability. Humanitarian response, sustainable development and sustaining peace are three sides of the same triangle.

This book demonstrates how this can be done in the land sector. It shows that addressing land requires an approach that includes both humanitarian and development issues. However, it also shows that we need to work harder on coordination between the United Nations and other organizations and continue to develop partnerships to address fragmentation at the country level to ensure sustainable peace. The UN’s humanitarian and development efforts would be insignificant without the active involvement of Member States and the contributions of civil society and others.

One of the core purposes of the UN System is to build sustainable peace. The 2015 Review of the United Nations Peacebuilding Architecture, in its analysis of the evolving global context for peacebuilding, identified land as a key driver of conflict. Land and conflict issues are found across each of the UN’s three pillars, and through the different phases of conflict. The UN must work where it has a comparative advantage, while





## FOREWORD

working closely with other organizations, such as governments and civil society and others.

This book gives inspiring stories of how UN staff and civil society are working in the field – often under difficult conditions – to prevent conflict, build peace and stabilize situations and ultimately create sustainable peace, where land is a root cause of conflict or has become a stumbling-block to peace.

We need to have practical steps and solutions including tools and approaches for land and peacebuilding. In the lead-up to widespread violence, we often see increases in repression, the closing of space for civil society and the rise of sectarianism. We must invest in social cohesion so that all people feel they have a stake in society. Our efforts must also be context-specific, with human rights as a strong foundation.

The cases in the book give practical solutions and tools to address land-related conflict. They show how important it is to ensure that communities, and especially women, participate so as to build society–state legitimacy. The cases also show how much work is involved in achieving this. There are many difficulties to overcome, including addressing land-related human-rights abuses such as eviction and displacement.

I commend the organizations that worked in partnership on this work on land and conflict, under the leadership of UN-Habitat. Also with major input from UN-Habitat, a Secretary-General's Guidance Note on land and conflict is nearly complete. This will serve to guide the UN as a whole on this critical issue. UN-Habitat and the Global Land Tool Network have built a global Land and Conflict Coalition which includes governments, UN and civil-society actors, funded by the Swiss Development Cooperation. This book is part of the Coalition's work

programme. All these endeavours are key to moving this important agenda forward to meet our goals.

Finally, the nine country cases show us what works and how to programme land into broader conflict-prevention and peacebuilding goals. They provide further insight into how to tie together the humanitarian and development agendas. Organizations working in conflict situations will find much in this book that they can learn from as they plan and implement their activities in the field.



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## EXECUTIVE SUMMARY

**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, and the organizations supporting them, land is critical to the development of sustainable solutions.

Global stakeholders such as the United Nations, governments and civil society are becoming more and more concerned about the relationship between land (the rights people have to access, use and control land and related resources) and conflict. Without resolving the land issues, it may be difficult or impossible to build lasting peace.

This book draws on **nine cases** from around the world of how land and conflict are being addressed: in Honduras, the Democratic Republic of Congo, Iraq, Somalia, Sudan, South Sudan, Peru, Brazil and Colombia. The cases 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 book is a collaborative effort by a range of key United Nations entities and international NGOs working in land and conflict. These include 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, the United Nations Development Programme and UN-Habitat. For many of these organizations, land is not in their mandate, but they are working on it as a part of their broader programme. Land is at times the main issue being addressed and at times a small but critical element of conflict resolution.

The cases illustrate the use of **land tools** – practical ways to solve a problem or address a need relating to land. The land tools can be used at each stage in a conflict cycle: for preventing conflict, for conflict resolution, and in the post-conflict phase. The tools include documenting housing and land that has been forcibly abandoned, providing land documents to displaced people, early warning of evictions and human-rights violations, the protection of civilians' land rights so they are not evicted, mediation and the use of good offices between different groups for land-use agreements, multi-stakeholder forums to prevent conflict and evictions, advocacy and capacity building to develop sustainable (durable) solutions, and the use of legal channels to reconstitute land. The land tools support:

- Fit-for-purpose, conflict-focused approaches to land administration which reinforce local land systems and protect civilians.
- Developing solutions with local communities even in the midst of security challenges.
- Urgent, incremental, targeted and simultaneous capacity-development of the state and other actors. Capacity development is found in all nine cases.
- The development of new forms of land records adapted to conflict settings.
- Women as stakeholders and partners in land-dispute resolution. The cases show that land tools can positively affect women.

## EXECUTIVE SUMMARY

- A range of peace-building approaches such as mediation and negotiation. The need for dispute resolution is found in all nine cases.

The cases show that land rights can be fundamental to protecting **human rights**. The most common land-related human-rights abuses include violent disputes over land and territory, forced evictions from houses and land, the loss of access to livelihoods and natural resources, and the dispossession of land and houses. Internally displaced people and refugees have often experienced a combination of these situations. They are also exposed to higher risks while they are away from their homes and require additional protection.

Land tools help governments and other actors address these human-rights abuses. They can promote compliance with international human-rights law. Conflict-sensitive land tools maximize the positive and minimize the negative impacts of interventions by including:

- A root-cause analysis of the conflict and how it impacts land, human rights and displacement dynamics.
- Theories of change for land that focus on peace-building and community empowerment.
- Sustainable solutions, appropriate entry points and fit-for-purpose land administration approaches, linked to state-building and humanitarian operations.
- Broad partnerships.

Often land is seen as too politically sensitive or technically complex and should rather be dealt with only in a later phase. The cases show that this should not be so. Land can even be programmed during **humanitarian assistance** where it can be a vital, albeit small part.

- Land is in the critical path for peace-building for returnees and finding lasting solutions for displacement. Land tools can link protection of land rights to successful returns.
- Land information can be collected on forcibly abandoned housing for later restitution.
- Land tools are critical for peace-building and stability. They can prevent conflict, forced evictions and secondary evictions, and respond to displacement, while simultaneously prioritizing women.

The cases also identify the elements that are key to **sustaining peace** where land is an issue. These include:

- State building, capacity development and empowering communities.
- Linking humanitarian and development work.
- Linking the project with government institutions at various levels. This is particularly important given that land is a sovereign issue and is embedded in legal and regulatory frameworks.
- Partnerships with a wide range of organizations depending on the focus of the project, including the local community, particularly because of the sociocultural aspects of land. Working with partners also supports the scaling-up of interventions, dealing with complex situations, and ensuring that activities and outcomes are sustainable.

A **diversity of land approaches** was used in the cases. They fall into five broad categories:

- **Land-policy processes** focus on urgent issues such as addressing or preventing displacement, and specific sectors, such as extractives, food security or urban rehabilitation.
- **New types of land reform** include the restitution of housing, land and property, the sharing of burdens and benefits between parties in conflict rather

## EXECUTIVE SUMMARY

than winner-takes-all, and the regularization of settlements.

- **Conflict-sensitive, fit-for-purpose land administration** contributes to peace-building and facilitates the protection of human rights linked to land (e.g., land records adapted for conflict environments).
- **Dispute resolution over land** is a small but important part of the overall peace-building, peacekeeping and humanitarian operations.
- **Capacity development** in conflict settings is both technically and politically challenging, particularly when there is weak capacity and is a common programming option.

### MAJOR FINDINGS

#### Land is often integral to conflict – and is critical to resolving it

Land is linked to forced evictions and human-rights abuses and violations, the restitution of land and homes, relationships with host communities, and land for returnees. It is critical to the development of sustainable settlement solutions for refugees, internally displaced people and returnees. It needs to be central to programmes addressing conflict to prevent future population displacement, even as climate change, population growth and food insecurity increase competition over land.

#### Conflict-sensitive land tools must be fit-for-purpose

During a conflict, the focus should not be on “fixing the land system”: interventions should not try to do too much. Rather, the land tools must be applicable for use in conflict settings: they must focus on a particular purpose, be flexible, and capable of incremental improvement.

#### Land tools already exist that can be adapted for use elsewhere

While each conflict situation is different, enough commonalities exist to make it possible to transfer lessons from one place to another. Land tools that have been developed and found useful in one setting can be useful elsewhere. The good practices described in this book could be adopted and adapted to prevent and resolve land-related conflicts in other countries such as Ukraine, Myanmar, Mexico and the Central African Republic.

#### Partnerships are central to land interventions

The land sector, with all its cross-cutting issues, is too big and complex for any one organization to manage on its own. A wide variety of partners may be needed to cover the political and technical aspects, facilitate work across the different phases, and ensure that strengthening state institutions and community empowerment take place. Working in partnerships and investing locally can build capacity, ensure sustainability and empower communities to be the bridge in transition through to development. Developing the capacity of women is particularly important.

#### Government is always a key actor

Land is very much a sovereign issue. All levels of government – national, territorial/provincial, and particularly local – are involved in preventing and resolving land conflict, and are sometimes involved in land-related human-rights violations.



## EXECUTIVE SUMMARY

### The United Nations and civil society have a significant role to play

The UN plays a range of peace-building roles, often from the onset of the conflict. These include quiet diplomacy, using peacekeepers, holding up international human-rights standards to improve the accountability of governments and other actors, supporting governments in reaching development goals, and using its convening power and technical capacity to support countries in crisis. The cases show that all of these are critical for conflicts involving land.

Civil society, including international and national NGOs and community organizations, are critical to building capacity and trust between government entities and displaced people. They undertake advocacy and press for accountability and justice and uphold human-rights standards. Partnering between civil society and UN entities is vital for sustainable solutions.

### The private sector can be a major partner

The private sector can be critical for change and economic growth, through generating tax revenues, undertaking large-scale reconstruction, supplying goods and services in isolated areas, and creating jobs and prosperity that sustain peace. It can also be an (oft-underrated) partner in resolving land-related conflicts.

However, the private sector may fuel conflict through land grabbing, unregulated extraction of natural resources, competition over land use, and exploitative landlordism.

### Interventions must span both emergency and development phases

Interventions to address conflict are often short-term in nature. Especially in humanitarian situations, funding is often short-term and project-based. But land-related approaches must also deal with the longer term: they must cover both the emergency and development phases if they are to provide sustainable (or in humanitarian parlance, “durable”) solutions. Multi-year funding is needed that covers humanitarian and development needs, including solid investment in local capacity and partnerships

### Land interventions are possible in emergency and conflict settings

Land issues are often complex, and they can appear intractable. Land interventions do not have to be deferred until the conflict is over. This book shows that it is possible to effectively address land issues in the midst of conflict, and it gives many valuable ideas, based on practitioners’ experience in the field, on how to do so.



# INTRODUCTION



## LAND AND CONFLICT

Conflict and land are often, and increasingly, intertwined. 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. Conflicts often result in the widespread abuse (e.g., by armed groups) and violations (by state actors) of housing, land and property rights through large-scale evictions and displacement.

Global stakeholders such as the United Nations, donor agencies and international NGOs, as well as national governments, are becoming more and more concerned about the relationship between land (the rights people have to access, use and control land and related resources) and conflict (see Box 1). This equally applies to both humanitarian and development actors.

Attempts to resolve land-related issues are often only a small part of efforts to restore peace, but they are crucial for the sustainability and success of humanitarian and development interventions. Without resolving the land issues, it may be difficult or impossible to build lasting peace.

In the coming decades, land is likely to become even more important as a factor in conflicts. Challenges such as climate change, population growth and the “youth bulge”, migration, urbanization and rising food insecurity are all likely to intensify competition and conflict over land.

Powerful local or external actors’ taking over land and resources often means that communities lose access to their land. Such takeovers are frequently accompanied by other human-rights abuses and violations. People

### BOX 1. THE MEANING OF “LAND”

Land is a concept that is both legally and conceptually complex. A range of definitions exists, depending on the audience. This book does not use a single definition. Rather, it frames the concept widely.

**Land** includes the surface of the earth, what is beneath and above it, and all things fixed to it. This includes buildings, housing and other improvements, as well as the natural resources located below or above the soil. Bringing the dynamic aspects of human engagement into the picture, land also forms part of economic, social, political, cultural and historical activity. In this sense, land is tied directly to many concepts that are fundamental to peace and security, human rights and development.

Land is a concept that crosses many disciplines: law, governance, human rights, economics, politics, and culture. Each of these fields has its own specialized terminology, including:

- **Property rights** and **legitimate tenure rights** as respectively used by the Universal Declaration on Human Rights and FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests
- **Housing, land and property (HLP) rights** from the humanitarian field
- **Land rights, land management, land governance, land administration** as used by national legal systems
- **Land tenure** to reflect the complex social relationships among people with respect to land and its resources from the humanitarian, development and academic fields.

may be forcibly evicted, and their houses demolished, leaving them displaced and in poverty for years. Smallholder farmers may be forced off their fields, leaving them with neither food nor livelihood and with no option but to move elsewhere. Many displaced people have no hope of return. The number of people in the world displaced as a result of persecution, conflict, violence, or human rights abuses and violations is at a record high of 65.6 million people: 40.3 million internally displaced and 22.5 million refugees (UNHCR 2017). These figures do not include those displaced by natural disasters. Civil wars and armed groups, at times based on identity politics (different religious, ethnic, linguistic, caste, etc. groups), may be linked to investors and powerful individuals who take advantage of a conflict to take over land and resources and use the proceeds to further fuel the conflict. The communities affected face huge social and economic losses. The state loses tax revenue and must face the social and economic challenges of reconstruction, stabilization, and taking care of displaced people and destroyed communities.

This book describes nine country cases where land is a factor in conflict. It shows how various organizations have intervened to resolve the land issues, and in doing so, have helped resolve the conflict or at least reduce its intensity. The cases cover a wide variety of conflicts from around the world: between small and big farmers, occupiers and investors in urban and rural areas, farmers and pastoralists, and between identity groups. They also cover a range of intervention approaches used by international NGOs and UN organizations.

## PRACTICAL EXAMPLES FROM THE FIELD

In dealing with emergencies, the humanitarian sector spends relatively little time documenting its activities and trying to identify what works (Knox-Clarke 2017).

This book aims to fill this gap with regard to land. It shows how interventions by UN organizations and NGOs (national and international) using particular “land tools” and approaches have attempted to resolve land-related conflicts.

This is not a detailed how-to guide. It seeks to add value to global and national conversations on land, conflict and partnering by documenting the fieldwork of UN entities and international NGOs on land and conflict. It describes useful practices and emerging policies documented by practitioners.

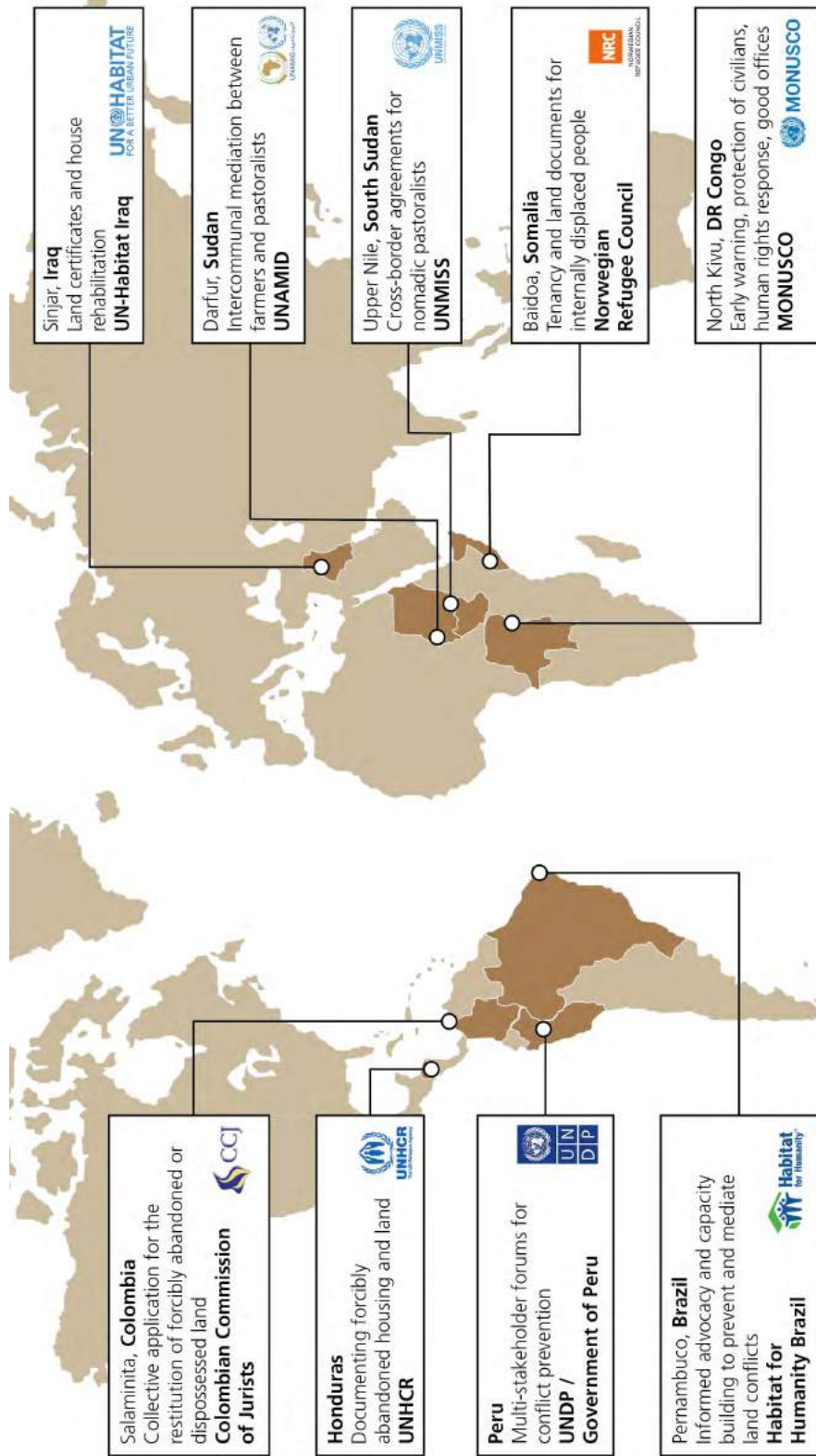
## USING LAND TOOLS TO RESOLVE CONFLICTS

The cases in this book describe some of the many land innovations being developed and implemented at the field level that are sustainable across the conflict cycle and contribute to peace-building and state-building. They cover a wide range of settings (Table 1). They are drawn from different stages in the conflict cycle, from emergency, peace and stability operations, through to recovery and development. They cover human rights and humanitarian operations, violent and silent conflict, and urban and rural areas.

The intervening organizations include various entities of the United Nations (across the three UN pillars of peace and security, human rights and development), governments, and NGOs (international working with national).

The cases illustrate a range of **land tools** (Box 2): a term used by the Global Land Tool Network (GLTN) for practical ways to solve a problem or address a need relating to land. Some of these tools are adapted from conflict-resolution approaches; others are methods used in land management and have been adapted for use in conflict situations. All contribute to state-building

# INTRODUCTION



The nine cases in this book

## BOX 2. LAND TOOLS

A land tool is a practical way to solve a problem in land administration and management. It is a way to put principles, policies and legislation into effect. The term covers a wide range of methods: from a simple checklist to use when conducting a survey, a set of software and accompanying protocols, training manuals, to a broad set of guidelines and approaches. The emphasis is on practicality: users should be able to take a land tool, adapt it, and apply it to their own situation.

(Box 3); many also sought to empower communities and women.

All the case studies demonstrate that partnership between organizations is key to success when it comes to dealing with land and conflict. No one institution on its own is large enough to take on this challenge at national or international levels because of its size and multi-sector complexity. These case studies describe the myriad of partnership arrangements needed to achieve land-related peace and stability.

## ABOUT THIS BOOK

### Audience

This book is intended for a wide audience:

- Policymakers in national governments, the United Nations, international NGOs and donor agencies in both emergency relief and development work.
- Regional institutions/bodies dealing with land and natural resources conflicts (such as the African Union and its regional economic communities).
- Practitioners in these organizations in the field, as well as in academia and training institutions.

- Conflict specialists who wish to incorporate land aspects into their work.
- Land specialists who realize the need to deal with conflict issues.

### Structure

This book consists of three parts.

**The executive summary** is for those who need a quick overview of the analysis of the nine cases.

**Part 1** analyses evidence from the nine cases presented in Part 2. It examines how organizations can take land issues into account when dealing with conflict, drawing lessons on aspects such as peace-building, humanitarian assistance and human rights, sustainability, state-building and community empowerment. It also shows how approaches used in the land sector have been adapted for use in conflict situations. The key entry points are land administration, land-policy processes, land-dispute resolution, capacity development, land management reform and gender responsiveness. This Part also examines the importance of partnering for land-and-conflict interventions.

**Part 2** presents the cases, in a rough order corresponding to whether the conflict is still ongoing, is resolved but still being managed, or is diminishing. For each case, we describe the conflict and its background, and show how the intervening organizations have attempted to resolve the conflict using one or more land tools.

The nine cases have a similar structure:

- A **description of the conflict** and its context.
- A **theory of change** showing how the intervention is expected to help resolve the conflict.

TABLE 1. NINE CASES PRESENTED IN THIS BOOK

LOCATION	LAND TOOL OR APPROACH	SETTING	CONFLICT PARTIES	INTERVENING ORGANIZATIONS	TYPE OF ORGANIZATION
<b>Honduras</b>	Documenting forcibly abandoned housing and land	Urban	Displaced people vs criminal gangs	 UN High Commissioner for Refugees (UNHCR)	UN
<b>Democratic Republic of Congo:</b> North Kivu	Early warning, protection of civilians, human rights response, good offices	Rural	Big farmers vs customary owners	 UN Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)	UN
<b>Iraq:</b> Sinjar	Land certificates and house rehabilitation	Urban and rural	Different linguistic, ethnic or religious groups	 UN-Habitat Iraq  Global Land Tool Network (GLTN)	UN
<b>Somalia:</b> Baidoa	Tenancy and land documents for internally displaced people	Urban and rural	Displaced people, communities affected by displacement	 NRC NORWEGIAN REFUGEE COUNCIL  UNAMID	International NGO
<b>Sudan:</b> Darfur	Intercommunal mediation between farmers and pastoralists	Rural	Host community vs displaced people	 UN-African Union Mission in Darfur (UNAMID), Civil Affairs Section	UN
<b>South Sudan and Sudan</b>	Cross-border agreements for nomadic pastoralists	Rural	Cattle owners vs farmers (and a cross-border conflict)	 UN Mission in South Sudan (UNMISS), Civil Affairs Division	UN
<b>Peru</b>	Multi-stakeholder forums for conflict prevention	Rural	Extractive industry vs indigenous people	 UN Development Programme (UNDP) / Government of Peru	UN / government
<b>Brazil:</b> Pernambuco	Informed advocacy and capacity building to prevent and mediate land conflicts	Urban	Big owners of urban land vs residents of informal settlements	 Habitat for Humanity International Habitat for Humanity Brazil	International NGO
<b>Colombia:</b> Salaminita	Collective application for the restitution of forcibly abandoned or dispossessed land	Rural	Big ranchers vs villagers	 Colombian Commission of Jurists	National NGO

## BOX 3. CONFLICT PREVENTION, KEEPING AND BUILDING PEACE

**Conflict prevention.** Activities to anticipate and avert the outbreak of conflict.

- **Examples:** Addressing root causes and triggers of a dispute, early warning of impending violence, preventing conflict when delivering humanitarian aid or development initiatives.

**Peacekeeping.** A way to help countries torn by conflict to create the conditions for lasting peace.

- **Example:** UN peacekeepers separating two warring sides.

**Peace-building.** Activities that reassemble the foundations of peace, and provide the tools and process for building on those foundations to reduce the risk of relapsing into conflict.

- **Example:** Organizations helping different groups to understand and communicate with each other and share land and its natural resources, which can lead to a peace deal and agreement.

**Good offices.** Third-party assistance given to conflicting parties to help find a solution to their problems.

- **Example:** The UN representative alerts senior government officials to a potential problem and requests them to prevent it.

**State-building.** Enhancing the capacity, legitimacy and institutions of the state by fostering state-society relations and empowering local communities in post-conflict contexts.

- **Example:** Developing capacity in a municipality to record land and resolve land disputes, implementing land related provisions in the peace deal.

- An outline of the **intervening organization**.
- A description of the **land tool** (or tools) used in the intervention.
- An **analysis** of the wider issues linked to the case. These issues include partnerships, state-building and strengthening state institutions, community empowerment components, gender, capacity development and human rights aspects.

**Diagrams** illustrate the root causes and how the intervention aims to resolve land-related problems, the configuration of partners at different levels, and entry points for using the tools in programming.

### Cases and organizations

The cases presented approach land and conflict issues from different angles. They show the broad nature of land and conflict that is multi-level and multi-sectoral, and that requires different types of interventions, at different times throughout the conflict cycle, with different roles and responsibilities. For example:

**Peru:** *Natural resources- and mining-related.*

**Somalia, Iraq and Honduras:** *Focused on housing, land and property rights of displaced persons, and linked to the land administration system (which may be in embryonic form).*

**Colombia:** *Through the eyes of a national NGO.*



# INTRODUCTION

**South Sudan:** *Through the eyes of a UN mission's Civil Affairs Division.*

**DR Congo:** *Linked to a peacekeeping mission.*

**Brazil:** *The only case of "silent conflict" in the development phase. All the other cases focus on violent conflict, with many describing the emergency and humanitarian phase.*

**Peru:** *National interventions covering the entire country.*

**DR Congo:** *MONUSCO is a national mission but focuses mainly on eastern parts of the country where most of the security problems exist.*

**Sudan:** *UNAMID is a subnational mission that operates in Darfur.*

**Iraq and Colombia:** *Some country cases are local level with national oversight. Examples are the Iraq case, where the land intervention covers 11 villages*

Intervening organizations are very different in terms of size, mandate, budget, power, reach and scale of intervention:

## BOX 4. GLTN AND THE LAND AND CONFLICT COALITION

### Global Land Tool Network

The Global Land Tool Network (GLTN) is an alliance of 77 international partners committed to increasing access to land and tenure security for all, with a particular focus on the poor and women. The Network's partners include international civil society organizations, research and training institutions, bilateral and multilateral organizations, and international professional bodies. UN-Habitat serves as the GLTN secretariat.

GLTN contributes to poverty alleviation through increased access to land and tenure security for all. The GLTN partners focus on an agenda that goes beyond land ownership to cover the range of tenure rights found in the continuum of land rights, and in fit-for-purpose land administration. GLTN develops, disseminates and implements pro-poor and gender-responsive land tools and contributes to land-management reform, good land governance, and land-sector coordination. GLTN is now contributing to the implementation of the Sustainable Development Goals through monitoring land governance and building capacity for land agencies. GLTN has provided technical assistance on land in conflict contexts over a number of years.

This work is currently funded by the Swiss Development Cooperation. It focuses on knowledge, tools and capacity development, as well as coordination and alignment of UN organizations and partners around a shared agenda on land and conflict.

### Land and Conflict Coalition

The Land and Conflict Coalition is a network of 46 NGOs (international and national), UN organizations and several governments. It was founded in 2015 as part of the GLTN to promote peace and stability by addressing the various articulations of the land and conflict challenges across the conflict cycle – from prevention, to humanitarian response, to development – through coordinated efforts from the various actors. UN-Habitat/GLTN serves as the Coalition's secretariat.

[www.gltcn.org](http://www.gltcn.org)

*and towns in Sinjar sub-district, and the story of Salaminita village in Colombia.*

## PRODUCING THIS BOOK

This book is linked to a number of global and regional processes being undertaken on land and conflict. UN-Habitat and GLTN, under the leadership of the Secretary-General's office, worked with more than 18 UN agencies to assess what land and conflict functions the UN undertakes (UN-Habitat 2016). A Secretary-General's Guidance Note on land and conflict is under preparation by the same UN agencies. This will guide the UN system on how to engage on the issue of land and conflict. Many of the UN organizations working jointly on this book were part of both of these processes. In a separate process, the Land and Conflict Coalition (Box 4) included the documentation of work by field practitioners as part of its 2016 work programme.

A "writeshop" to document the practitioners' work and produce this book was held in Athi River, Kenya, in October 2017. Participants included experts from many different UN organizations and national and international NGOs; they are listed as case authors and resource persons at the front of the book. The cases and participants were selected by the partner organizations' global headquarters, which identified good practices from their global caseloads. A few additional cases were identified by the GLTN Secretariat because they would add specific value. All nine cases appear as Part 2 of this book. The writeshop participants also analysed key themes that cut across the cases; these are presented in



**UNMISS Civil Affairs complete a pre-migration nomadic pastoralist migration dialogue in Geiger, Upper Nile (see the South Sudan case in Part 2).** Photo: UNMISS

Part 1. Another GLTN partner, the International Institute of Rural Reconstruction, specializing in writeshop facilitation and book production, supported the production of this book.

Land and conflict are very sensitive politically. Many of the cases presented here are from emergency environments where people have died and been displaced. We have taken great care to avoid identifying people, places and ongoing processes, while at the same time allowing readers to learn lessons from the cases.

# PART I



## COMMON THEMES FOUND IN LAND AND CONFLICT: LEARNING FROM THE NINE COUNTRY CASES

This Part analyses the common aspects of the nine cases of land and conflict presented in Part 2. The analysis is divided into three chapters, followed by a short conclusion.

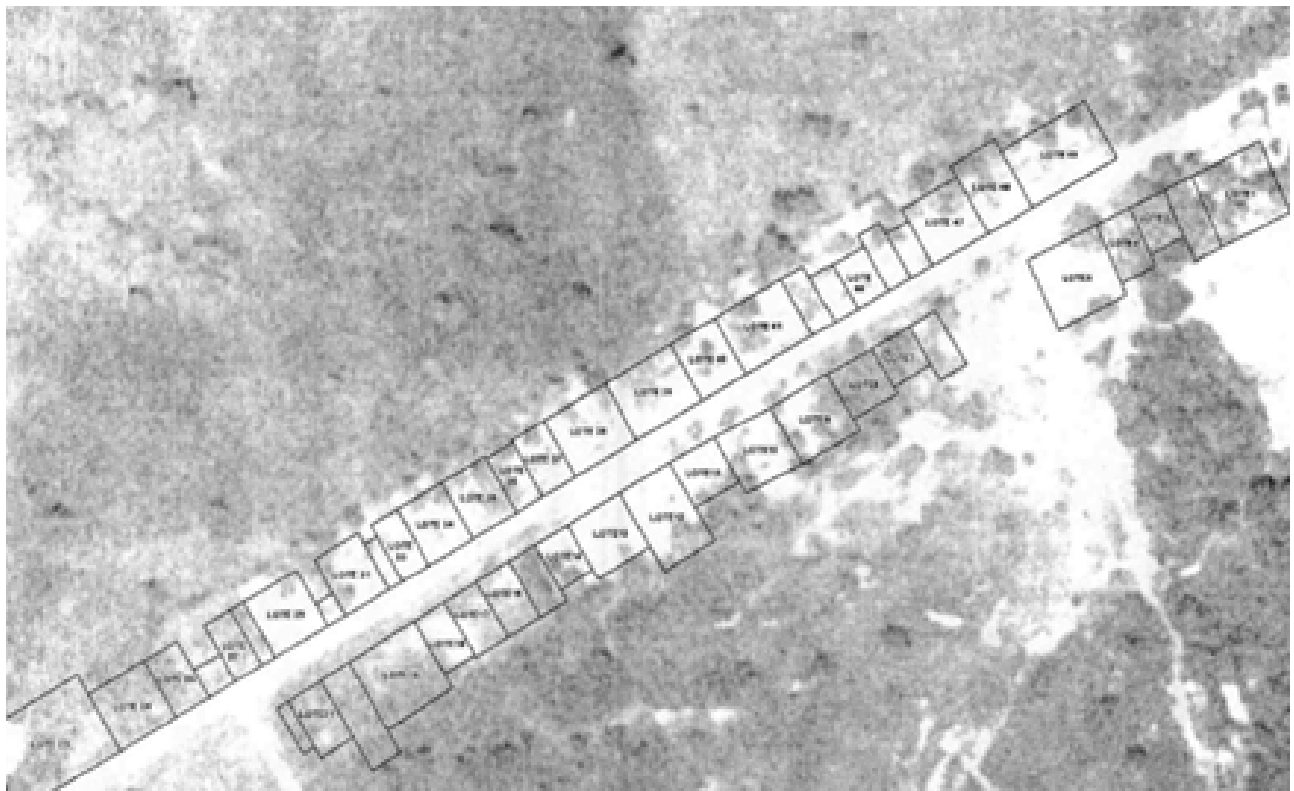
**Chapter 1** addresses the characteristics and broad policy issues associated with **conflict**: root causes, conflict sensitivity, humanitarian assistance, human-rights abuses, peacebuilding and state-building. It shows how land relates to these issues.

**Chapter 2** links conflict with land frameworks. Land issues are multi-faceted and cross-sectoral; they are present throughout the conflict cycle, from emergency

to recovery and development. The analysis uses elements from a well-established framework used in land-related fields to describe land tools in conflict environments. It also discusses how land tools can be made gender-responsive in conflict situations.

Chapter 3 focuses on how to use partnerships to resolve land and conflict issues.

This Part identifies the common themes, tools and approaches found in land and conflict in the nine country cases. It does not purport to analyse or summarize the extensive literature on land and conflict.



Satellite photo of Salamina, Colombia, showing the plot boundaries of destroyed housing. See the Colombia case in Part 2.

## 1 INCLUDING LAND IN PROGRAMMES ADDRESSING CONFLICTS

This chapter focuses on issues relating to conflict, and shows how the intervening organizations in each of the cases have incorporated land into their larger programmes. It is divided into the following sections:

- Addressing land issues as root causes of conflict
- Using conflict-sensitive land tools
- Tackling land as part of peace-building interventions
- Providing humanitarian assistance
- State-building, institutions' strengthening and community empowerment.

### ADDRESSING LAND ISSUES AS ROOT CAUSES OF CONFLICT

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. Land issues may be particularly important in states that are prone to conflict. The cases in Part 2 reflect a wide variety of root causes as well as the kinds of land-related problems associated with them (Table 2 also shows that forced evictions (Box 5) and land grabbing are common human-rights abuses associated with land. These are associated with a range of root causes: criminal behaviour, weak governance, the politics of exclusion and discrimination against identity groups, chaotic urbanization, and investment in extractives or agriculture.).

Table 2 also shows that forced evictions (Box 5) and land grabbing are common human-rights abuses associated with land. These are associated with a range of root causes: criminal behaviour, weak governance, the politics of exclusion and discrimination against identity groups, chaotic urbanization, and investment in extractives or agriculture. also shows that forced evictions (Box 5) and land grabbing are common human-

rights abuses associated with land. These are associated with a range of root causes: criminal behaviour, weak governance, the politics of exclusion and discrimination against identity groups, chaotic urbanization, and investment in extractives or agriculture.

### USING CONFLICT-SENSITIVE LAND TOOLS

A land tool is a practical way to solve a problem in land administration and management (Box 2). It is a way to put principles, policies and legislation into effect with an emphasis on practicability. A land tool is conflict sensitive when it supports human rights and maximizes the positive impacts and minimizes the harm to the population (Conflict Sensitivity Consortium 2012).

**Conflict sensitive land tools help states to protect human rights.** Human-rights abuses and violations linked to land take many forms. They include violent disputes over land and territory; forced evictions from houses and land; the loss of access to livelihoods and natural resources (UNDG-ECHA 2013); and the dispossession of land and property. Internally displaced people and refugees have often experienced a combination of these situations. They are also exposed to higher risks while they are away from their homes and require additional protection.

Land rights are fundamental to delivering human rights. The state is responsible for promoting human rights, but itself often violates those rights in conflict situations. Conflict-sensitive land tools increase the accountability or capacity of the state to fulfil its human-rights obligations. In humanitarian and peace and security terms, these land tools can be part of "transitional justice", even if the state has committed the violations in the first place.

**TABLE 2. ROOT CAUSES AND THE LAND-RELATED PROBLEMS IN THE NINE CASES**

COUNTRY	MAIN ROOT CAUSES	WHAT LAND-RELATED PROBLEMS ARE CREATED
<b>Honduras</b>	Weak governance Criminality	Forced evictions Illegal sales Erroneous registration
<b>Democratic Republic of Congo</b>	Weak governance Capture of state instruments Population pressure Plural legal systems Weak land administration and management	Competition and ethnic tensions over increasingly scarce land Youth bulge without secure land rights Land grabbing Forced evictions
<b>Iraq</b>	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
<b>Somalia</b>	Weak governance Population pressure Chaotic urbanization Natural resource exploitation	Competition over land Forced evictions, including of displaced people Dysfunctional land systems
<b>Sudan</b>	Competition over natural resources Politics of exclusion	Displacement through armed insurgency Competition between host community and displaced people over scarce resources Competition over land use between pastoralists and farmers
<b>South Sudan</b>	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
<b>Peru</b>	Widening of territorial development gaps Trade & investment Natural resource exploitation Conflict over water	Competition and social conflicts over land use and access in territories between private investors and indigenous groups Environmental degradation
<b>Brazil</b>	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
<b>Colombia</b>	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 in access to land of historically discriminated groups (women, indigenous communities, Afro-descendants)



### BOX 5. FORCED EVICTIONS

The UN Committee on Economic, Social and Cultural Rights defines forced eviction as:

*“The permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection” (OHCHR 1997).*

Not all evictions are illegal. Evictions should be in line with national law, international standards and should respect the right to due process. Forced evictions are recognized as a gross violation of human rights. The protection against forced evictions is not linked to registered property rights only but also to unregistered land rights (public or private rental, cooperative housing, collective arrangements, emergency or transitional housing, or informal settlements). For example, the expropriations of informal settlements that are carried out without proper justification or in breach of international law are considered as forced evictions (OHCHR and UN Habitat 2014).

### Conflict-sensitive land tools have the following characteristics:

- They take context into account to maximize the positive and minimize the negative impacts.
- They take into account the analysis of root causes of conflict and how they impact land, human rights and displacement dynamics.
- They are embedded in theories of change for land that focus on peace-building and community empowerment.
- They contribute to sustainable solutions, appropriate entry points and fit-for-purpose land administration approaches, linked to state-building, strengthening of state institutions and humanitarian operations.
- They promote broad partnerships to address the complexity and scale of land.

These characteristics are described in detail in the sections below.

### TACKLING LAND AS PART OF PEACE-BUILDING INTERVENTIONS

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 necessarily 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 needs to be integrated with other elements of the programming.

In each of the cases, the land-related work of the intervening organization is based on an explicit or implicit theory of change. The theories of change show how land is integrated into conflict-prevention and peace-building. These theories of change vary widely because of the range of interventions from emergency to development: there is no single approach.

**Mediation plays a vital role in resolving and preventing conflict over land.** The theories of change show that mediation in land conflicts 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.

**Land is in the critical path for peace-building for returnees and finding lasting solutions for displacement.** The theories of change show the vital role of land in resolving issues for displaced people.

**Land tools are critical for peace-building and stability.** The theories of change illustrate how land tools are a key component leading to peace.

## PROVIDING HUMANITARIAN ASSISTANCE

Humanitarian assistance is interventions that seek to save lives and alleviate suffering of a crisis-affected population. It is undertaken by UN organizations, international and national NGOs, governments, communities, and others. Although such interventions typically focus on immediate needs, they always are – or should be – linked to a longer-term perspective. Integrating the land dimension in a humanitarian intervention contributes to sustainable (also referred to as “durable”) solutions. Land issues should be part of the conflict analysis and planning of humanitarian interventions and, when addressing land issues, humanitarian actors should dialogue and coordinate with development actors. This will ensure that humanitarian assistance is sustainable and paves the way for broader recovery and development gains.

Many of the cases demonstrate how land-related conflict and evictions can lead to serious human-

rights abuses, violations and loss of lives. These require humanitarian interventions that include land tools and approaches. These responses relate to the core responsibilities and transformations identified in international humanitarian and human-rights laws (see Box 6) and the Agenda for Humanity (Box 7)

**Land issues play a major role in displacement-related humanitarian interventions.** 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 (Box 6).

**Land solutions can be developed with local communities even in the midst of security challenges.** The cases show that it is possible to use fit-for-purpose approaches to resolve needs through reinforcing local land systems.

**Transcending the divide between humanitarian aid and development.** Integrating the land dimension in a humanitarian intervention contributes to its sustainability and the durability of its results. Doing so may be difficult, but the cases show that it is possible.

**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

## BOX 6. KEY INTERNATIONAL FRAMEWORKS RELATING TO LAND

Numerous international human-rights frameworks related to land are applicable in conflict settings. They are not binding unless the state in question has adopted and incorporated them into its national constitution and laws. The case of Peru in this book is an example of where a country has done this with the Indigenous and Tribal Peoples Convention, ILO 169, (together with its oversight bodies). Further, peace agreements among warring parties often contain land-related provisions.

Some binding conventions have not been ratified by particular states. For example, ILO 169, which covers indigenous land rights, has not been ratified by most African countries. One of the most important conventions for land is the Universal Declaration of Human Rights. The key international frameworks relating to land are the following (see also OHCHR 2015):

### International Bill of Human Rights

Consists of the following:

- **International Covenant on Civil and Political Rights, 1966.** Commits parties to respect the civil and political rights of individuals (OHCHR 1976a).
- **International Covenant for Economic, Social and Cultural Rights, 1966.** Commits parties to work towards the granting of economic, social and cultural rights to individuals (OHCHR 1976b).
- **Universal Declaration of Human Rights, 1948.** Affirms rights of individuals; basis for subsequent treaties and laws. Article 25 affirms the right to adequate housing, property and ownership (United Nations 1948).

### ILO 169: Indigenous and Tribal Peoples Convention, 1989

Guarantees the rights of indigenous peoples. Ratified by 22 countries, including most countries in Latin America (ILO 1989).

### Basic principles and guidelines on development-based evictions and displacement, 2007

Aim to assist states in developing policies and legislations to prevent forced evictions (OHCHR 2007).

### The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, 2005

A set of international standards that outlines the rights of refugees and displaced persons to return not only to their countries when they see fit to do so, but to their original land and homes as well (COHRE 2005).

### Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 2012

Promote secure tenure rights and equitable access to land, fisheries and forests with respect to all forms of tenure: public, private, communal, indigenous, customary and informal (FAO 2012).

### Sustainable Development Goals, 2015

Selected goals relating to land.

- **Goal 1:** No poverty: End poverty in all its forms everywhere.
- **Goal 2:** Zero hunger: End hunger, achieve food security and improved nutrition and promote sustainable agriculture.
- **Goal 5:** Gender equality: Achieve gender equality and empower all women and girls.
- **Goal 11:** Sustainable cities and communities: Make cities and human settlements inclusive, safe, resilient and sustainable.
- **Goal 15:** Life on land: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.
- **Goal 16:** Peace, justice and strong institutions: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (UNDP 2016).

### New Urban Agenda, 2016

Provides a roadmap for sustainable urban development. Commits signatories to (among others) ensure access to equal opportunities and to respect the rights of refugees, migrants and internally displaced people (UN Habitat 2017).

## BOX 7. AGENDA FOR HUMANITY

Presented by the UN Secretary General at the World Humanitarian Summit, 2016, the Agenda for Humanity lists five core responsibilities and 24 “transformations” needed to put them into effect. The five core responsibilities and the relevant transformations are (Agenda for Humanity 2016):

CORE RESPONSIBILITIES	SELECTED TRANSFORMATIONS
Prevent and end conflicts	Leadership to prevent and end conflict Act early
Respect the rules of war	Protect civilians and civilian property Speak out on violations Improve compliance and accountability Stand up for the rules of war
Leave no one behind	Address displacement Address migration Empower and protect women and girls Include the most vulnerable
Work differently to end need	Reinforce local systems Anticipate crises Transcend humanitarian–development divides
Invest in humanity	Invest in local capacities

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 to 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.

## STRENGTHENING INSTITUTIONS, STATE-BUILDING AND EMPOWERING COMMUNITIES

Good land governance in conflict settings entails increasing the capacity and the legitimacy of the institutions and strengthening them by fostering state-society relations. These three dimensions of governance are required for states to acquire resilience and reduce fragility (adapted from OECD (2008, 2011) and World Bank Group (2012)).

- **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.

- **Institutional structures** support political, economic and social interactions through arrangements such as laws and regulations, as well as customary practices and indigenous rights.

Land governance is a key element of any effort designed to build the state (Box 3). 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.

**Land-related institutions' strengthening and state-building can take place at the national, sub-national, municipal or customary level.**

**Institutions' strengthenings for land includes the re-purposing of government entities.** Sustainability often requires new laws and regulations, setting up new government institutions (e.g., in Colombia), or adding new functions to existing institutions.

**Capacity is crucial for state-building.** Land interventions and dispute-resolution processes 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. The cases show this is both important and often difficult.

**Institutions' strengthenings requires predictable funding from emergency to development.** Funding for humanitarian assistance is huge: 27.3 billion

USD in 2016 alone (though there is a shortfall of 40 percent) (Development Initiatives 2017). But funding for development in conflict settings is much smaller: the G7 group of developed countries allocates only 4% of its total development aid to such settings. Most of this goes to two countries: Afghanistan and Iraq. Only 1% of the G7's development assistance goes to conflict settings in other countries, so is available for peace-building there (United Nations 2015).

**Empowered communities are key to peace-building and sustainable solutions.** Institutions' strengthenings and state-building are about fostering state–society relations. The other side of the equation is community empowerment. This relates to the extent to which people affected by the conflict are able to engage in its resolution and build certainty over their future.

**Community empowerment is a top prerequisite for land-related peace-building and sustainable 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. 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. Empowerment often means making them





Recife, Brazil. Photo: Elsa Swen

aware of their individual and collective rights under international and national law, and showing how they can protect and promote them.

**Community empowerment is often built on existing socio-cultural contexts and context-specific approaches.**

The cases show that land tools that empower communities need to be well adapted to the situation.

Where both statutory and customary (indigenous) systems, laws 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 depend on the government's attitude towards the people.

Harmonizing laws and pragmatic solutions are needed for sustainable conflict resolution. While Peru has made numerous advances in this area, e.g., by domesticating the ILO 169 convention on indigenous rights, in DR Congo it is still necessary to find a way forward.

While community empowerment is key for peace-building, as acknowledged in UN reforms (United Nations 2015), the UN's procurement framework makes it extremely difficult to do. The operational regulations of UN organizations are not flexible enough to financially support non-organized communities.



# PART I

## COMMON THEMES FOUND IN LAND AND CONFLICT



Empowered communities are key to peacebuilding. Jimmy Okumu (right), civil affairs officer with UNMISS in South Sudan, facilitating a group discussion. Photo: UNMISS

## 2 INCLUDING CONFLICT PROGRAMMING IN LAND-RELATED INTERVENTIONS

The previous chapter started off from a conflict perspective and discussed how land issues could be incorporated into conflict resolution and prevention approaches. This chapter takes the opposite approach: it takes a land perspective as the starting point and shows how this is adapted to suit conflict contexts. It covers the following topics:

- Programming in conflict settings
- Land-policy processes
- Land reform
- Fit-for-purpose land administration
- Land-dispute resolution
- Capacity development
- Gender-responsiveness.

### PROGRAMMING IN CONFLICT SETTINGS

Organizations use a range of **entry points** across the conflict cycle to address the root causes of conflict and their impact on land (Box 8). These cover emergency, peace and security, human rights, humanitarian and the development phases (terms commonly used in the emergency world). Often an organization will only work

on one or a few of these phases and use entry points in those phases.

In land programmes, five major categories are commonly used to identify entry points and build sustainable solutions: land-policy processes, land reform, land administration, dispute resolution, and capacity development. These categories also serve as a useful frame for dealing with land in conflict environments. When there is no conflict, land programmes often focus on these five categories using a “fix the system” approach. This is not possible in conflict settings. Instead, land tools are needed that can be incrementally upgraded later.

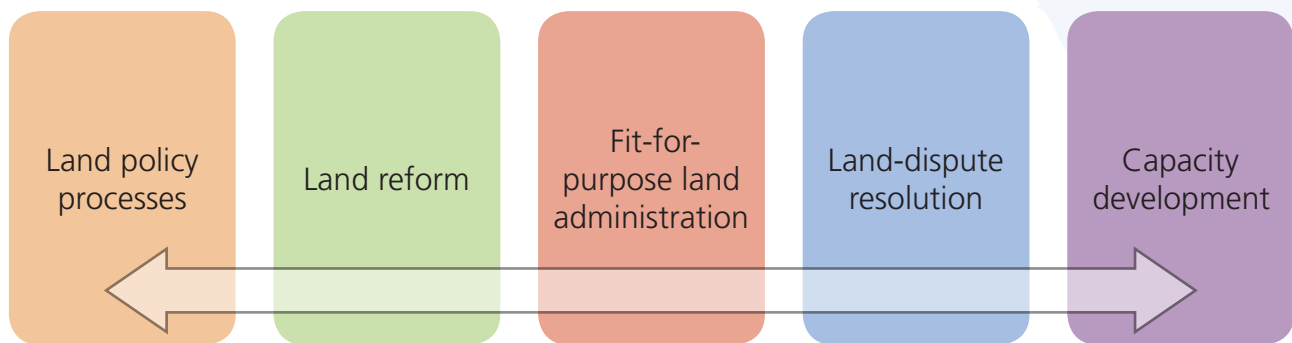
**Land-policy processes** – whether formal or informal, large- or small-scale – define how resources and benefits are allocated. The cases show that in conflict settings, land policy tends to focus on urgent issues such as addressing or preventing displacement, and specific sectors, such as extractives, food security or urban rehabilitation.

**Land reform.** Conventionally land reform is seen as covering land redistribution. While it includes this,

### BOX 8. THE CONFLICT CYCLE

Conflicts tend to go in **cycles**: an initial dispute, to non-violent confrontation, escalation, and violence, followed by de-escalation and resolution. A particular conflict may skip one or more of these stages (for example, it may not become violent); stages may be shorter or longer or may be repeated and become protracted, and conflicts may stagnate, or become frozen or “silent”.

The type of **response** depends on the stage in the cycle. Early on, the emphasis is on preparation, early warning systems and conflict prevention. During the violent, emergency stage, mediation and peacekeeping come into play, along with humanitarian responses to protect the victims. Later, after violence has subsided, efforts for recovery and development can begin. The entry points for interventions thus depend on the stage in the conflict cycle.



Categories used for programming land

today it goes much further. The cases show that it takes many forms such as the restitution of housing, land and property; the sharing of burdens and benefits between parties in conflict rather than winner takes all; and the regularization of informal settlements, including the provision of land rights.

**Land administration** that is fit-for-purpose (Box 9) contributes to peace-building and facilitates the protection of human rights linked to land. It includes allocating land rights, land registration and records, land-use planning, land-information management, the defence of people's land rights, resolving conflicts concerning the ownership and use of the land, supplying evidence of land rights, and enabling social and economic investments.

**Dispute resolution over land** consists of actions to solve disagreements. The cases show that it forms a small but important part of the overall peace-building, peacekeeping and humanitarian operations. It takes multiple forms. It has varying degrees of integration with the formal legal and institutional system.

**Capacity development.** Capacity development in the land sector involves the continual and comprehensive learning and change process by which governments, organizations and people identify, strengthen,

adapt and retain capacity for effective land policy development and implementation. Managing change in conflict settings is both technically and politically challenging particularly when there is weak capacity. The cases demonstrate that developing capacity is one of the most common programming options in conflict settings.

### LAND-POLICY PROCESSES TO RESOLVE AND PREVENT CONFLICT

National land policy development linked to policy processes is very common in post-conflict and development-phase situations. The cases show that it also exists in conflict settings, but in an altered form. The policy processes may be local, national or sectoral, and either formal or informal. They are central to state-building and state-society relations.

### LAND REFORM

Land reform is important to resolve conflict in a sustainable manner. New forms of land reform are emerging. One example is the sharing of burdens and benefits between investors and occupiers, and between groups in conflict, rather than winner-takes-all-the-

land-rights. Another example is the supply of land documents to previously undocumented but legally settled land to secure people's land rights. But most of the cases do not address land reform on a large scale.

## **FIT-FOR-PURPOSE LAND ADMINISTRATION IN CONFLICT SETTINGS**

**Fit-for-purpose land administration should be focused on conflict prevention and resolution.** Large-scale and violent or silent disputes over land cannot easily be addressed by providing land ownership.

There are a number of myths about land ownership. The first myth is that most people have land-ownership titles. This is not true. In developing countries less than 30% of people have land ownership titles; 70% use other forms of land rights and claims.

A second myth is that it is easy to create new land-ownership titles for use in peace agreements and to address historical injustices. This is not true. Even for small projects with a small number of land-ownership titles it is very difficult, expensive and takes a lot of national capacity. Conventional land-administration systems (see Box 9) are slow, costly and to cover the

majority of people in a country it could take hundreds of years. Conventional systems struggle to address conflict areas because of the multiple rights and claims over the same land that have to be sorted out.

Instead, fit-for-purpose approaches are needed. Fit-for-purpose in conflict settings means that the land tools and approaches also contribute to peace-building and the protection of civilians. This is different from development settings, where fit for purpose land tools instead focus on standards and affordability.

Cases in this report show that:

- Fit-for-purpose land administration tools already exist and contribute to different types of peace arrangements
- Fit-for-purpose land administration contributes to the protection of civilians
- New forms of land records adapted to the conflict setting have been created or are envisaged
- Both political and technical angles are needed for land tools in conflict settings
- The tools can be used before, during and after conflict

### **BOX 9. FIT-FOR-PURPOSE LAND ADMINISTRATION**

**Land administration** involves maintaining records on land ownership (and other rights to land), administering the transfer of rights from one party to another, regulating land development and land use, gathering land-related taxes, and resolving conflicts over land. It is typically performed by specialist agencies for surveying and mapping, land registration and valuation.

Many land administration systems are complicated, multi-purpose, rigid, adhere to strict standards, and are not applicable in states with weak institutions. In conflict settings, however, they must be **fit-for-purpose**: they must focus on a **particular purpose** (such as facilitating the return of displaced people) and be flexible (such as accepting a wider range of documents or oral testimony as evidence of land rights). They must also be capable of **incremental improvement**, so they can eventually be upgraded into more standard land-administration systems.

More information: UN-Habitat/GLTN (2016).

The cases overturn the conventional view that it is not possible to undertake land interventions in emergency and conflict settings. On the contrary: land tools and approaches developed in the emergency phase could also serve as a basis for future work in the development phase. Some of the tools are for conflict prevention or resolution, and others to maintain the peace after the conflict. Some have application across the whole conflict cycle.

### Examples from the cases:

#### FOR CONFLICT RESOLUTION, PREVENTION AND IN THE POST-CONFLICT PERIOD

**South Sudan:** *The territorial agreements for cross-border nomadic migration were used to prevent and resolve conflict, and in the post-conflict stage. They were set up as a response to violence and successfully resolved most of it. They served as an early warning system: if the rules broke down, this indicated a potential for renewed violence. They were also used to address any conflicts that emerged during the migration. A community mechanism was established for the communities to monitor the territorial agreement so that they could avoid violence.*

**Peru:** *Multi-stakeholder dialogues are used to prevent and resolve conflict and in the post-conflict stage. The dialogues were set up to address the grievances of communities through balanced territorial development. They act as an alternative dispute-resolution mechanism for communities to have their grievances heard. They prevent conflict through agreements reached in the multi-stakeholder forums. In post-conflict settings, they are used to get agreements between the*

*government, mining companies and communities back on track and to forge new agreements.*

#### DURING VIOLENT CONFLICT

**Colombia:** *National land laws, brought in prior to the completion of the peace agreement, that addressed evictions and human rights abuses simultaneously, helped the peace process to move forward.*

**DR Congo:** *The UN mission uses a range of tools for conflict resolution when customary occupants are evicted by large farmers. These include the good offices of the Head of Mission and his relationship with the government, the Human Rights Office and its community-based early warning system, and the visible presence of peacekeeping patrols.*

**Honduras:** *Even though generalized violence and organized crime continue to force people to abandon their housing and land, records are being created which will make it possible at a future date to reinstate the rightful owners.*

#### FOR CONFLICT PREVENTION

**Brazil:** *Where there was longstanding silent conflict relating to informal settlements, addressing evictions by developing capacity in the judiciary limited further evictions.*

**Iraq:** *Awareness-raising with the local authority and communities, a community-led verification of claims, and land documents linked to maps of plots, prevented conflict over land and competing claims when IDPs returned to their villages.*



## LAND-DISPUTE RESOLUTION

**Dispute resolution is commonly needed in land and conflict situations.** Resolution of land-related disputes is the objective (or one of the objectives) of all nine cases, which makes it one of the top land and conflict issues.

**Land dispute resolution in strong states is different from in fragile states.** Our cases include examples of all the approaches. The method used will depend on the legal, social and political context: it is necessary to first carefully weigh the various options (for example through a consultation or institutional capacity assessment) before choosing which to use. A conflict analysis may be necessary before land documents can be issued, and this may need to be followed by dispute resolution.

In countries with strong institutions, formal land and territory dispute-resolution mechanisms are used. In countries with weak institutions, alternative dispute-resolution mechanisms may be necessary.

Approaches to resolving disputes include:

- **Negotiation** - A negotiated settlement requires both (or all) parties to the dispute to agree. It may be that no single party can impose a settlement. The Darfur/Sudan case also indicates that a consensus was reached.
- **Adjudication or arbitration** - This is where a neutral authority with no stake in the dispute is given the mandate to resolve a dispute. This may be a court or an arbitrator. The parties may pursue a legal resolution through the courts or quasi-judicial bodies. In land, courts are key arbiters.
- **Government decision** - A governmental authority (a minister, official, agency or legislature) has the



**A resident of an internally displaced camp in Baidoa, Somalia, receives her land-tenure document. See the Somalia case in Part 2. Photo: NRC**

legal authority to decide on a matter in dispute. In such cases, the government or its agent may be an interested party, so is not neutral. Before making a decision, it may seek to negotiate an outcome that is consistent with its policy goals. Or it may run a consultative process to seek an acceptable level of political support for its eventual decision.

## CAPACITY DEVELOPMENT

**Capacity development was required in all the cases.** Preventing, managing and resolving land-related conflict is a complex endeavour that often involves a series of (sometimes technical) undertakings by different partners and stakeholders, including humanitarian and development actors. It may be necessary to help them acquire the skills and knowledge they need to succeed (Box 10).

**It is important to assess capacity development needs.** Developing capacity starts with a needs assessment: identifying the existing capacities and comparing them with those that are desired. One way of doing this is through an institutional capacity assessment.

However, this kind of assessment is not always possible, particularly in fragile states where the state may be weak, unwilling or completely absent. Also, capacity development is not only about state entities, but also includes national civil society, research and training institutions, customary institutions, local communities, women and youth and the private sector.

Another method is to use **surveys or studies**. These involve desk reviews, focus-group discussions or key-informant interviews to assess a situation or the legal and institutional framework, making it possible to suggest a way forward.

A less formal type of assessment, which may be the only possible approach in urgent situations, is to organize **facilitated dialogues** on a topic with relevant stakeholders. The dialogues assess views and perceptions, and identify the issues and laws, standards and procedures that partners and stakeholders need to understand. This will determine which skills need to be transferred.

Assessing capacity-development needs is a continuous process. After some skills have been enhanced, other capacity development needs may arise.

**There are different types of capacity development in conflict settings.** The most common capacity-development methods were awareness raising, sensitization, trainings, and workshops. If partners require particular types of expertise and assistance, this may be provided by experts seconded for the particular task. The topics vary widely, from technical skills in land



Land disputes affect both urban and rural areas. Top: Recife, Brazil (photo: Habitat for Humanity). Bottom: North Kivu, Democratic Republic of Congo. Photo: MONUSCO

administration, housing construction and agriculture, to legal issues and dispute resolution (Table 3).

The cases demonstrate that there are various ways to do capacity development.

Capacity development is often a long-term effort, and results may take time. However, in certain contexts it is urgent to respond and address urgent capacity-development needs immediately.



## BOX 10. CAPACITY DEVELOPMENT

Capacity development is the process through which individuals, organizations and societies obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time.

UNDP (2009)

**The sustainability of capacity-development activities is key**, but is extremely challenging in conflict situations. Political instability causes a high turnover of government officials. Insecurity can prevent the institutionalization of capacity. Weak governance, underdevelopment and a lack of human and financial resources can prevent the institutionalization of capacity.

## GENDER-RESPONSIVENESS

**Resolving land conflicts is an opportunity to empower women.** The United Nations Sustainable Development Goal 5 on gender sets a goal for empowering women which can be used also in conflict settings. The SDG Target 5A identifies the

## BOX 11. SUSTAINABLE DEVELOPMENT GOAL TARGET 5A

Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

UN Department of Economic and Social Affairs (2016)

need for women’s ownership and control over land (Box 11). This is because the ability of women to access, own, control or inherit land is constrained in many countries. Many customary systems of land governance do not support women’s inheritance, and women often face difficulties in accessing justice or dispute-resolution mechanisms. They may face a high social cost of contesting land rights within their families and communities. Land rights are often registered in men’s names, so the women’s relationship to land is through her husband or male relative. Other barriers such as illiteracy, ignorance of laws and administrative

**TABLE 3. CAPACITY DEVELOPMENT METHODS, TARGET AUDIENCES AND SUBJECT MATTER**

METHODOLOGY	TARGET AUDIENCE	SUBJECT MATTER
<ul style="list-style-type: none"> <li>Awareness raising/sensitization</li> <li>Trainings (including training of trainers) and workshops</li> <li>Technical expertise/assistance</li> <li>Facilitation of process design</li> </ul>	<ul style="list-style-type: none"> <li>Government (local, regional and national)</li> <li>Community members, leaders and community organizations</li> <li>Civil society/NGOs</li> <li>Faith-based organizations</li> <li>Customary structures</li> <li>Youth and women</li> <li>Private sector</li> </ul>	<ul style="list-style-type: none"> <li>Land administration and management (<b>Honduras, Somalia</b>)</li> <li>Housing, land and property rights (including security of tenure, forced evictions, etc.) (<b>Iraq, Somalia, DR Congo, Honduras</b>)</li> <li>Peaceful coexistence/social cohesion (<b>South Sudan, Sudan</b>)</li> <li>Dispute resolution (facilitation, communication, negotiation and mediation skills) (<b>Peru, South Sudan</b>)</li> <li>Law enforcement/rule of law (<b>Brazil, Colombia</b>)</li> <li>Women’s rights (<b>Somalia, Brazil</b>)</li> <li>IDP and refugee rights (<b>Honduras, DR Congo</b>)</li> <li>Migration (<b>South Sudan</b>)</li> <li>Community empowerment (<b>Somalia, Iraq, Brazil</b>)</li> </ul>

processes, lack of financial resources, and social pressures can prevent women from accessing justice and to claim, access or hold on to their land.

**Conflict worsens discrimination against women regarding land.** Women are particularly vulnerable to losing their land rights, and they are more likely than men to be forcibly displaced or evicted. After a conflict, women face further hurdles: it is hard for them to claim land through restitution processes, to claim their inheritance, or to recover marital property after the death of their husbands.

Conflict should be used as an opportunity to empower women. It may offer a chance to transform land laws, policies and agendas towards more equality between women and men.

The cases illustrate various approaches to addressing the barriers women face and providing gender-sensitive responses. Some good practices have been identified,



**Former residents of Salaminita, Colombia, celebrate the restitution of their land. See the Colombia case in Part 2.**

*Photo: Colombia Commission of Jurists*

particularly where enhancing women's land rights has been an objective from the start.

Other tools have not taken women into account. The reasons for this range from a lack of understanding of the multiple layers of discrimination that women



**These women in Recife, Brazil, are fully involved in efforts to resolve problems relating to housing and land.** *Photo: Habitat for Humanity.*

experience, to the absence of political will. Women's access to land may be a contentious issue that requires a detailed risk analysis and specific mitigation measures. Often the resources and technical capacity to do this are lacking. Women should be involved in land interventions both as beneficiaries and as partners.

Cases also show how women are stakeholders and partners in land-dispute resolution and how land tools can positively affect women ( eg Brazil, Iraq, Somalia, Sudan, Colombia).

### 3 PARTNERSHIPS TO ADDRESS SCALE, COMPLEXITY AND DURATION OF INTERVENTIONS

Dealing with land issues is complicated enough even at the best of times, given their political and technical complexity and the length of time interventions can take to have an impact. Conflict makes it even more difficult, and no one organization is equipped to manage all the issues and perform all the tasks on its own. That makes partnering critical to success. A large number of organizations, entities and stakeholders may be involved, each with a different mandate, resources and area of expertise. Partnerships are critical at every stage of land and conflict interventions. They are also vital to manage the scale, complexity and length of interventions, and ultimately, to ensure their sustainability.

This section analyses the features of partnerships and draws lessons based on the cases.

#### IDENTIFY PARTNERS WITH APPROPRIATE RESPONSIBILITIES AND CAPACITY

In planning an intervention, a first step is to identify partners that want to be part of the intervention, including the planning, strategy, and implementation. A wide variety of partners is possible: governments, UN entities, non-government and civil society organizations (international and national), displaced people and host communities, the private sector, donors, academic and training institutions, customary authorities, etc.

#### BOX 12. WHO ARE THE PARTNERS?

**Partners** are the organizations that work together to prevent and resolve a conflict, or to address issues in its aftermath.

#### Partnerships with government

Government is a key actor in all parts of the conflict cycle. Land is a sovereign issue and the involvement of government is critical to engagement. Working with government is key for sustainability. Without this understanding, it is possible to polarize the actors and create unnecessary rifts between partners.

Governments are not monolithic. They consist of different ministries and levels (national, provincial and local), and perform diverse functions. Coordination problems within and between government entities may occur. One part of the government may try to act as an honest broker to resolve a conflict, but another part may be simultaneously complicit in human-rights violations.

Identifying “champions” within government improves implementation and can enhance internal coordination and information flow. Working with government can reinforce transparency and trust amongst the international and national actors.

However, working with government, particularly national governments, is not always easy. Governments are reluctant to have external parties become involved in a sovereign issue. Often governments, or particular government entities, themselves commit human rights violations or have been captured by parties to the conflict. Sometimes the national Department of Lands is not interested in addressing land problems related to the conflict as it has scarce human resources or doing so would entail changing their land system and laws. Frequently – and especially in conflict situations – there

# Partnerships to address scale, complexity & duration of interventions **PART I**

**TABLE 4. LAND-RELATED ROLES PLAYED BY SELECTED UN ENTITIES FROM THE CASES**

ROLE	COUNTRY	UN ENTITY
Human rights	Honduras	UNHCR
Peacekeeping	Congo, Sudan, South Sudan	Department of Peace Keeping Operations: MONUSCO, UNAMID, UNMISS
Development	Peru	UNDP
	Iraq	UN-Habitat

is very little technical capacity in land at the local, district or municipal level.

### Partnerships and United Nations entities

The United Nations often plays an important role in conflict settings and is probably the largest and most visible outside organization. It is frequently the first to arrive in a conflict-affected country – often in a peacemaking role. Each UN entity has its own mandate and role (Table 4. Land-related roles played by selected UN entities from the cases<sup>4</sup>), although many different UN organizations have land-related functions. This makes land a crosscutting theme across both humanitarian and development UN agencies.

A scoping study of the UN system-wide work on land and conflict (Decorte et al. 2016) identified coordination and handover problems between different UN agencies and across different phases, particularly from UN missions to non-mission entities once the emergency is over. In our cases, the only (indirect) evidence of such problems was in South Sudan.

The UN system, which is a major player in addressing and preventing conflict is undergoing reform to meet the expectations of Member States that it should operate as One UN and function as a system to achieve its goals better. A UN report on peacekeeping reform (United

Nations 2015) identified fragmentation within the UN as holding back the agenda of peace building and sustaining peace. It recommends that UN strengthen its partnership to promote and sustain peace.

### Partnerships and civil society

Civil society includes international and national NGOs, community- and faith-based organizations. Each of these entities has different land-related strengths, capacities and operational challenges.

These entities are often more flexible, adaptable, and able to respond faster than governments or UN entities. However, they face bureaucratic impediments, have limited access to government, and often suffer a shortage of resources.

Partnerships between international organizations and local organizations can be very valuable. The international organizations bring skills and financial resources, while the local organizations provide local knowledge and connections. The involvement of strong local NGOs is vital for land-related peace-building. They can act as intermediaries with local people, help them organize and express their points of view. Mobilizing these stakeholders on a common platform around a shared vision is crucial to maximizing partnership to deal with land conflicts.



But such partnerships have their challenges. A recent report on humanitarian work that also covers international NGOs (Knox-Clarke 2017) identifies competition as undermining peace-building goals. UN entities and big international NGOs may also dominate the local NGOs, or undermine the capacity of local civil society by recruiting staff. They may absorb the majority of the funding. Local organizations may feel that they are being instrumentalized, cannot pursue their mandates, and have lost their independence.

### Partnerships with displaced people and host communities

The cases demonstrate the difficulty of partnering with displaced people, and that innovative approaches are needed.

Land disputes and displacement can last for years. Long-term partnerships with displaced communities are even more difficult.

The cases also reflect the complexity of working with host communities, which may themselves have no legal claim to the land they occupy or have allocated to the displaced people.

### Partnerships with the private sector

A wide range of private-sector organizations may provide services or act as partners in the intervention. Such private-sector actors may be formal or informal, international or national. They can be found throughout the conflict cycle.

While the private sector has an important role, it can also be a root cause of conflict. However, the cases also show how the private sector can contribute to the prevention of conflict and produce positive gains.

### Examples from the cases:

**Peru:** *The mining sector is closely involved in the multi-stakeholder forums. It has an interest in the implementation of the territorial agreements, as they are designed to stop conflicts that affect mining operations. The mining companies thus have a role in conflict resolution and prevention. Also, Peru has instituted public-private partnerships, works for taxes (a programme that allows companies to pay a portion of their tax bill by undertaking public works or infrastructure projects) and the creation of territorial social development funds.*

**South Sudan:** *A key element of the cross-border territorial agreements is local economic development. The agreements facilitate stock and trade routes, markets and the movement of goods across the border into local markets. It also underpins food security. This binds parties in conflict together. The private, albeit informal, sector and smallholder farmers have a role in resolving and preventing conflict.*

**Iraq:** *More than 40 private companies are involved in the technical rehabilitation of the villages and the houses.*

**Peru and DR Congo:** *Conflict results from operations by large-scale private investors.*

**South Sudan:** *The informal private sector, in the form of pastoralists, can also be involved in violent conflict.*

**Colombia:** *Big ranchers financed paramilitary groups. Economic and social elites have historically benefited from conflict.*

## Other partners

Finally, donors, local research and training institutions and customary or indigenous authorities are often important partners as well.

## PARTNERSHIPS OFTEN (BUT NOT ALWAYS) USE EXISTING GLOBAL COORDINATION FRAMEWORKS

Numerous global coordination frameworks support the building of partnerships involving the kind of actors identified above to implement joint programmes. Some of them are specific to humanitarian issues. Some cover only UN entities, or are for collaboration between governments and the UN; others also include international NGOs. No reference is made to these global partnership mechanisms unless they are found in the cases.

Some frameworks focus on the development phase but may cross into the humanitarian arena. One specifically identifies housing, land and property.

## PARTNERING IS NECESSARY FOR SUSTAINABILITY

Partnership is central for resolving and preventing conflict over land because of the scale, complexity and duration of the intervention needed to produce sustainable solutions.

- **Scale** - Many of the cases demonstrate large-scale interventions to address conflict. While it is a small component in itself, land then becomes scaled up as part of the intervention. Partnerships are necessary to facilitate this scaling up (eg DR Congo and South Sudan).

- **Complexity** - The cases demonstrate the complexity of land issues. They require a very diverse range of partners to be able to get results, and it can be difficult to ensure that interventions are complementary and mutually supportive. Organizations also have to work with parties to the conflict.

## Examples from the cases:

**Iraq:** *For successful returns, Un-Habitat had to partner with the government of Iraq and the regional government of Kurdistan even as there was political tension between the two levels of government. They also had to partner in a way that linked housing rehabilitation with land.*

**Sudan:** *UNAMID had to ultimately partner with parties who had been in conflict, including those whose tribe had been involved in evictions and those who had been evicted and were now living in IDP camps. They had to bring the two parties to agree on and share land and water.*

**Somalia:** *The Norwegian Refugee Council built partnerships where none existed between the municipality, local authorities, the Sharia courts, host communities and formal courts and notaries. This was needed to deliver sustainable housing and land certificates for IDPs and a land administration system that would manage disputes and prevent future evictions.*

**DR Congo:** *The intervention requires internal coordination across a range of MONUSCO components and sections and with other UN entities, each focused on a particular aspect: peacekeeping, human rights, humanitarian assistance, good offices, etc. Coordination across UN entities can be*



*challenging because of silos each with their own work program and indicators of success.*

**Colombia:** *Things do not always go right even after agreements. One of the most significant challenges for land restitution and peace-building after the peace agreement is the murder of land defenders and claimants and the threats against their physical integrity, freedom and security.*

- **Duration of interventions** - The interventions are for a relatively short duration, ranging from one year (Iraq) to 7 years (Peru). This can be a problem for the

sustainable resolution and prevention of conflicts involving land.

In summary, diverse partnerships adapted to national and local contexts are critical to create sustainable solutions that resolve and prevent protracted conflict. This is not simple, but it is in the critical path of success. The need for partnering and coordination is being acknowledged in general across the humanitarian world, and within development circles. The case studies demonstrate how important innovative partnerships can be for success.



Rehabilitated housing units in Hardan, Sinuni-sub district, Sinjar, Iraq. Photo: UN-Habitat

## 4 CONCLUSIONS

Box 13 summarizes the results of the nine cases. We can draw a number of conclusions from the evidence presented in them.

*Land is often a root cause of conflict or is an integral part of it – and is critical to resolving it*

Despite this, land is often left out of, or is not adequately addressed in interventions that address and prevent conflict, including the mandates given to UN missions by the Security Council. Often it is felt that land is too politically sensitive or technically complex and should rather be dealt with only in a later phase. Where land is a root cause of a conflict (or is integral to it), it needs to be a part – though perhaps only a small part – of the wider programme to address and prevent conflict.

Land is linked to forced evictions and human-rights abuses and violations, the restitution of land and homes, relationships with host communities, and land for returnees. For the 65.6 million refugees and internally displaced people in the world, and the organizations supporting them, land is critical to the

development of sustainable settlement solutions. Land needs to be central to programmes addressing conflict to prevent future population displacement, even as climate change, population growth and food insecurity increase competition over land. This may be particularly true for Africa, which has many natural resources subject to increasing demand by investors, and several fragile states in conflict.

International human rights frameworks are – on their own – insufficient to protect civilians and their land. These cases show the range of current options for protecting civilians and their land rights when there is land-related conflict.

*Land interventions are possible in emergency and conflict settings*

The cases overturn the conventional view that dealing with land issues during a conflict is not possible. Land interventions do not have to be deferred to a later stage. The right tools and approaches are critical for peacebuilding and stability, including in humanitarian settings.



**Conflicts over land arise in a wide range of settings. We are developing the tools needed to address them. Recife, Brazil. Photo: Habitat for Humanity**

### BOX 13. RESULTS OF THE INTERVENTIONS

#### Honduras

A mechanism to record forcibly abandoned land and houses has been created in the land registry. This deters illegal sales and facilitates their later restitution to their previous occupants.

#### DR Congo

The risks of conflict are being reduced and an environment created that is conducive to mediation and dialogue. Forced evictions are being deterred.

#### Iraq

The rights to property and adequate housing are being supported, and residents' return is being facilitated. Future evictions, secondary occupations and conflict over land rights are being prevented. Understanding has increased about land rights, the social tenure approach and minimum standards for rehabilitation.

#### Somalia

Better relations with host communities and land documentation have improved internally displaced people's security of tenure. They are no longer at risk of eviction, and they have better opportunities for livelihoods and access to other rights.

#### Sudan

Understanding and communication between communities has increased, and tensions have fallen.

The communities can now coexist peacefully and share the use of some resources. Women play a bigger role in decision making

#### South Sudan

Local agreements between communities have been reached. Social cohesion and trade have increased, and intercommunal conflict has fallen.

#### Peru

The number of conflicts has fallen. The state has increased its presence, and social and infrastructure investments have risen.

#### Brazil

Public-sector representatives have gained awareness and public commitment to secure the land rights of informal dwellers. Grassroots and civil society organizations have gained skills in understanding and advocating for rights.

#### Colombia

Land restitution is more efficient and of better quality. Land rights have been formalized, also addressing unequal land distribution. Processes to address and improve women's land tenure security have been improved, and communities have been strengthened and empowered. Victims have gained rights to truth, justice and reparations, and their trust in state entities has been restored.

Land tools can be used at each stage in a conflict cycle: for preventing conflict, for conflict resolution, and in the post-conflict phase. With suitable adaptation, it is even possible to use complex tools such as land records.

However, it is necessary to keep the longer term in perspective, so activities during the humanitarian phase can be continued and built on in the development phase. Handover across phases is not a foregone conclusion, making sustainability planning an issue.

**TABLE 5. A BOX OF LAND TOOLS**

LAND TOOL	COUNTRIES WHERE TOOL MIGHT BE APPLIED
<b>Peru:</b> Addressing conflict over natural resources at national, regional and local scales	<b>DR Congo</b> (already taking baby steps along this path) <b>Myanmar's</b> Rohingya crisis
<b>Honduras:</b> Creating land records of abandoned housing and land	Countries in conflict where people are being forcibly displaced from their homes, ranging from the <b>Central African Republic to Syria, Iraq and Ukraine</b>
<b>Colombia:</b> Victim's Law that addresses land restitution, the reconstruction of housing and human rights abuses, and gender	<b>Iraq</b>
<b>Somalia and Iraq:</b> Credible land records can be developed and used for addressing displacement, dispute resolution and conflict prevention, even in the midst of conflict	Programmes for displaced people and returnees for urban areas in <b>Somalia and Iraq</b> at scale
<b>Peru and South Sudan:</b> Territorial agreements are a key part of any tool box for peace-building	<b>Syria, Iraq, Yemen and Myanmar</b>
<b>Honduras:</b> Land and property rights of forcibly abandoned properties can be protected by the state's land registration system.	Other <b>Latin American</b> countries struggling with criminality and forced evictions, such as <b>Mexico</b>

### Conflict-sensitive land tools must be fit-for-purpose

During a conflict, the focus should not be on “fixing the land system”: interventions should not try to do too much – such as try to build a holistic land-administration system suited to a peaceful, prosperous, well-ordered country. Rather, the land tools must be applicable for use in humanitarian settings: they must focus on a particular purpose, be flexible, and capable of incremental improvement.

### Land tools already exist that can be adapted for use elsewhere

The humanitarian actors are fully focused on saving lives and they have little time to document what is being done. The cases in this book, documented by practitioners in the field, give a unique window into the world of land, conflict and peace building in some of the most violent countries and regions in the world.

These good practices could be adopted and adapted to prevent and resolve land-related conflicts in other countries (Table 5).

### State-building, institutions’ strengthening, community empowerment and multi-stakeholder participatory processes are integral to programmes addressing land and conflict

They go hand-in-hand with good land practices that deliver land governance impacts to address and prevent conflict and create sustainable solutions.

### Partnerships are central to land interventions

The land sector, with all its cross-cutting issues, is too big and complex for any one organization (government, UN or NGOs) to manage on its own. A wide variety of partners – including humanitarian and development

partners – may be needed to cover the political and technical aspects of the tools, facilitate work across the different phases from emergency to development, and ensure that state-building and community empowerment take place. Partnering ensures an appropriate range of skills to address the needs in a particular setting. Working in partnerships and investing locally can build capacity, ensure sustainability and empower communities to be the bridge in transition through to development. Developing the capacity of women is particularly important for sustainable peace.

### Government is always a key actor

Land is very much a sovereign issue. All levels of government – national, territorial/provincial, and particularly local – are involved in preventing and resolving land conflict, and are sometimes involved in land-related human-rights violations.

### The United Nations and civil society have a significant role to play

The UN plays a range of peace-building roles often from the onset of the conflict. These include quiet diplomacy, using peacekeepers, holding up international human rights standards to improve the accountability of governments and other actors, supporting governments in reaching development goals, and using its convening power and technical capacity to support Member States in crisis.

Civil society, including international and national NGOs and community organizations, are critical to move the land conflict agenda forward by building capacity and trust between government entities and displaced people. They undertake advocacy and press

for accountability, transitional justice processes and upholding human rights standards. Partnering between civil society and UN entities is critical for sustainable solutions.

### A delicate balance is needed regarding the private sector

On the one hand, the private sector can be critical for change and economic growth, through generating tax revenues, supplying skills for reconstruction, undertaking large-scale reconstruction, supplying goods in isolated areas. Ultimately the economic dimension and the jobs it creates underpin sustained peace. However, the private sector may also fuel conflict through land grabbing, unregulated extraction of natural resources, competition over different types of land use, and exploitative landlordism. The private sector is an oft-underrated partner. Good regulations need to be put in place by government and well monitored to keep it accountable.

### Predictable funding is needed

Addressing and preventing land-related conflict for sustainable solutions means predictable funding from emergency through to the development phase. Unfortunately, this does not fit the current global trends.

Where land is a root cause of conflict, sustainable solutions require urgent and incremental action, but within the framework of a longer-term vision. This is not easy. Especially in humanitarian situations, the funding is normally short-term and project-based.

Sustainable land solutions need multi-year funding that covers both the humanitarian and development phases.

Building partnerships, establishing and managing a land programme, scaling up initiatives and ensuring handovers between phases are critically important for sustainability. Predictable funding plays a vital role in this. Multi-year funding is needed that covers humanitarian and development needs, including solid investment in local capacity and partnership.

### Sustainable, durable solutions require a multi-dimensional approach to land interventions

The “leave no one behind” Sustainable Development Goals present an overarching framework to address issues of land and conflict. They focus on ensuring development gains and achieving redress or reparations for human rights abuses suffered by communities including for the loss of housing, land or property. The cases demonstrate that a range of different types of land tools and approaches are needed for sustainable (or in humanitarian parlance, “durable”) solutions from emergency to development contexts.

Programming for sustainability for the land sector usually requires long-term horizons, significant human and financial resources and coherent interventions over a number of phases of the conflict cycle, from emergency to development. Many of the cases demonstrate designs for sustainability within terms of the project timeframe but are unclear on the long-term sustainability. The intervening organizations were fully aware of this shortcoming even as they worked to improve medium to long-term sustainability.

The nine cases in this book demonstrate that sustainable land-related solutions involve new or repurposed government institutions, multi-stakeholder processes, comprehensive capacity development, women’s empowerment, a fit-for-purpose approach to land tools, partnerships, and predictable financing across the conflict cycle.



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# PART II



## CASES ON LAND AND CONFLICT

## 1 HONDURAS: PROTECTING THE HOUSING AND LAND OF DISPLACED PERSONS



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**Intervening organization** UNHCR – UN Refugee Agency

**Tools** Documenting forcibly abandoned housing and land

While population movements within Hondurans have traditionally been triggered by economic considerations, in recent years there has been an increase in the number of people forced to leave their homes because of organized crime and generalized violence. According to a 2014–15 IDP profiling exercise led by the Honduran Government with support of UNHCR and others, at least 174,000 people were forcibly displaced in the country between 2004 and 2014 (CIPPDV 2015). Because this survey covered only 20 urban municipalities and many displaced persons are reluctant to contact the authorities, the real number of affected people is likely to be much higher.

Forcibly displaced persons report that they leave their homes because of murders, kidnappings, threats and intimidation, extortion, sexual violence and forced recruitment in their communities. Such violence is often perpetrated by gangs, commonly called maras. Families with young children are especially vulnerable as gangs are known to force children into their ranks or subject them to threats. While many displaced people say they left out of fear, others were violently evicted from their homes by gangs, or ordered by gangs with threat of violence to leave within hours. Without an IDP registration system or assistance pathway, such families flee to other parts of the municipality, to other towns, to rural areas, or leave the country. Many face multiple displacements.

Forcible displacement induced by unchecked criminal violence affects people throughout Honduras, although in most situations entire population groups are not uprooted from their homes at the same time, as may happen during armed conflicts. Gangs are particularly active in cities, but they are also known to have established a presence in some rural areas.

There was no law or policy on internal displacement in Honduras, but in 2013 the government launched Decree PMC053-2013, which recognized the existence of forced displacement as a result of generalized violence and organized crime. It created the Inter-Institutional Commission for the Protection of Persons Displaced by Violence, which is charged with designing the legal framework and public policies to prevent forced displacement, and with guaranteeing an effective response and the protection of displaced people. UNHCR was requested to provide technical support to the Commission in implementing the decree.

The consequences of displacement are disastrous. Forcibly displaced Hondurans experience several violations of their basic rights, including housing, land and property rights. About one-third of all displaced people, according to estimates, have lost their house and/or land in one way or another (CIPPDV 2015, p.14, Human Rights Council 2016, p.9). The following non-exhaustive list illustrates the types of challenges that



A view over the rooftops of the Honduran capital, Tegucigalpa. In some neighbourhoods, gang violence is forcing families from their homes. © UNHCR/Tito Herrera

forcibly displaced people might face, either before or after displacement:

- Houses are damaged or destroyed by gangs to punish perceived resistance to the gang or to warn other community members of the consequences of defiance.
- Houses are occupied by the gangs to establish dominance and strategic control. The gangs may use the buildings to house their own families, as bases for the drugs trade and other illegal activities, or as *casas locas* (“crazy houses”) where opponents and victims are detained, tortured or killed.
- Houses and other property become inaccessible because they are located in buffer zones between gang territories.
- Gangs or other criminals sell property to third parties, who may not be aware that the seller does not hold the land rights.
- Some displaced people are obliged to continue to pay taxes and utility bills for housing and land they have been forced to abandon.
- People are forced by circumstance and lack of financial means to sell non-occupied property. Informal tenure over their housing and land (discussed below) may prevent them from doing so legally, requiring them to accept prices well below the current market value.



Preventing and addressing these challenges are complicated by several factors, in addition to weak security forces and rule of law. Many homeowners, especially in poorer neighbourhoods, do not register their property in accordance with the country's Property Law. They may have received a certificate from elected local community leaders, known as *patronatos*, that confirms their ownership and facilitates sale, but does not provide registered land documents. Such unregistered properties do not appear in the cadastre managed by the Property Institute, which is the national entity responsible for, amongst others, mapping and registration of property throughout the country. If a registration or regularization process is carried out, unregistered and abandoned housing and land will simply be marked as property with "unknown occupants" or the illegal occupants of such housing may be registered as owners. Even though many displaced people do not report their flight to the authorities out of fear of retribution, or because they lack confidence in government institutions, research indicates that relevant mechanisms do not, in any case, consider the consequences of displacement.

Several of these problems require better security and rule of law; others might be prevented if existing mechanisms are adapted to consider the realities

of displacement. For instance, ensuring that the land registry includes alerts for properties reported as abandoned in the context of displacement could prevent erroneous subsequent registration and illegal sales. This may also facilitate the dissemination of information on the status of such properties to the wider public to deter illegal sales and to prevent purchases of abandoned property in good faith. At the very least, having abandoned property documented as such can facilitate future restitution processes.

The need to look into this issue was also highlighted by the UN Special Rapporteur on the Human Rights of Internally Displaced Persons following a mission to Honduras in November 2015. He recommended that a "confidential system should be established to register abandoned homes or property that would enable a legal process to provide redress to such persons."

### THEORY OF CHANGE

If the capacity of the government and community leaders to identify and address the protection risks around forcibly abandoned housing and land is enhanced, displaced people will be able to better exercise their housing, land and property rights, particularly the right to restitution, which improves their chances of achieving durable solutions.

### THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

UNHCR – the UN Refugee Agency – is mandated to protect the rights of refugees, returnees and internally displaced and stateless persons. It is also mandated to support governments and collective efforts to find durable solutions to their displacement. The protection of housing, land and property rights is integral to its mandate. In Honduras, UNHCR provides humanitarian



assistance to IDPs and communities at risk. As part of its protection and solutions commitments, it promotes and contributes to the protection of their housing, land and property rights, including through legal reform and institutional capacity-building, legal assistance and dispute resolution, and high-level advocacy and coordination.

### **TOOL: DOCUMENTING FORCIBLY ABANDONED HOUSING AND LAND**

In light of the aforementioned challenges and at the request of the Government of Honduras to provide technical support to prevent and address internal displacement, UNHCR designed a two-pronged response.

First, a consultant was engaged in 2016 to identify existing mechanisms for, and gaps in, the legal framework on the protection of housing, land and property rights in the context of forced displacement. With the support of UNHCR, the government created a Housing and Land Working Group, composed of key government entities, to develop an overall strategy to address these gaps, which requires innovative responses, enhanced technical capacity and reform processes.

Such efforts inevitably take time, and it was important to act quickly. The second response, also in 2016, was for UNHCR to set up a Protection and Assistance Network with 56 Catholic parishes (parroquias) in collaboration with Caritas. This Network provides assistance to IDPs and persons at risk. Selected parishes also address the issue of abandoned land and housing. Starting with the 10 parishes that had witnessed most displacement, UNHCR conducted capacity-building initiatives for parish committees, engaged technical expertise and provided equipment (laptops, geographical information systems, etc.). These preparatory activities aimed to

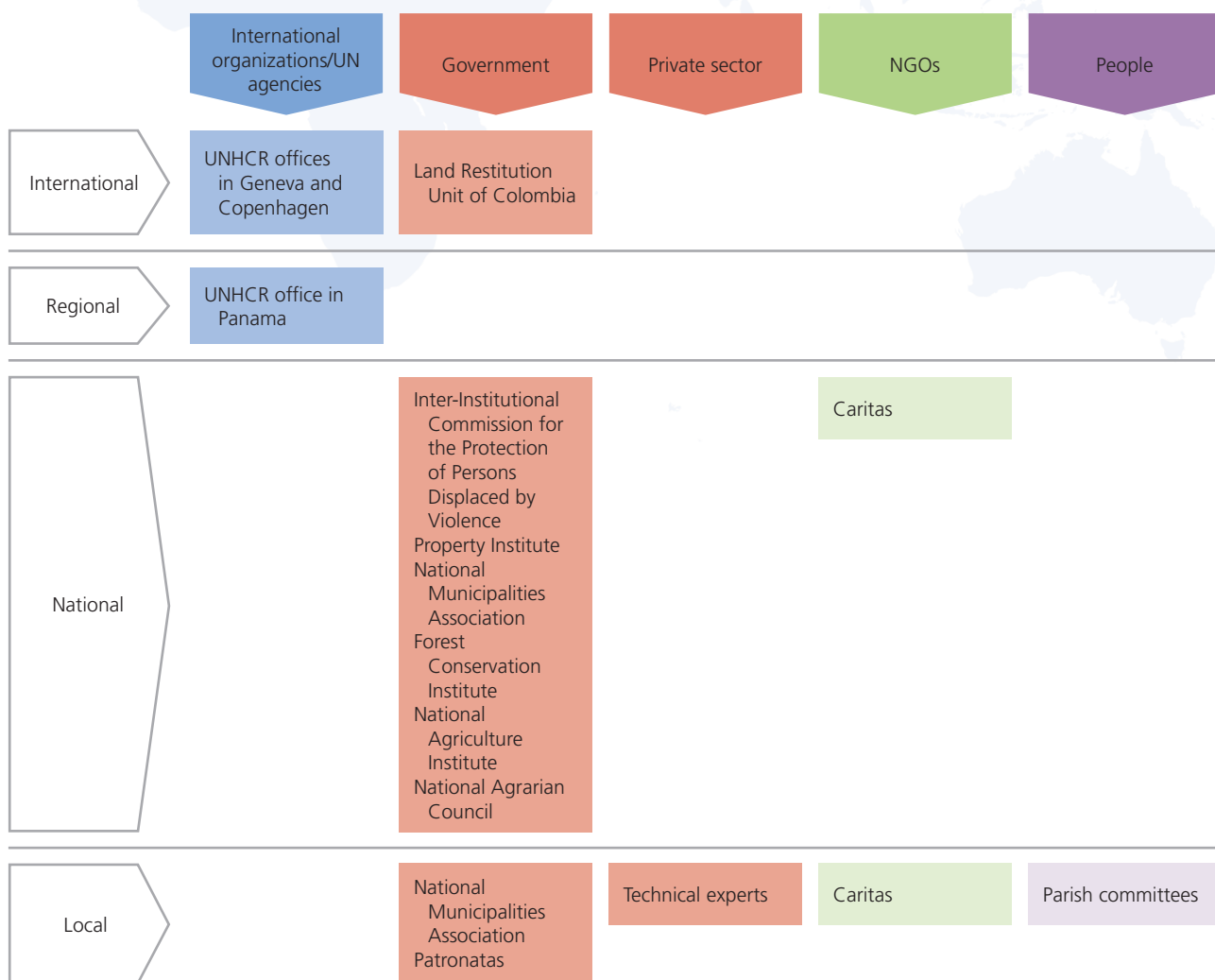


**Houses that are forcibly abandoned may be sold to buyers who are not aware that they belong to someone else.**

identify and record abandoned land and houses in the 10 parishes. This process works as follows:

1. Each parish committee identifies areas where they have observed significant displacement and abandoned land and housing.
2. Hard-copy satellite maps of these areas are provided by the Property Institute to the parish committee so that they can identify abandoned land and housing on the ground.
3. An expert engaged by UNHCR uses the information from the parish and the hard copy satellite maps showing abandoned land and housing, whether or not they are officially registered with the Property Institute, and enters it onto a mobile application. The information includes names of occupants/owners, relevant dates, cause of displacement, and the current state of the land and housing. The mobile application, developed by UNHCR's Field Information and Coordination Support Section, is based on the land registration form of the Property Institute. A memorandum of understanding between UNHCR and the Property Institute outlines the details of this collaboration.
4. The verified information collected with the mobile application will be incorporated into the national





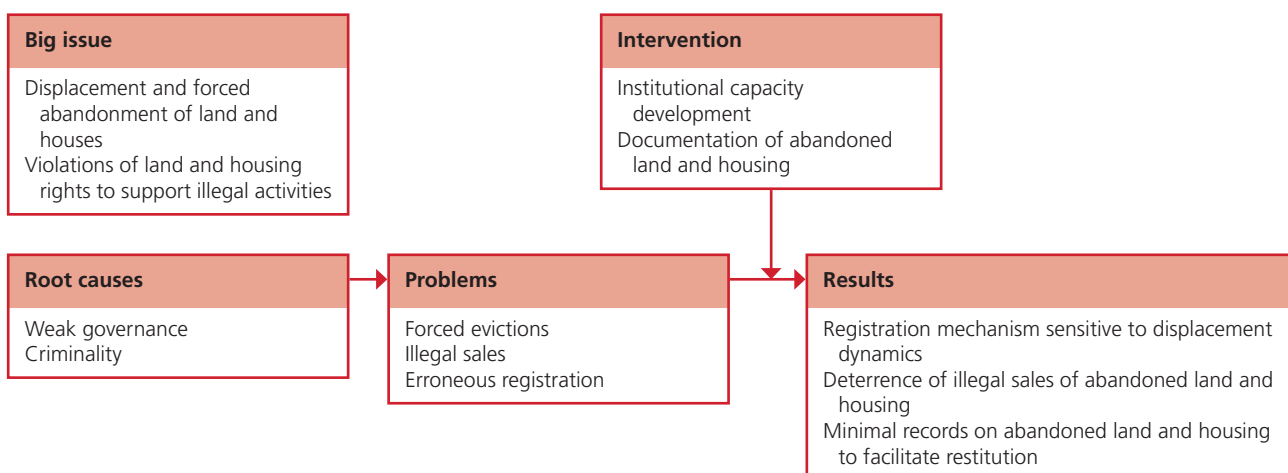
### Partnerships in Honduras

registration system managed by the Property Institute in 2018. The National Municipalities Association will ensure that municipal-level land and housing registration efforts include a notice on properties that are abandoned because of forcible displacement.

Despite progress in documenting abandoned property, there has been no mechanism to register persons who have been forcibly displaced. As part of its commitment

to enhance its ability to prevent and address internal displacement, the Directorate of IDPs at the Ministry of Justice is setting up an IDP Registration Unit in early 2018. This unit, along with the Inter-Institutional Commission for the Protection of Persons Displaced by Violence, the Housing and Land Working Group and UNHCR, will discuss the possible options to inform IDPs on the effort to document forcibly abandoned land and housing. This consultation would aim to complete

ENTRY POINTS IN HONDURAS	
Purpose of the tool across the conflict cycle	<p><b>Before conflict</b> To use pre-registration and updated records to prevent illegal sales and occupations</p> <p><b>Post-conflict</b> To use the records to facilitate restitution</p>
Type of land intervention	<p><b>Land administration</b> Existing land and housing records are updated and complemented with information on forcibly abandoned land and houses. Records of abandoned land and houses that have not been registered are also kept and potentially linked to the registered records.</p> <p><b>Capacity development</b> Relevant government departments and partners are capacitated to consider the challenges for protecting the housing, land and property rights of displaced people.</p> <p><b>Land policy development</b> Policies at various levels are adapted to ensure that displacement-related land and housing challenges are considered and rights are protected.</p>
Necessary factors/conditions for using the tool/approach	<ul style="list-style-type: none"> <li>• Existence of basic land registration system.</li> <li>• Community leaders willing and able to share information on pre-displacement occupancy/ownership situation.</li> <li>• Political will to improve and complement existing land administration systems</li> <li>• Financial resources and expertise to develop and implement mobile application and the overall strategy.</li> </ul>



Interventions in Honduras

the data entries, confirm ownership/occupation and address confidentiality concerns.

In light of the fact that some IDPs have been displaced for long periods, the main aim is to ensure that local community leaders' knowledge of the pre-displacement land tenure situation or occupancy is captured without delay. A conscious decision was made to avoid setting up an ad hoc mechanism, but instead to design a process that fits within the existing national mechanisms for protecting housing and land rights, such as the national land registration system based on the Property Law. This effort is also meant to inform the aforementioned national-level strategy that will be designed and implemented in the course of this initiative.

## CAPACITY DEVELOPMENT

Parishes. Since 2016, UNHCR has collaborated with selected parishes on working sessions that explain to members of the parish committees the importance of protecting displaced people's housing, land and property rights. These sessions also aim to refine proposed activities to protect forcibly abandoned housing and land. The development of the mobile application to document abandoned housing and land was also discussed in these forums.

**Housing and Land Working Group.** The government established this group to ensure adequate coordination and facilitate capacity-development efforts (see below). UNHCR collaborated with national actors on the following capacity-building strategy for the group:

- Training sessions for technical staff from the entities represented in the Working Group and facilitated by experts from UNHCR and the Land Restitution Unit in Colombia, which brought experience with



**An abandoned house in the Sector of Carrizal of the Honduran capital, Tegucigalpa, where gang violence is forcing out residents. Displacement particularly affects communities that have been traditionally marginalized and excluded.** © UNHCR/Tito Herrera

its comprehensive response to land-rights violations linked to forced displacement resulting from its decades-long internal conflict.

- In 2018, UNHCR will organize an exchange mission for members of the Working Group to the Land Restitution Unit in Colombia to witness first-hand the country's efforts to protect the housing and land rights of displaced people, and facilitate the restitution of their housing and land.

## PARTNERSHIPS

The Housing and Land Working Group consists of officials from the Property Institute, the National Municipalities Association of Honduras, the National Agriculture Institute, the Forest Conservation Institute and the National Agrarian Council.

UNHCR works closely with Caritas (an NGO affiliated with the Catholic Church) in its work with the parishes.

### RESULTS

The immediate results of these efforts are:

- Basic information on abandoned land and housing is documented and preserved for future protection and restitution processes.
- The information can be incorporated into the national registration system (with relevant safeguards in place to prevent fraudulent entries) to prevent further violations of housing and land rights.
- Municipalities and other relevant government entities can be more sensitive to the challenge of forced displacement and can respond accordingly (for example, exempting displaced people from paying taxes and utility bills).
- Information compiled on abandoned land and housing provides an evidence base for follow-up and national-level responses.

### Strengthening state institutions

Honduras has recognized the existence of forced displacement and has made significant strides towards the development of an appropriate legal and institutional framework. Mechanisms to effectively protect IDP rights are yet to be established. This initiative aims at enhancing the capacity of relevant institutions to take into consideration the displacement dynamics in the country. This will enable it to promote and protect the rights of displaced Hondurans, particularly their housing, land and property rights. Furthermore, UNHCR's impartial position and convening capacity has brought together key government departments at

the national level, thus improving coordination among these entities.

### Sustainable (durable) solutions

While few displaced people intend to return at present, it is important to address challenges for restoring housing, land and property rights and other obstacles that may hinder their return and reintegration in the future. Even if the majority of displaced people eventually opt for other solutions (such as integrating in their new homes), protecting their land rights enables them to make use of these assets in their new environments.

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## 2 DEMOCRATIC REPUBLIC OF CONGO: INTERVENTIONS TO PREVENT EVICTIONS OF SUBSISTENCE FARMING COMMUNITIES



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**Intervening organization** MONUSCO

**Tools** Early warning, protection of civilians, human rights response, good offices

During the colonial era, the Belgian administration introduced a dual system of property rights in Congo, whereby all unused land was declared property of the state. Titles to these lands were then granted to members of the colonial commercial class, which exploited them as plantations. After the First World War, the administration organized the migration of Rwandan farmers to Kivu, in the eastern part of the country, to provide labour for these plantations. This both compounded the land shortage caused by the creation of the plantations and the already high population densities, and added ethnic tensions to the mix.

After independence, the clientelist, divide-and-conquer style of rule of Mobutu Sese Seko further built upon and exacerbated these tensions. The 1973 General Property Law allocated all land to the state; the simultaneous policy of “Zairianization” confiscated all properties belonging to foreigners. This allowed land to become a key instrument to reward political loyalty. Large tracts of land were granted to political allies.

The first Congo war (1996–1997) put an end to Mobutu’s regime. In the second Congo war (1998–2003), different factions of the Rassemblement congolais pour la démocratie controlled much of the east, including the Kivu provinces. During their administration, they allocated expanses of land to an

emerging elite who maintained political, business or military ties with them.

The privatization and concentration of land in the hands of this new elite continued after the war. Weak state institutions facilitated and further catalysed these dynamics as they were easily captured by private interests through corruption and clientelism. For example, land documents are not properly registered but can be fraudulently acquired and traded. Private interests repeatedly use security institutions and sideline or co-opt the justice system to protect and further their own goals.

The encroaching privatization of land and state institutions is taking place against a backdrop of continued steep population increase, caused by both the high birth-rate and large-scale displacement. This reinforces an acute shortage of land available for subsistence agriculture and exacerbates food insecurity in certain areas. In North Kivu, the land shortage is further compounded by the fact that a large portion of the province, particularly in Rutshuru territory, consists of the Virunga National Park, a World Heritage site.

As a result, there are many conflicts between the new class of politically connected large-scale landowners and subsistence farming communities. The former have

<sup>1</sup> Contributors: Daniel Ruiz, Head of Office, MONUSCO, Goma; reviewed by Josiah Obat, Head of Office, MONUSCO, Lubumbashi

repeatedly used the security forces, land administration and justice systems to evict the farmers. The local population often defends itself through whatever means available, including by taking recourse to the many armed groups present in the province. These armed groups thereby gain support and have their existence legitimized.

Although consolidated estimates do not yet exist, forced evictions since 2016 have already led to the displacement of an estimated 4,600 people in Masisi territory, North Kivu, alone – the focus of this case study. Such evictions are often associated with human rights abuses: arbitrary arrests, ill-treatment and extrajudicial killings. Forced to leave their homes, the displaced people often have their food security jeopardized.

This chapter presents the response of MONUSCO and its partners to instances of forced eviction in Masisi territory in North Kivu. It focuses on one of several high-profile examples.

### THEORY OF CHANGE

Early warning mechanisms, visible follow-up to protect civilians, and the good offices of senior UN leadership can help prevent forced evictions and mitigate their impact.

### MONUSCO

Security Council Resolution 2348 (2017) mandates MONUSCO to ensure protection of civilians from abuses and violations of human rights and international humanitarian law. Protecting civilians is one of the two overarching, strategic priorities of the mission (the other being to support the 31 December 2016 agreement on elections), so is the main prism through which the

mission deals with instances of forced evictions and other land-related conflicts.

Within the civilian component of the mission, several sections are directly involved in protecting civilians. These include the Civil Affairs Section (CAS) and the Joint Human Rights Office (JHRO). The CAS ensures interaction between the mission, partners, and the local population. The Joint Human Rights Office, combining the mandates of MONUSCO and of the Office of the High Commissioner for Human Rights, is charged with investigating and reporting human rights violations, assisting the local population in claiming their rights from the authorities, and working with the Congolese authorities to strengthen its capacities to respect and protect those rights.

At the Field Office level, the Head of Office coordinates the mission's components and the UN Agencies at the local level to find the best combination of leverage to react to conflict situations. The Head of Office also performs the good offices role of the mission and engages with the local population as well as the local government up to the provincial governor to address protection challenges.

### TOOLS

#### Early warning and response

*On 29 May 2017, MONUSCO community liaison assistants based in Sake, Masisi territory, North Kivu, received information of an eviction operation by the Congolese military on a farm close to Bihambwe. The reports included allegations of human rights violations.*

CAS has an early warning system through community liaison assistants who are co-located with the military



contingents of MONUSCO. These are in regular contact with the local population through the Community Alert Networks.

*In the Bihambwe case, this system gave MONUSCO enough information to deploy a peacekeeping patrol on the same day to investigate the event and defuse the tension. The community liaison assistants also engaged with the local police and authorities to provide them with protection advice.*

### Joint assessment missions

MONUSCO organizes joint assessment missions to collect information on the human rights situation and on the broader protection of civilians, as well as on the background of the conflict. Such missions are typically composed of the JHRO, CAS, UN Police, representatives of the national authorities, including the Congolese army or police, and UN agency staff. These missions ensure a response that is visible to the local population and allows MONUSCO to use its good offices at the local level.

*In the Bihambwe case, two joint assessment missions, including representatives of the provincial ministry of interior and the provincial ministry of land, went to the affected area in June 2017. The subsequent missions held meetings with representatives of the internally displaced people, members of the local civil society, local authorities, and the local police commander. This gave the following picture of the situation.*

*On 29 May 2017, the Congolese army started an eviction operation of a village near Bihambwe. An estimated 1,100 individuals had been displaced, including 800 children. During the operation, two civilians were reportedly killed by the army and*



North Kivu, DR Congo

*another three wounded. Houses were looted and destroyed. The army allegedly also prevented the population from returning to harvest their crops.*

*Based on the information collected, a farm had been a source of disputes between the local inhabitants and the purported owners since the early 1970s, when the customary chief ceded land to a private individual. Part of that land – the farm – was acquired by a prominent Hutu provincial politician in 2004. The purported owner had recently renewed his efforts to gain full access to the land as he wanted to develop cattle farming there.*

*Leading up to the evictions in May, the army was reported to have arrested six persons on the farm for illegal occupation in February. Some of them claimed to have legal documents proving their ownership. Another nine were arrested in March*

*2017. Local people armed with machetes and sticks, and (according to the authorities) with the support of a local militia, managed to free the prisoners.*

### Good offices

The good offices of the Head of Office are an important way to raise awareness of the provincial civilian and military authorities on the issue of evictions and to advocate for action to be taken in a specific case. The Head of Office also draws attention to such evictions through engagements with the media that take place several times per week. MONUSCO sponsors Radio Okapi to send journalists to the affected area to report on the stories.

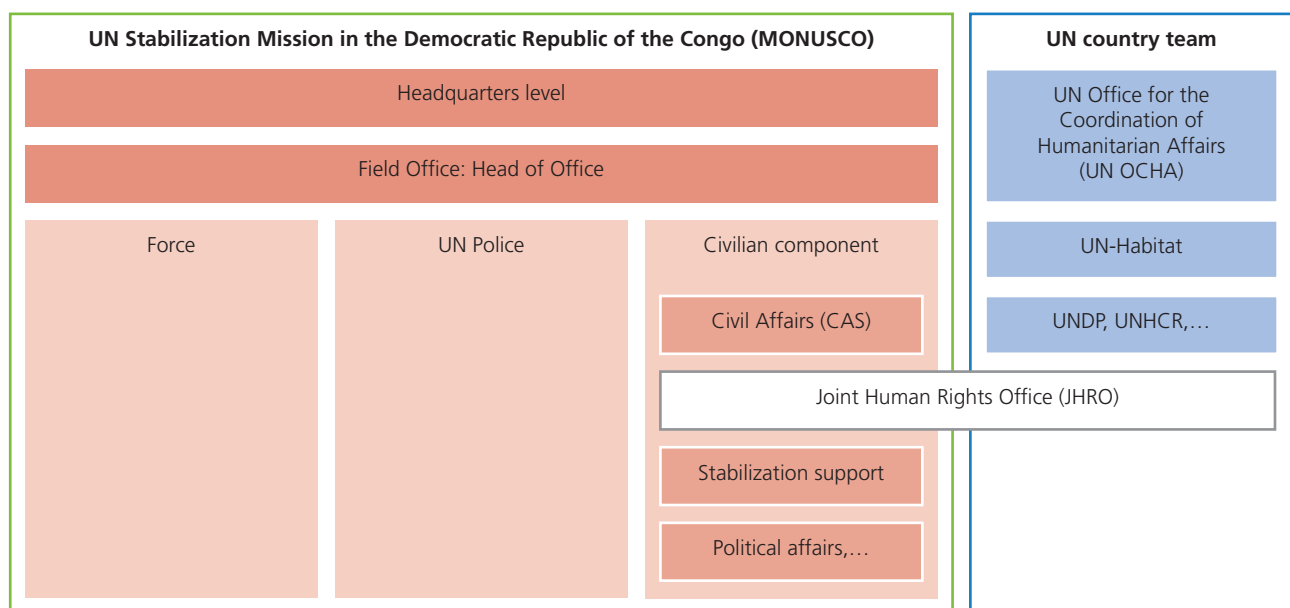
Through the good offices approach, the Head of Office has succeeded in getting the participation of local authorities, including the army, in joint assessment missions. As a result, the army arrested an officer who was reportedly in charge of a forced eviction operation.

Moreover, the good offices contributed to the provincial governor taking a proactive role in trying to solve several cases of forced eviction. As such, good offices contribute to increased awareness and accountability of the authorities, which has a preventative and mitigating impact on instances of forced eviction.

*In the Bihambwe case the authorities informally liaised with the land owner to de-escalate the situation, but did not take any direct action aimed at resolving the issue.*

### Human rights response

The JHRO has the important role to monitor, report and sometimes investigate allegations of human-rights violations committed by the Congolese army, including during eviction operations. The Office liaises with the military prosecutor's office in Goma (the capital of North Kivu province) to advocate for:



Schematic representation of United Nations units working on land issues in eastern Democratic Republic of Congo

- The opening of criminal investigations regarding the alleged human-rights violations committed by members of the Congolese army or armed groups.
- Respect of the procedural rights of those arrested during eviction operations, including the right to have their pre-trial detention confirmed by a judge.

*In the Bihambwe case, none of these requests have so far been heeded by the judicial authorities.*

#### Continued monitoring

The Civil Affairs Section monitors the situation in areas affected by eviction through its extensive community alert network in order to prevent the escalation of the situation and to respond to incidents.

*In August 2017, unknown men reportedly killed 28 cows on the farm, apparently in retaliation for the eviction. CAS immediately liaised with the provincial ministers of the interior and land affairs. This prevented reprisals by the purported owner.*

#### Humanitarian assistance

The humanitarian-related information collected during the joint assessment missions is transferred to the UN Office for the Coordination of Humanitarian Affairs (UN OCHA). They assesses whether the situation warrants further humanitarian assessment and follow-up, based on the criteria in the Humanitarian Intervention Plan for the country.

*UN OCHA was not in a position to prioritize the incident, as under the aforementioned criteria, a displacement incident should involve at least an estimated 1,250 individuals to warrant further follow-up.*

The initial response is foremost aimed to address the immediate protection needs of the population affected by the eviction. This response cannot be seen separately from complementary efforts to address the underlying dispute or the root causes leading to the evictions.

#### Mediation by the provincial authorities and UN-Habitat

MONUSCO coordinates with the provincial authorities and UN-Habitat to organize facilitation between the parties. The provincial government has the authority and responsibility to mediate between the parties and to ensure that proper eviction procedures are followed. In this case, no specific interventions were made.

UN-Habitat has strong expertise in negotiating provisional agreements between the purported land document holders and the population living on the land, awaiting clarification on who legally owns the land. For example, the local population may agree to pay limited rent in exchange for access to a part of the concession.

*In this case, however, UN-Habitat was not in a position to organize a mediation between the purported land documents holder and the local population, as it currently has no funded project in the Masisi territory.*

#### Stabilization Support Unit

Apart from protection of civilians, MONUSCO is also mandated to coordinate between the national government, international partners and UN agencies on the implementation of the International Security and Stabilization Support Strategy to address root causes of conflict. Under this strategy, stabilization programmes funded through a multi-donor trust fund are developed for an identified set of priority zones. For each of these areas, the Stabilization Support Unit conducts a

conflict analysis, which takes mobilization around land and identity into account so it can be addressed in the programming.

In North Kivu, MONUSCO has launched a stabilization programme in the Kitchanga area, on the border between the Masisi and Rutshuru territories. As competition over land is a major cause of the conflict there, UN-Habitat is the lead implementing partner for projects related to land governance. Examples of interventions include technical support to the land administration, participatory management of land, capacity building of the local population and the re-establishment of three surveying and land registration teams (cadastral brigades).

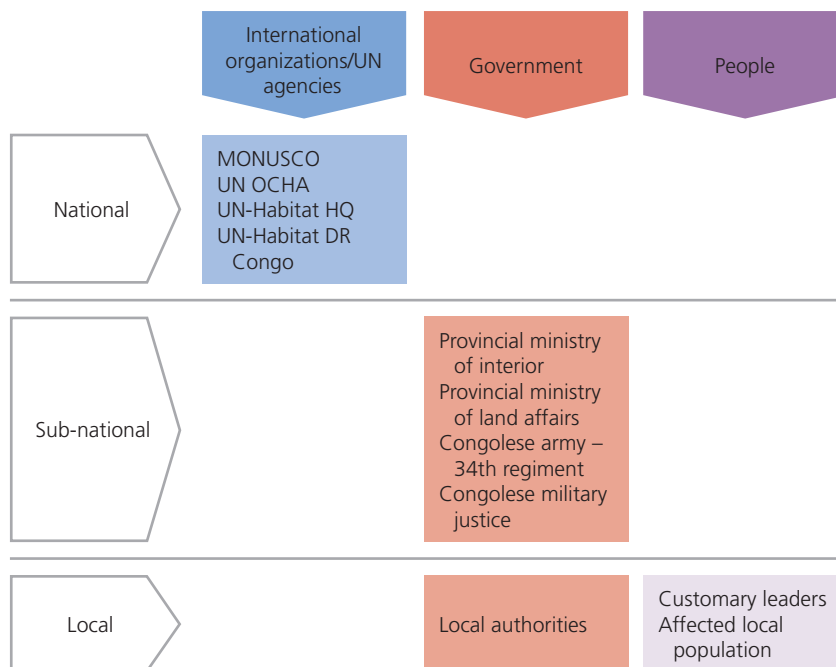
*Although the central Masisi area covering the farm was also identified as a priority zone for the*

*stabilization strategy, the programme for this area still has to be developed and implemented.*

### PARTNERSHIPS

#### Senior Management Group on Protection

The main structure to coordinate the response around protection issues at the provincial level is the Senior Management Group on Protection. This meets twice a month. It is convened and chaired by the MONUSCO Head of Office (based in Goma); it also includes MONUSCO's North Kivu Brigade, UN Police and UN agencies with a protection mandate – in this case UNHCR and UNICEF. Once a month, these meetings are enlarged to include the Congolese army, the police and the Ministry of the Interior. The meetings discuss alerts and results of joint assessment and joint protection-



Partnerships in DR Congo



**Behind the lushness of North Kivu lie conflict and forced evictions**

team missions, and coordinate and follow up on the decisions on these issues.

## RESULTS

### State-building

The early warning mechanism allows MONUSCO to respond in a timely manner to incidents of eviction and to put a footprint on the ground through visible peacekeeping patrols and joint assessment missions. This increases scrutiny of the actors involved at the local level, mitigating the effects of the eviction. The involvement of the provincial authorities and the army in the missions encourages and enables them to get first-hand accounts of incidents and challenges and plan mitigating or corrective measures. The early warning and assessment also allow for the activation of a humanitarian response.

The MONUSCO Head of Office maintains direct access to the provincial governor, senior administrators, the police and the military commanders. Proactive good offices have sensitized these authorities on the issue of

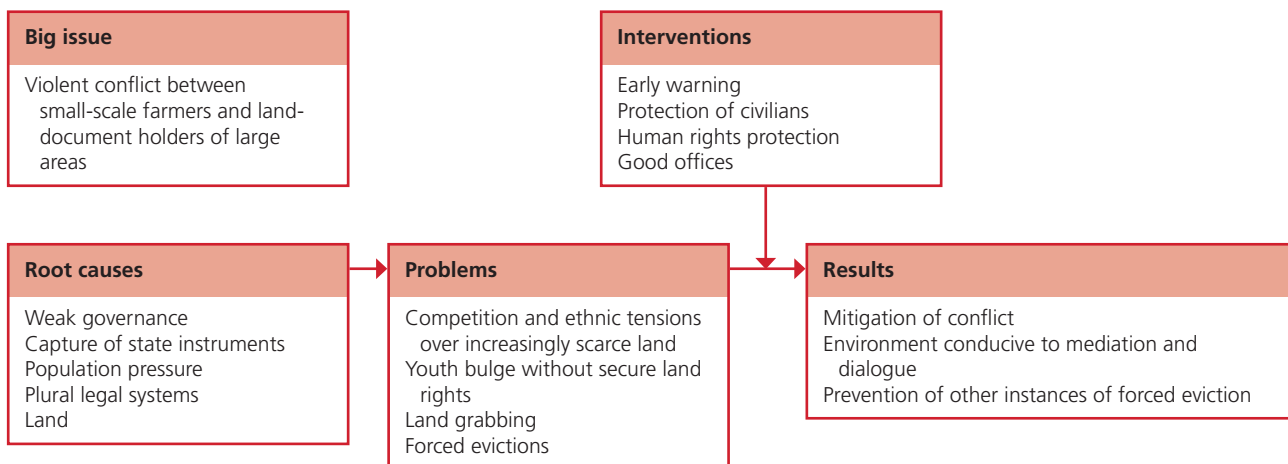
evictions and their duty to enforce respect for existing legislation. As a result, the accountability of army officers has increased, with at least one arrest, and one eviction operation suspended by the vice-governor.

The JHRO follows up on reports of arbitrary arrests and presses for criminal proceedings to be opened against army units involved in evictions. This increases the military prosecutor office's accountability to respect rights and to tackle the impunity of army units. At the same time, JHRO vets all units and commanders of the Congolese security forces before any MONUSCO assistance can be provided to them according to the Human Rights Due Diligence Policy. This has helped a great deal in reducing human rights violations by army units.

Because of the opaque land legislation and the lack of reliable evidence, it is often difficult to identify the legality of land documents. Interventions should therefore focus on respect for and the protection of human rights and strengthening of the existing legal framework. The recurrent (mis-)use of military units for evictions and the disproportionate use of force towards civilians clearly demonstrate the need to further engage with and sensitize such units deployed in high-risk zones. This includes training by JHRO of the army commanders, their units and military prosecutors on the topic and human rights in general.

The Bihambwe case shows that the added value of the mission lies in early warning, in its protection-of-civilians response, and in increasing the accountability of the military and civilian authorities to respect, and ensure respect for, the legal norms prohibiting eviction. The latter is done in particular through the human rights investigations and follow-up by JHRO and the good offices of the MONUSCO Head of Office. The collection

ENTRY POINTS IN DR CONGO	
<b>Purpose of the tool across the conflict cycle</b>	<p><b>Before conflict</b> To enable a quick response To increase the authorities' and army's responsibility for preventing evictions</p> <p><b>During conflict</b> To protect people who have been displaced and enable them to return To defuse tensions and prevent violence</p> <p><b>Post-conflict</b> To determine and mitigate the root causes of conflict To discover who has what legal rights to land To find a solution whereby displaced people can return</p>
<b>Type of land intervention</b>	<p><b>Land dispute resolution</b> Good offices, mediation and publicity to resolve disputes and decrease tensions</p> <p><b>Capacity development</b> Raising awareness of authorities and the army of their responsibilities towards residents. Increasing the likelihood that perpetrators of injustices are held to account.</p> <p><b>Land policy development</b> Ensuring that the authorities and army do not misuse (or allow the misuse of) power.</p>
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Cooperation from and contacts with key high-level authorities</li> <li>• Availability of informants and communication systems to enable a quick response</li> <li>• Presence of a multi-faceted capability to deal with various aspects of land disputes</li> </ul>



Interventions in DR Congo



of information on the ground and the coordination with the UN country team allow for a humanitarian response.

Neither MONUSCO, nor the UN system as a whole, has the mandate or capacity to fully resolve the underlying root causes of evictions. A response to land-related conflicts has many aspects: the protection of civilians, stabilization, determining legal rights to land, etc. The Bihambwe case clearly shows the difficulty of putting all the available tools that might resolve the situation to work together in an integrated manner. In this respect, the outcome of the intervention depends first of all on the ability of the authorities to be proactive. Moreover, funding requirements and priority criteria have to be met to enable UN agencies and partners to undertake complementary action in the humanitarian and mediation fields.

### Community empowerment

The visibility of the mission's response, as well as its early warning mechanism and engagement with the provincial authorities, the military and the military prosecutor, empowers the community towards the authorities. It also prevents further escalation of conflict situations and acts to prevent future evictions elsewhere. This lays the basis for more efficient dispute resolution through dialogue and mediation whereby

the provincial authorities should take the lead, with technical assistance from UN-Habitat and the Civil Affairs Section.

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### 3 IRAQ: SOCIAL TENURE AND HOUSE REHABILITATION TO SUPPORT THE RETURN OF YAZIDIS IN SINJAR

UN HABITAT  
FOR A BETTER URBAN FUTURE



**Author** Ismael Frioud, UN-Habitat

**Intervening organization** UN-Habitat Iraq, UN-Habitat Headquarters/GLTN

**Tools** Land certificates and house rehabilitation

The governorate of Ninewa, in northern Iraq on the border with Syria, is Iraq's second-most populous governorate, with over 3,200,000 people in 2009. Its capital is Mosul. The governorate is home to the largest population of Iraqi minorities including Yazidis, Assyrian-Chaldeans, Turkmans, Shabaks and Kaka'is.

The governorate's Sinjar District is home to the largest concentration of Yazidis in the world. The Yazidis residing in this region have suffered tremendous atrocities since 3 August 2014, when the so-called Islamic State conquered the area. Many of them were displaced across the Kurdistan Region of Iraq and abroad.

#### Land rights of Yazidis before the conflict

Yazidis in Sinjar have long been discriminated against in land policies, as found by a UN-Habitat study (UN-Habitat 2015). They had been denied access to their ancestral land and formal proofs of ownership. In the 1970s, many were forced to relocate to collective townships (semi-urban mujamma'at). Many land claims from this time remain unresolved. The majority of Yazidis who had been relocated have never been issued with certificates of ownership; nor did they receive compensation for the land they were forced to leave. The lack of tenure security and official property documentation affects their prospects of return. The absence of a cadastre delimiting property claims is a

major concern, as is the limited capacity of the local authorities to deal with land claims.

#### Sinjar under the Islamic State

From January 2014 to July 2017, Ninewa governorate was the scene of unprecedented violence. Islamic State fighters took over Mosul in June 2014 and attacked Sinjar on 3 August 2014. Mosul was liberated only in July 2017. The escalation of violence in Iraq caused the movement of 3,300,000 people. Among the displaced people, the number of IDPs and refugees from minority groups is disproportionately high, with the Yazidis being the second-largest group of IDPs (after Arab Sunni Muslims).



Sinjar in Nineveh governorate, Iraq



Many well-built houses, like this one in Sinuini, have been reduced to rubble by the fighting. Photo: UN-Habitat

Following the invasion of Sinjar, an estimated 250,000 Yazidis were forced to abandon their homes. Unoccupied Yazidi settlements were systematically demolished or seized by Islamic State fighters. Some 6,000 homes were burned down or otherwise destroyed in Sinjar district as a result of the occupation. Nearly all the private property in many villages in Sinjar has been destroyed. A large proportion of the public infrastructure, including health facilities, schools, water and electric infrastructure, and culture heritage buildings have also been damaged or looted. According to the independent international Commission of Inquiry of the Syrian Arab Republic, Islamic State has committed the crime of genocide, crimes against humanity and war crimes against the Yazidi population in Sinjar.

#### After the Islamic State

Today, the situation in Sinjar remains complex, including the target area of the initiative described below in Sinuini subdistrict. Multiple security forces are present and there are competing claims to administer the

territory between the Kurdistan Region of Iraq and the central government. Despite the improved security situation, many people are still displaced and few have returned. Intercommunal tensions and mistrust remain high. Many housing units and public infrastructure have been destroyed. The absence of a land-administration system and official property documents lead to tenure insecurity and the risk of secondary occupation and conflict over property.

#### THEORY OF CHANGE

If Yazidis have their homes rehabilitated, their property claims identified and verified, and their land rights protected, their voluntary return to their area of origin will be facilitated and will be durable. Conflicts over land rights will be prevented and the risk of future displacement reduced.



**Certificate of occupancy.** Photo: UN-Habitat

### UN-HABITAT

UN-Habitat is the United Nations programme working towards a better urban future. Its mission is to promote socially and environmentally sustainable human settlements development and the achievement of adequate shelter for all. In Iraq UN-Habitat is both responding to the humanitarian emergency resulting from the Islamic State campaign of terror and the armed struggle against it, and promoting sustainable urban development. UN-Habitat uses a multi-dimensional approach, ranging from emergency responses such as water, sanitation, health and emergency shelter support for IDPs, to building the capacities of local and national authorities in planning and managing urbanization. This work is aligned with Sustainable Development Goal 11 and the New Urban Agenda (Habitat III) on housing and sustainable urban development.

### TOOLS

The project aimed to contribute to the voluntary, safe and dignified return and sustainable re-integration of Yazidis who had been victim of ethnic and religious violence in Sinuni sub-district. It uses an incremental

approach that addresses the destruction of the housing stock and decades of denial of land rights.

The approach is incremental in the sense that it aims first to respond to immediate needs while preparing for comprehensive, durable, and long-term solutions. In terms of tenure security, the approach is based on the continuum of land rights (from informal to formal land rights). The immediate objective is not to establish full property titles, but rather as a first step to secure occupancy rights for the beneficiaries.

A similar approach is employed in regard to housing stock and land administration. To facilitate the return of displaced people, the immediate priority is to rehabilitate houses, map property claims and deliver land documents, while preparing for the longer-term objective i.e. to strengthen the capacity of municipalities in regard to land administration, including registers and the cadastre.

### Social Tenure Domain Model

The Social Tenure Domain Model (STDM) is the main tool employed in this project. It is a pro-poor GIS system that can be used for land administration developed by UN-Habitat and the Global Land Tool Network ([www.gltn.net](http://www.gltn.net)). It allows for the management of informal and alternative land documents and administrative and spatial data. It can record the history of parcels, vectorize boundaries of plots on satellite maps, and generate reports and certificates.

The social tenure domain model approach is about people and social tenure relationships, whereas traditional systems are focused on land titling. The tool was employed to facilitate the recognition of informal rights and claims by Yazidis in an area without an





Before and after rehabilitation: Efforts in Sinjar to restore housing to its rightful occupants and rehabilitate it. Photo: UN-Habitat

operating official land administration system and where land tenure is informal.

**Software.** The social tenure domain model uses specialist software that allows for:

- Importing data on beneficiaries
- Creating linkages between units and data
- Importing and creating maps and boundaries
- Defining tenure relationship between person, institution and plots
- Assessing land tenure relationship
- Designing reports and land certificates.

### **Survey on alternative property documentation.**

To overcome the lack of official property documents and the destruction of houses, the project started with a survey on ways to create alternative property documentation with community members and local authorities. This aimed to:

- Consolidate UN-Habitat's understanding of the current situation with regard to land rights and the absence of official land documents in Sinuni.
- Inform communities and local authorities about the social tenure domain model approach.
- Decide with communities and authorities on what informal and alternative documents could be used to prove occupancy.

Community mobilization, vulnerability assessment, and preliminary evaluation of damaged houses. Community mobilization activities were carried out in the targeted villages and in camps of displaced people. These informed the beneficiaries about the project, identified households whose houses had been damaged, and refined the targeting by assessing the beneficiaries' vulnerability. Discussions were also conducted with local authorities to support the pre-identification

of beneficiaries and damaged houses. Technical assessments of damaged houses were conducted by UN-Habitat engineers.

**Verification of claims.** The social tenure domain model supports the collection, consolidation, and analysis of alternative and informal land documents proving occupancy rights. The system was used to ascertain the occupancy rights and ensure that houses planned for rehabilitation were owned by the beneficiaries and that there were no overlapping land tenures and claims requiring adjudication. Potential beneficiaries and community members were interviewed and asked to provide informal or alternative documents as evidence of their previous occupancy of the land and/or buildings. Such documents included bills for water, electricity or garbage-collection, leases, photographs and videos. Community meetings were also organized to validate the occupancy rights. In addition, confirmation by the local authorities of the presence of the household on the plot for several years could be used as evidence. This process resulted in the development of pre-certificates of occupancy, which were signed by the authorities.

**Mapping of claims.** The plot boundaries were marked on a satellite map, first in the field directly by the beneficiaries in the presence of local authorities and UN-Habitat, and then on the satellite image that is used in the social tenure domain model software. This is used as preparation for marking the boundaries. The boundaries were then presented and discussed with the neighbours to seek their validation. The maps and the delimitation of boundaries are a central element of the social tenure approach: the final maps recorded were included on the final certificate of occupancy.





**This family's house in Ashty, Sinuni, has been rehabilitated.**  
 Photo: UN-Habitat

### Certificate of occupancy

Certificates of occupancy were then distributed to the beneficiaries. They were signed by the beneficiaries, local authorities, the municipality, two witnesses and UN-Habitat. The signature of the local authorities supports and protect the claims. These certificates are the first step toward the issuance of full ownership titles. The information on the certificates includes a map of the plot, a photo of the family, the names of the claimants, text explaining what type of rights the occupants have, , and signatures. Copies of the certificates were given to the municipality and beneficiaries; a copy was kept by UN-Habitat.

### House rehabilitation

The houses were rehabilitated by local contractors and with the direct involvement of returnees as workers. UN-Habitat engineers were responsible to ensure the rehabilitation was in accordance with minimum standards. The local authorities and the beneficiaries also checked the rehabilitated buildings and the quality of the work.

### Conclusion

Technical rehabilitation started only when the pre-certificate had been signed by the local authorities and sufficient information had been gathered to prove occupancy. This ensured "do no harm", as the owners of the houses were validated by local authorities and community members as the legal occupants before the technical rehabilitation could start. Each household that benefited from the rehabilitation received certificates of occupancy. This was the first time Yazidis had been officially given certificates to support their property claims. It is, of course, possible to grant certificates without any technical rehabilitation of the house.

The certificates, mapping and technical rehabilitation are a first step toward the recognition of full land titles. They strengthen local capacities in relation to land administration, with the hope of later upgrading to include the development of, and updating of, the land registry and cadastre. A preliminary agreement has been secured with the Ministry of Justice to transform the certificates into full titles.

### CAPACITY DEVELOPMENT

The local government officials played an important role throughout the project cycle. The survey of alternative property documentation was carried out with

community members and local authorities to overcome the absence of official property documents. UN-Habitat placed a central emphasis on working with, and providing hands-on training to, local leaders on land rights, including the management of property-related grievances and development of common criteria prior to the issuance of certificates. UN-Habitat engineers raised the authorities' awareness of minimum construction standards and good housing-rehabilitation practices. The inclusion of private businesses and beneficiaries during the rehabilitation supported the recovery of the local economy, created employment opportunities, and offered on-the-job skills trainings for returnees, thus preventing future displacements due to economic security.

### GENDER

Yazidi women and girls paid a terrible price with the invasion. Thousands were kidnapped and sold as sex slaves by Islamic State. Family lives and bonds with the community were disrupted, as many surviving women have to deal both with their trauma and with being blamed as victims. The impact of inequitable access to property rights, the destruction of houses, violence-induced trauma and rejection by communities of the survivors can all impede the return of families.

The project placed a strong emphasis on gender, including during the selection of beneficiaries. Female-headed households, including widows and households with young pregnant women, were given priority. Yazidi women have limited access to inheritance, as traditionally property is divided among the male survivors. Few female household heads gave their names as the owner of the house. A broader action is required to first align the various competing laws and cultural practices in Iraq in regard to inheritance and access to property.

### PARTNERSHIPS

Due to the complex security, political and humanitarian situation in Sinjar it was essential to coordinate closely with government counterparts (governorates, sub-districts and local authorities), as well as with security actors.

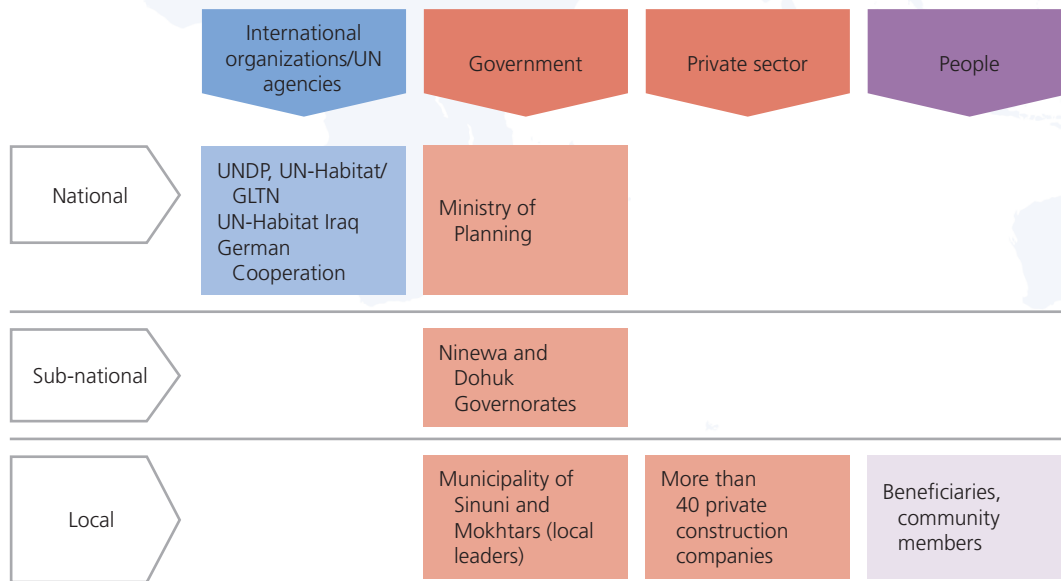
The survey of alternative property documentation was carried out with community members and local authorities. The local authorities were also involved in the supervision of the rehabilitation activities and played a central role in signing the certificates. Contractors and the beneficiaries were the main partners during rehabilitation activities.

The Government of Germany through the United Nations Development Program and UN-Habitat/Global Land Tool Network supported the project financially. Joint programming with UNDP is currently under development and will lead to the implementation of a more comprehensive Phase II.

### RESULTS

The intervention benefitted 1312 households. It enhanced the land rights of Yazidis through the issuance of certificates of occupancy and by mapping plots. It supported the right to adequate housing by rehabilitating damaged houses. It fostered the voluntary, safe and dignified return to area of origin, and prevented future evictions, secondary occupation and conflict over land.

The intervention also increased the understanding among community members and local authorities about social tenure and land rights, the prevention of conflict over land, and technical standards for house



**Partnerships in Iraq**

rehabilitation. It supports the area’s economic recovery and the economic security of the returnees.

**Strengthening state institutions**

The authorities’ capacity to manage and mitigate property-related grievances was strengthened through working with local authorities and local leaders on land to develop common criteria for asserting occupancy rights prior to rehabilitation. It helped them to reject unsubstantiated claims and arbitrate on overlapping claims. It also enabled them to advocate for the use of the social tenure software approach as a way of addressing the lack of land titles in Sinjar vis-à-vis the regional and national authorities.

The project beneficiaries received occupancy certificates and satellite maps that support their claims. These maps and administrative data can now become part of the cadastre and land registry at the municipal level and reinforce the local administration of land.

The awareness-raising sessions gave the local authorities information they could use to educate their constituency about land rights.

For the future, a priority should be to build the capacity of government officials at the sub-district and district level in land administration. This will enable them to create land registries and the cadastre, move the social tenure domain model database to government management, and improve the determination and validation of individual cases. The transfer of responsibility for land administration from UN-Habitat to the government is essential to ensure the durability and scaling up of the response.

**Dispute resolution**

The approach contributed to the prevention of land-related conflict by ensuring that the returnees were the real owners of the houses and that their claims were officially recognized by local authorities. This helps prevent land grabbing, forced evictions, and secondary

ENTRY POINTS IN IRAQ	
<b>Purpose of the tool across the conflict cycle</b>	<p><b>Before conflict</b> To prevent conflicts related to land and address competing claims peacefully. To raise awareness of local authorities and community members on land rights. To increase community capacity to prevent conflict through dialogue.</p> <p><b>During conflict</b> To support peaceful resolution of unsubstantiated cases and secondary occupation</p> <p><b>Post-conflict</b> To reduce tensions by clarifying who owns what. To reduce frustration among beneficiaries and reduce tensions and the risk of retaliation. To support return and decent standard of living for displaced people. To support local economic recovery.</p>
<b>Type of land intervention</b>	<p><b>Land dispute resolution</b> Verification of claims, mapping, and agreement of local authorities and communities</p> <p><b>Land administration</b> Mapping and certificates as first step toward full land titles and creation of register and cadastre.</p> <p><b>Capacity development</b> Awareness-raising on housing, land, and property and minimum standards for house rehabilitation.</p>
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Access and security</li> <li>• Support from local authorities and communities</li> <li>• Hardware and technical skills to use the social tenure domain model</li> </ul>

and unlawful occupations. The recognition by local authorities and beneficiaries of the validity of the claims and occupancy rights will also help prevent tensions in case of overlapping claims. Awareness-raising of local authorities and community members on land will support the start of positive dialogue based on facts within the community.

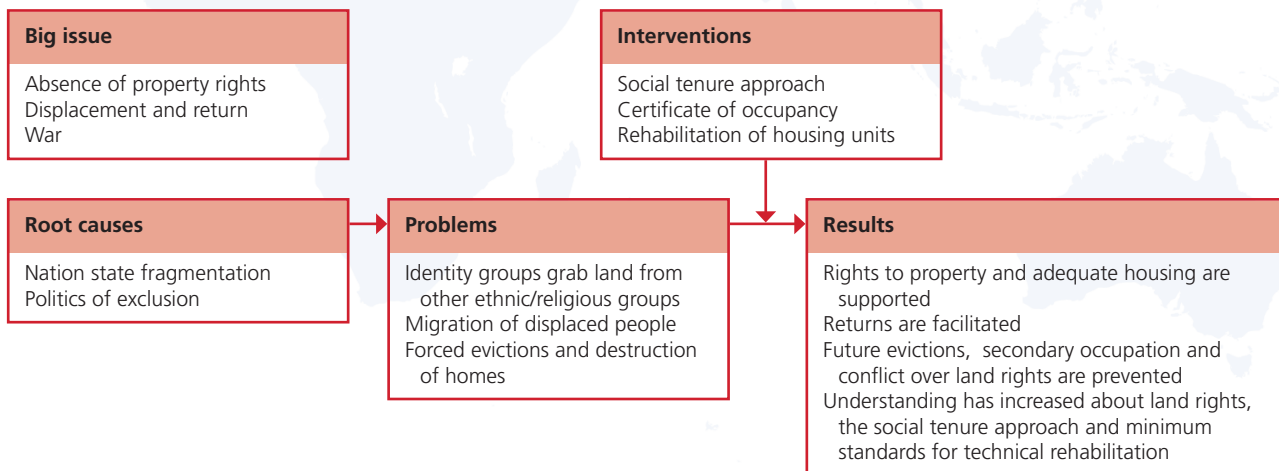
### Sustainable solutions

The approach combining physical rehabilitation, verification of claims using alternative and informal property information, and their validation by local authorities and communities, has been highly successful. The issuance of certificates will protect the occupancy rights of the beneficiaries over the long term.

The next step will be to upgrade the certificates of occupancy into certificates of ownership recognized by local and national authorities, support the setting up of the communal cadastre and land registry, and transfer the social tenure domain model software to the municipal and district level.

### Humanitarian assistance and human rights

The approach and tools employed in this project support the protection and promotion of property rights and the right to adequate housing. Housing rehabilitation and protection of land rights are essential for ensuring a durable return of displaced people and to protect them from further displacements and forced eviction.



**Interventions in Iraq**

**Community empowerment**

Community members were involved throughout the project cycle. Alongside the local authorities, they were involved in determining which alternative and informal documents might support occupancy rights, and in the final validation of the claims. By ensuring that occupancy rights are recognized by authorities, the project ensures that Yazidis will be protected from future evictions. The participation of local businesses and returnees in the rehabilitation work supports local economic recovery.

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### 4 SOMALIA: LAND TENURE AGREEMENTS TO PROTECT INTERNALLY DISPLACED PEOPLE IN BAIDOA FROM EVICTION

**Authors** Evelyn Aero and Kirstie Farmer, Norwegian Refugee Council

**Intervening organization** Norwegian Refugee Council

**Tools** Leases and land documents for internally displaced people



#### LAND AND CONFLICT IN SOMALIA

After the fall of the Siad Barre regime in 1991, the Somali Republic splintered into three autonomous regions: south-central Somalia, Somaliland, and Puntland. Huge numbers of people were displaced during this time, first in the north and then in the south,

followed by famine and disease. Uncertainty over land rights has led to violence and contributed to the civil war of the last 20 years. A lack of state control has led to widespread misuse of Somalia's natural resources. In many places, the local government lacks capacity and legitimate authority to manage land effectively. A pluralistic legal system dominated by traditional



An ad hoc settlement for displaced people in Baidoa, Somalia. Photo: NRC



authorities and combined with complex clan dynamics further undermines government influence in land management.

Land disputes and land tenure and ownership problems occupy a central position in the protracted conflict. Disputes caused by inadequate land laws and the movement of displaced persons are exacerbated by clan rivalries and entrenched practices. Tensions escalate and the risk of conflict increases when longstanding issues such as poverty and limited access to social services, pasture and water are inadequately addressed. Land-grabs by warlords and commercial actors and as a result of inter-clan conflicts are extremely common. Disputes may also occur between private landowners and international organizations leasing land to settle displaced people, or between residents and returnees wishing to reclaim their land. There is a lack of mechanisms to ensure security of tenure and resolve land disputes. Dispute-resolution mechanisms are not uniform across Somalia, and they tend to discriminate against women.

#### Humanitarian situation and displacement

Despite decades of international assistance and involvement, Somalia remains a complex operational environment with many needs and challenges. The country now ranks amongst the five least-developed nations, according to UNDP's Human Development Index (for 2012, the most recent year for which data are available) and is at the fourth-lowest position according to the Gender Inequality Index. There are an estimated 1.1 million internally displaced people (IDPs) in Somalia; at least 683,000 additional people have been displaced since November 2016 due to drought.

#### Somali women's land rights

Women have a range of housing and land rights under the mix of statutory, customary, and Islamic regimes used in Somalia. However, despite the legal protections that exist, women's relationship to land is usually through a male relative and there are many obstacles preventing their access to housing and land rights. These stem from chronic poverty and the patriarchal traditions and cultures that underpin Somali society. They prevent women from resolving disputes and having access to justice when their rights are denied. The result is that women in particular are vulnerable to eviction, exploitation and poverty directly related to the denial of land rights.

#### THEORY OF CHANGE

If IDPs have shelter and land documents through agreement with local authorities and the host community, they will be protected from eviction. Having these documents also helps to prevent and solve disputes; IDPs can use them as evidence to claim their rights.

If women have tenure documents in their names, they will be able to access dispute-resolution authorities to uphold their rights. Women who have land documents will also be able to transfer their property.

#### NORWEGIAN REFUGEE COUNCIL

The Norwegian Refugee Council (NRC) country programme was established in Somalia in 2004. It provides shelter and legal assistance for IDPs in Puntland, Somaliland and South Central. Its information, counselling and legal assistance programme provides mediation and negotiation services to resolve land-related conflicts such as evictions and lease extensions.



**Internally displaced people in Somali, 2016-17.** Adapted from *USDA Humanitarian Information Unit*

It also trains IDPs, local actors and other stakeholders to build knowledge and capacity on land rights. In both South Central and Puntland, the programme conducts eviction monitoring and response. The legal assistance team also works with shelter programmes and government partners to facilitate access to land for shelter. To strengthen tenure security and protect the rights of IDPs to use their houses, fields, boreholes, and other communal infrastructure, the legal-assistance programme also facilitates access to land documentation.

### **TOOL: LAND-TENURE AGREEMENTS TO PROTECT IDPS FROM EVICTION**

NRC has facilitated agreements with displaced and host communities and local authorities to secure land for IDPs in Baidoa so they can receive a humanitarian shelter. The IDPs are provided with land-tenure documents to protect them against forced eviction. This is a critical risk in Baidoa, where up to 66,000 such people have been living in settlements and camps; they face eviction by “gatekeepers” and landlords. The practice of “gatekeeping” involves individuals acting as an intermediary between IDPs and others (such as

humanitarian organizations) for access to humanitarian assistance and resources.

During the process of gaining land documentation, NRC also developed the capacity of local communities, government authorities and humanitarian and development actors to understand and respond to land-tenure insecurity among IDPs. NRC and its partners worked with IDP communities, particularly women, to build their knowledge on land-tenure security. It also supported them to deal with disputes through legal assistance and with traditional dispute-resolution mechanisms.

#### Engagement with communities and identification of land

In early 2014, NRC undertook a needs-mapping exercise and explored solutions to improve security of land tenure, including communal land-tenure agreements and the issue of land documents.

The first step in obtaining land documents was to begin dialogue with communities and the local government to identify appropriate land. NRC held information sessions on land rights and security of tenure.

Three different types of land were identified: community-owned, private and public. Community and private land was donated by a host-community clan or an individual closely affiliated with an IDP clan. The host-community clan offered the land for free so there was no fee attached. NRC was approached by the host community and the IDP community to construct shelters on the land. Public land was identified by the municipality.

#### Conducting due diligence

NRC then began a process of due diligence to make sure that the land identified either by the municipality or the local community was not subject to any conflicting ownership or use claims. This involved consultation with the municipality host and IDP communities to verify that the offer was genuine and there was no undue influence involved.

Further information on the land-tenure situation was collated through bodies involved in conducting the due diligence: the municipality, Sharia court and community dispute-committees.

#### Surveying the land

NRC shelter staff then worked together with surveyors to record the GPS coordinates of the land and ascertain the conditions of the site for potential shelter construction. Maps with the GPS coordinates are held by the municipality and the humanitarian shelter actors.

#### Issuing occupancy certificates and land documents

For public land, a written offer was then issued by the municipality. Further consultations were held with the host community to ascertain whether there were any claims to the land. Focus-group discussions were also held with displaced communities, with separate groups for women and men.

For community and private land, the clan leader or landowner wrote a letter that was the basis for drafting a communal agreement, facilitated by NRC. The clan leaders, IDP leaders and religious leaders from both communities acted as witnesses.

Using the offer from the municipality or the communal agreement, NRC shelter staff issued individual occupancy certificates for the shelters that were to be constructed. The municipal land department then used these occupancy certificates, together with the original offer, to issue land certificates for the shelter plot. If the land was privately-owned, lease agreements were drawn up. The land certificates give the owner the rights to use, possess, control and transfer the land.

The lease agreement is for a fixed time and the bearers' rights are limited to transfer for inheritance and not to sell. In some cases, the use rights are also limited. For example, some agreements limit the use to shelter and prohibit cultivation or livestock raising. Sometimes cottage gardens are allowed. Some agreements stipulate the type of water and sanitation facilities and infrastructure that are permitted – e.g., in some cases pit latrines are prohibited and graveyards are not allowed.

### Finalizing the land documents

A Baidoa notary authenticated the land certificates and provided a feature (a seal) that prevents duplicates from being made. There is currently limited government capacity to produce documents with unique features due to a lack of equipment and resources.

The land certificates are in triplicate: one copy is retained by the landowner and the other is in the land department in the municipality. NRC also retains a copy. To mark the finalization of the land certificates, a handover ceremony is held with the donors, the municipality and other local authorities, the host-community representatives and the IDPs receiving the land certificates.

### CAPACITY DEVELOPMENT

NRC built the capacity of local authorities (district commissioners, mayors and the municipality staff working on land issues) through training on housing, land and property, and advocacy on the relevance of documentation in securing land tenure and protecting people from evictions. This increased the government's understanding of land-tenure security and supported its role in producing and issuing land certificates. NRC also trains local authorities and customary authorities on resolving disputes over land.

### GENDER

Women in Somalia face various obstacles in claiming their land rights. The tool included several types of support for displaced women.

- A high illiteracy level amongst IDP women and girls limits their understanding of the need for land documentation. Information was provided to women and the communities.
- Traditionally, women's names have been omitted from land documentation, including those issued by humanitarian shelter programmes. NRC worked with women and men to communicate the practice of issuing the land documents in joint names and to ensure that women have understood the implications for this in household decision-making. It was also to ensure that women wanted to have their names on the land document.

During the selection process, priority was given to female heads of displaced households. They were trained on land rights and dispute resolution, and those involved in land disputes were offered legal assistance.

Where courts existed and were thought to be the appropriate forum, NRC provided legal assistance through lawyers or paralegals. It helped women to meet key decision-makers in both the formal and customary legal systems.

**PARTNERSHIPS**

NRC is a member of several groups established to coordinate the humanitarian response in Somalia, such as the Protection Cluster and the Shelter Cluster. NRC co-chairs a working group on housing, land and property (HLP) within the Protection Cluster, and the Regional Durable Solutions Secretariat. The HLP group was set up in May 2015 and aims to strengthen the protection of land rights in Somalia and work towards

durable solutions for displaced people, notably in urban areas.

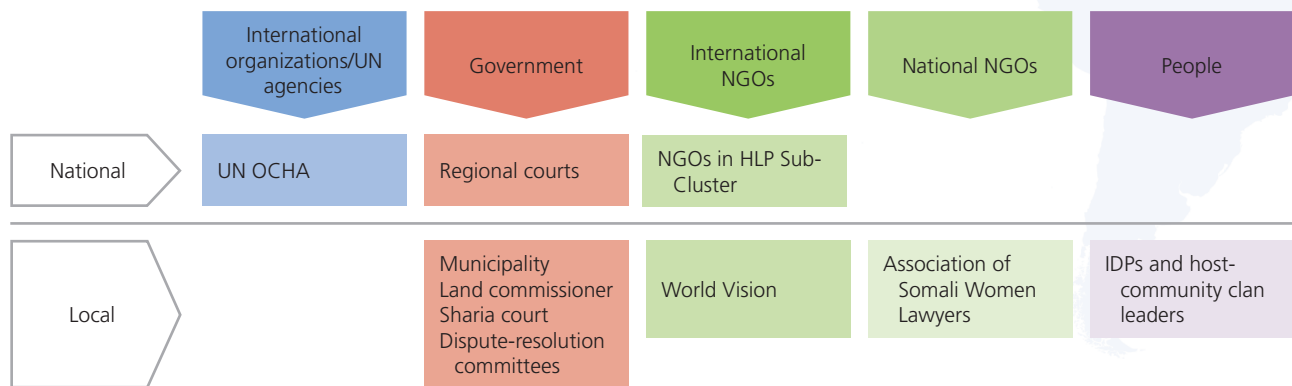
The Protection Cluster’s joint eviction-risk assessments with the HLP group had drawn attention to the scale of forced evictions in Somalia and their impact on IDPs. This was what triggered the development of the tool described above. Initially the project was supported by the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA); subsequent initiatives to replicate the tool were funded by the European Community Humanitarian Aid Office (ECHO) and the United Kingdom’s Department for International Development (DFID).

In Baidoa, NRC worked with IDPs, host-community leaders and municipal authorities to develop the



The selection process gives priority to displaced households headed by women. Photo: NRC





### Partnerships in Somalia

lease agreements. It also trained staff of a local NGO, the Association of Somali Women’s Lawyers, on land documentation. The staff were then able to provide information services for IDPs where NRC staff could not go for security reasons.

As a follow up to the land-tenure initiative in Baidoa and other areas in Somalia, in 2017 NRC entered into a partnership with the Global Land Tool Network (GLTN) and UN-Habitat to address land-tenure issues for IDPs. NRC staff received training on the GLTN’s “gender evaluation criteria” tool to strengthen the gender aspects of its work on land rights in Somalia. NRC also worked with World Vision to build capacity on land documentation within its shelter project.

### RESULTS

In Baidoa over 1,300 land-tenure documents have been provided to IDPs, including through lease agreements (for a period of 5–8 years). Over half were for women heads of households.

The IDPs were able to use their land documents to prevent forced evictions and to use different dispute-resolution mechanisms when eviction was threatened,

both at the household level (spouse or relative) or settlement level (gatekeepers).

But in some cases where private land was used, the intervention resulted in a rise in the value of the land because of the infrastructure investments such as shelters and wells. This led to some landlords refusing to extend their leases. NRC now recommends using only public land allocated by the municipality, rather than privately owned land.

### State-building

The tool addresses two issues important for state-building in Somalia.

- The overall lack of governance of land issues and the failure to prevent forced evictions on a significant scale, which particularly affects displaced communities. By engaging local authorities in land allocation for IDPs, the tool builds the authorities’ capacity in land management and dispute resolution. It gives them responsibility for the process and introduces a measure of accountability for ensuring the land agreements are upheld.



ENTRY POINTS IN SOMALIA	
<b>Purpose of the tool across the conflict cycle</b>	<p><b>Post-conflict</b></p> <p>To prevent and mitigate conflict between IDPs and host communities. To improve security of land tenure during displacement by providing IDPs living in humanitarian shelter with land documentation, including lease agreements.</p>
<b>Type of land intervention</b>	<p><b>Land dispute resolution</b></p> <p>Verification of claims, mapping, and agreement of local authorities and communities.</p> <p><b>Land administration</b></p> <p>Mapping, certificates as first step towards full land titles, creation of land records linked to maps..</p> <p><b>Capacity development</b></p> <p>Training of local authorities, creating templates for agreements for land allocation for IDPs.</p>
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Cadastral records to check it is public land.</li> <li>• Availability of public land or host communities willing to donate land.</li> <li>• Support from municipality.</li> <li>• Technical capacity within authorities or notary to authenticate land documents.</li> </ul>

- The National Development Plan includes building resilience for IDPs and returnees and providing adequate housing.

**Dispute resolution**

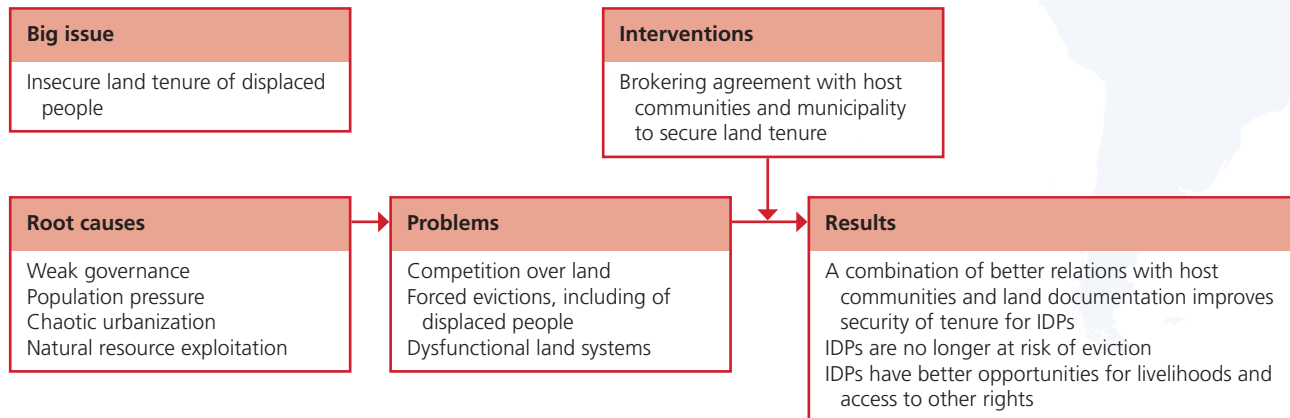
Resolving land disputes is critical for national reconciliation. Land documents and lease agreements issued during this initiative have been used in dispute-resolution processes to clarify rights to stay on the land and to solve counter-claims, protecting IDPs from eviction.

NRC and its partners have built capacity on dispute resolution by working with IDP communities, particularly women, to enhance their knowledge of land rights and to enable them to deal with disputes through legal assistance and collaborative dispute-resolution processes.

**Sustainable (durable) solutions**

IDPs were able to stay in their shelters, free from the fear of eviction. This contributed to sustainable (or “durable”) solutions for IDPs. Interventions to resolve disputes with host communities promoted social cohesion.

By securing shelter free from the threat of eviction, the tool helps stop the cycle of multiple displacement and destitution that many people experience. It contributes to durable solutions for those who are displaced in the long term and who cannot return home. At the local level the engagement with host communities and the formalization of agreements for IDPs to remain, combined with support in resolving disputes, builds community relations and mitigates conflict over land and other resources that internal displacement has heightened.



### Interventions in Somalia

#### Protection and promotion of human rights

Freedom from forced eviction is a central element of the right to adequate housing. Ensuring that IDPs are not evicted from humanitarian shelter is vital for any sustainable response. The tool promotes security of land tenure as an integral aspect of the humanitarian response for IDPs.

Securing land documents for IDPs represents a significant shift in shelter programming, away from temporary agreements on shelter use that are not legally binding for inhabitants and can be terminated at any time.

#### Community empowerment

Through this tool, NRC has facilitated a relationship between the local community, IDPs and local authorities. It has formalized a process for land allocation and shelter construction that both provides land-tenure security for beneficiaries and builds capacity to resolve disputes. NRC has encouraged the whole community to acknowledge legally a *de facto* situation and to integrate the IDPs as members with full rights. With secure land and housing, the households are stabilized

in their neighbourhoods and are in a better position to focus on their livelihoods, and improve their access to health, education and other basic needs.

The host communities have also benefitted from support on land-tenure security through NRC's interventions to improve tenancy agreements with landlords, training on how to obtain land documentation, and information on which government departments to approach.

#### Potential for scale-up

In Baidoa, there is a functioning land registry with intact cadastral records. In other areas of Somalia both of these aspects may be missing, making it difficult to replicate the approach. Nevertheless, NRC is looking into adapting it in settlements in Kismayo, Dolow and Luuq, and to support local authorities and communities as they start implementing similar initiatives. At the national level, UN-Habitat has drawn on lessons from this tool in a project to secure land documents in Mogadishu.

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## 5 SUDAN: INTERCOMMUNAL RECONCILIATION OF LAND DISPUTES IN DARFUR



**Author** Mike Dzakuma, Civil Affairs Section, UN–African Union Hybrid Operation in Darfur (UNAMID)<sup>1</sup>

**Intervening organization** UNAMID

**Tools** Intercommunal mediation between farmers and pastoralists

In 2003 a group in Darfur, in western Sudan, took up arms against the government in protest about the marginalization of the region. While this rebellion brought Darfur into world prominence, local, intercommunal conflicts that predate it account for the bulk of displacements and fatalities in the area. Such intercommunal conflicts are caused by disputes over how the land is held and land ownership (*hakura*), tribal power and leadership, as well competition between crop farmers and pastoralists over farmland and water. Over the years, climate change has reduced arable land and water resources, making competition over these resources more acute. Many local conflicts occurred along ethnic and tribal divisions. But the rebellion led to a politicization of almost all local conflicts, as neighbouring communities suspected one another of supporting either the rebel movements or the government in the bigger political battle.

Before the outbreak of the rebellion, fatalities and displacements from intercommunal conflicts were minimal and easily contained. Only rudimentary weapons were used, and traditional leaders were adequately equipped to resolve them. With the rebellion came the “modernization” of local conflicts: sophisticated, heavy weaponry now abounds in the region. Local conflict-resolution mechanisms have been weakened. The balance of power has shifted largely in

favour of nomadic communities, some of which were armed by the government for support during the war against the rebels.

Areas occupied mostly by sedentary farmers were the heaviest hit in the war, as most rebels hailed from these communities. They abandoned their fertile ancestral lands for protection within internally displaced persons (IDP) camps across Darfur. There are 174 IDP settlements scattered across Darfur with a total population of about 2.6 million people.



**Consultation session with community leaders.** Photo: UNAMID

<sup>1</sup> Reviewers: Jackline Odero (formerly of UNAMID) and Ana Maria J.M. Valerio (UNAMID)

This large-scale displacement has led to persistent clashes between the IDPs and the host communities. The Dourti conflict recounted below is a typical example.

**THEORY OF CHANGE**

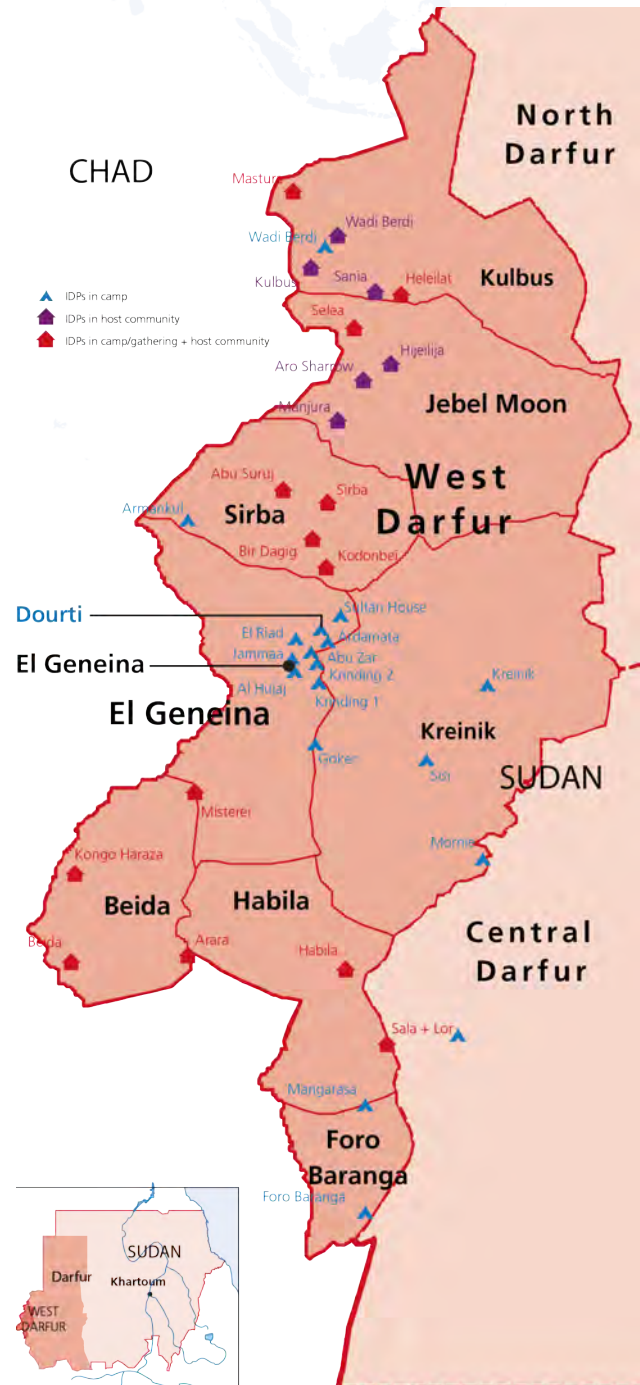
If it is possible to build their trust, two warring communities can be induced to talk to each other. That can lead to land-use zoning and agreements to share land and resources peacefully. In the longer term, this can help achieve peace on a larger scale.

**UNAMID CIVIL AFFAIRS SECTION**

The African Union–United Nations Hybrid Operation in Darfur (UNAMID) was established in 2007 by United Nations Security Council Resolution 1769 of 2007 and the Letter from the Secretary General to the President of the Security Council of 5 June 2007. Its mandate is renewed each year. UNAMID’s current focus is on the implementation of three strategic priorities:

- Support for mediation between the government of Sudan and non-signatory armed movements on the basis of the Doha Document for Peace in Darfur.
- Protection of civilians.
- Support for the prevention and mitigation of intercommunal conflicts, including through measures to address their root causes, in conjunction with the government of Sudan, the United Nations Country Team, and civil society.

The Civil Affairs Section (CAS) is the most widely deployed civilian section in UNAMID. Together with the military and police components, CAS serves as the face of the mission and its interface with the local population.



Locations of IDPs in West Darfur. Adapted from OCHA

UNAMID, with CAS in lead, facilitates the prevention, mitigation and resolution of intercommunal conflicts in Darfur. CAS supports conflict resolution and reconciliation at the local level by engaging with the local community, identifying areas of support and addressing problems through collaboration with key native administration and community leaders.

### **TOOL: INTERCOMMUNAL RECONCILIATION OF LAND DISPUTES**

CAS brings together communities to discuss their conflicts and reach agreement. Discussions may cover issues of land rights, grazing rights, the use of cultivable land, seasonal animal migration, leadership, and compensation for harm caused. The aim is to reduce the level of violence and support communities to engage positively with one another. The approach consists of a series of steps.

1. In response to an outbreak of violence (or upon receiving an early warning on the risk of violence and at the parties' request), CAS staff meet separately with respected leaders on both sides. They listen to their concerns, identify the issues and causes of the conflict, and explore possible ways to resolve the dispute. Several meetings over several months may be needed to find commonalities and incentives that will bring the parties to agree to dialogue about peace.
2. Where possible, CAS staff then bring the disputing groups together in one forum to discuss the causes of the conflict, without interfering in the discussions but supporting the participants to resolve the issues themselves. The focus is usually immediate, with a view to stemming violence that could lead to fatalities, injuries and displacements. The feuding communities discuss their differences and negotiate terms of settlement, including various forms of

compensation. Animal seasonal migratory routes are identified and demarcated. A written agreement is signed by the representatives of the parties.

3. Outreach and awareness campaigns disseminate these agreements to the communities. The terms of the agreement are explained and where required, resources are mobilized (within and by the communities) to pay the compensation awarded.
4. Provide basic social amenities through "quick impact projects" to enhance the peaceful coexistence among the communities and to boost confidence between the communities and UNAMID.
5. Advocacy done with influential personalities, civil society groups, government ministers at the state and federal levels on the need to cease violence and address the root causes of conflicts. Activities to address the root causes are implemented in collaboration with the United Nations Country Team and other stakeholders. This is for the long-term; it may include policy decisions, for example on land issues.

### **CAPACITY DEVELOPMENT**

CAS organizes workshops on conflict resolution and management and on livelihood skills. Participants include Native Administration leaders, youth and women's groups, opinion leaders and other influential personalities. The livelihood skills activities are sometimes implemented in collaboration with the United Nations Country Team.

### **GENDER**

CAS continuously engages with community leaders on the need for gender balance in its activities. This ensures that at least 30% of the beneficiaries of the interventions are women.



### RECONCILING COMMUNITIES IN DOURTI

Dourti is a village inhabited by a mix of the local host community and displaced people. It is located in the Ardamata administrative unit of El Geneina, West Darfur, about 15 km north of El Geneina, the state's capital. The main inhabitants of the village before the conflict were Massalit, Burno, Erenga, Burgo and Tama. An IDP camp was established in March 2003 when people fled their villages around Umsebeke, north of El Geneina town, at the height of the Darfur conflict.

The root cause of the conflict is competition over limited farmland. Dourti is adjacent to Um Al Qura, which is inhabited by nomads with whom the Dourti community did not have peaceful relations. The IDP community needed part of the already limited land, which the inhabitants of Um Al Qura also needed to feed their animals. The people of Um El Qura and the IDPs came to hate each other, with members of each group attacking and killing people from the other community. Um El Qura was home to a notorious militia leader, who was alleged to have committed crimes that contributed to the deteriorating relations between the communities. Armed elements were involved in livestock robberies, and the IDPs repeatedly reported that they were harassed by the militia.

Complaints of insecurity inside the camp prompted CAS to come up with an initiative to facilitate peaceful coexistence between the two communities. It held exploratory meetings with the nomadic community leaders, the first of which was attended by 25 representatives from Um Al-Qura. The meeting aimed to:

- Open dialogue with the Arab community in an attempt to ease the tension with the Dourti IDP community.

- Inform the community about the work of UNAMID and explore possibilities of cooperation.
- Listen to their concerns for possible intervention and support.
- Share with them the concerns raised by the Dourti IDP community.

The leaders welcomed the meeting; they asked UNAMID and its partners to operate in the nomad-dominated areas and deliver services in their communities.

During the discussions, it was clear to CAS that the Arab community would resist any agreement that would result in sharing land or other resources with the Dourti IDPs. Even though the leadership of Um Al-Qura sought stability in the area, previous efforts to bring both communities together for a face-to-face meeting had failed. But after the UNAMID approach, CAS was requested to initiate reconciliation between the two communities.

CAS held a meeting in Dourti with 30 participants representing the reconciliation steering committee, youth, women, and key community members. This meeting aimed to identify the main drivers of the conflict and possible solutions that might lead to a durable peace. The participants agreed that CAS's facilitation had led to the village experiencing relative peace, but said that sustained peace was yet to be achieved. They feared that many nomads still harboured negative feelings towards the farmers, and that a growing number of the youths were not committed to peace. The leaders stressed the need to build schools, health centres and water points as ways to address the conflict.

Consequently, CAS, in collaboration with the Deputy Sultan of Dar Massalit (the native administration leader) and the Chairman of the Peace and Reconciliation



**To strengthen the reconciliation efforts, UNAMID installed a water point in Dourti.** Photo: UNAMID

Council of the Regional Development Authority, met separately and jointly with the conflicting parties, over a period of seven months, to address the disputes between them.

In response to a community initiative, CAS, in collaboration with the Native Administration and the Peace and Reconciliation Council, held a public meeting for reconciliation between both communities. This meeting culminated in a public reconciliation and the signing of a peace agreement.

The agreement made provisions for the sharing of land, pasture and water. It recommended the establishment of a resource-management committee with members from both sides to oversee the implementation of the peace agreement. It was also agreed that the *diya* (payment as atonement for the shedding of blood) would be waived.

Following the reconciliation, CAS has conducted several monitoring missions to Dourti and Um Al Qura to engage with the local leaders, reinforce the agreement and develop the leaders' capacity through meetings and workshops.

Three projects costing a total of \$75,000 were implemented in the area to strengthen the reconciliation efforts. Two primary schools were built (one each in Um Al Qura and Dourti), and a water point was installed in Dourti to be shared by both communities to encourage shared access and mutual trust. Consultations between the parties, facilitated by CAS, divided the responsibilities for managing these resources between the two communities. These arrangements enhanced cordial relations and led to an equitable use of the resources that benefited both sides. The project was supposed to include a market, but UNAMID was not able to build it due to financial constraints.

Intercommunal relations in the area have remained good, with no major incidents reported recently. The Dourti community has been taken off the list of hotspots that guides CAS in its peace-promotion work. In effect, the area no longer poses a threat to the peace. CAS is in regular contact with the Omda (traditional head) of Umsebeke.

The end of murder, harassment and other atrocities against the IDP community and the provision of social amenities through the intervention have contributed to the protection of human rights: the right to life and means of livelihood. It also enabled both communities to engage and resolve their differences through peaceful means and has created an environment where members of the two groups can live without fear. It has also established common ground for grassroots consultations and dialogue.

The Dourti IDPs recognize their delicate situation and have agreed to coexist peacefully with their neighbours until they can return to their homeland.

**PARTNERS**

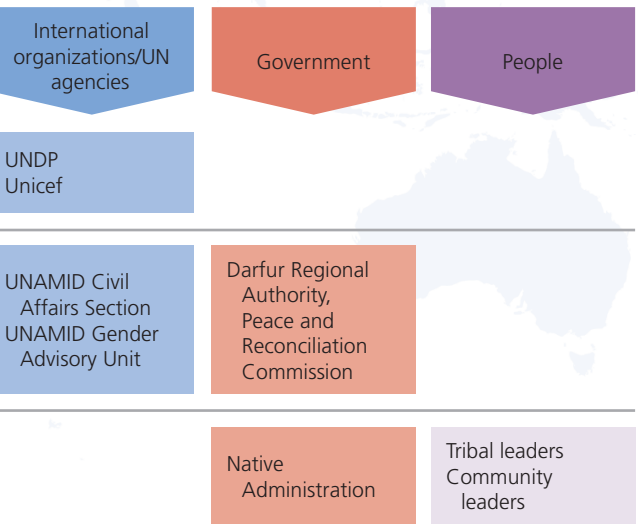
**The Native Administration**

The Native Administration is the local authority institution constituted by the state to administer affairs in the locality. Its leadership comprises community leaders, elders and opinion leaders. It serves as a focal point for all activities initiated in the locality. In the Dourti case, the Native Administration:

- Initiated consultation with the communities to find ways of building confidence between the IDPs and the government.
- Facilitated the representation of tribal leaders by assessing their acceptability within the communities.
- Provided stipends for community leaders to help prevent any potential external influence on them.
- Reconciled tribal leaders and their communities in the event of misunderstandings.
- Explored the readiness of the conflicting parties to reconcile with each other.
- Restored its structures, including rural courts and traditional practices of mediation.

**Darfur Regional Authority**

The Regional Authority is a regional government development authority established under the Darfur Peace Agreement. The Authority's Peace and Reconciliation Commission is responsible for



Partnerships in Sudan

local peace and reconciliation initiatives. It planned and conducted peace tours to promote peace and empower community committees. It coordinated with partners during the peace consultation to ensure broad endorsement of the community reconciliation activities. It publicized reconciliation activities and identified alternative sources of funds to support community initiatives toward reconciliation.

**United Nations entities**

**UNDP** provided support for peace conferences and the dissemination of the peace resolution among the communities.

**Unicef** committed to provide support for the construction of a market and a school gardening project. This, however, did not materialize due to financial constraints.

Within **UNAMID**, **CAS** collaborated with the Public Information section in its outreach, sensitization and dissemination of the agreements. Technical support

ENTRY POINTS IN SUDAN	
<b>Purpose of the tool across the conflict cycle</b>	<p><b>Before conflict</b> To provide early warning and information of conflict To deploy a buffer, arrest and detain perpetrators of violence To foster dialogue.</p> <p><b>During conflict</b> To promote the cessation of hostilities, negotiations, peace agreement and compensation.</p> <p><b>Post-conflict</b> To build the capacities of state institutions to address root causes of conflict.</p>
<b>Type of land intervention</b>	<p><b>Land-dispute resolution</b> Reconciliation of parties competing over land, agreement reached on shared resources, resolution of future conflicts, peaceful coexistence.</p> <p><b>Capacity development</b> Community leaders trained on local dispute resolution mechanisms.</p>
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Willingness of parties to resolve their differences</li> <li>• Funding</li> <li>• Acceptability of external assistance</li> <li>• Safety and security</li> </ul>

was also sought from the Gender Advisory Unit on gender sensitive programming.

### RESULTS

Participating communities have peacefully coexisted since the intervention. Murders and harassments have ceased; resources, including the amenities provided through the intervention, are shared. The intervention supported the peace process at the grassroots by strengthening traditional conflict resolution mechanisms. Civic awareness and communal social responsibilities were enhanced. The initiative has also fed positively into other peace initiatives in Darfur.

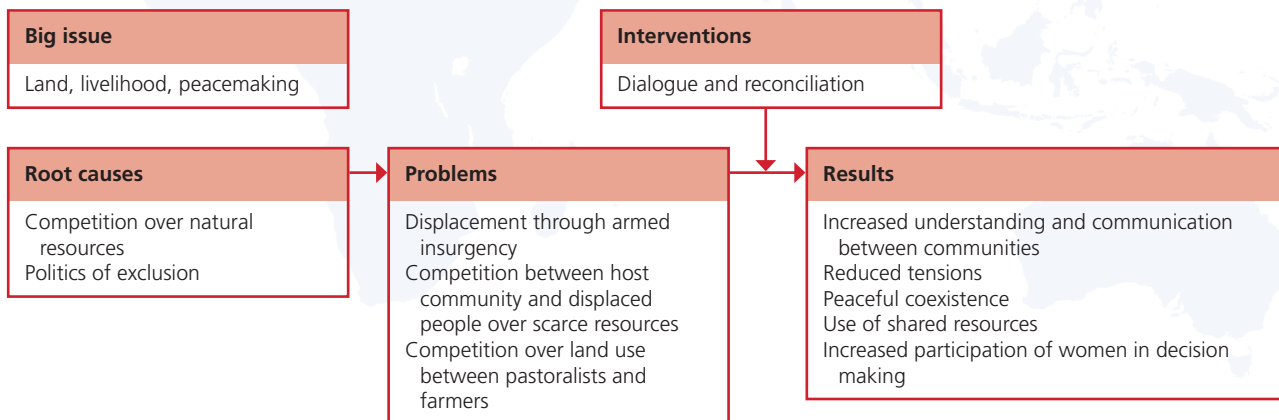
Through the engagement of both communities, disputes over land are addressed with mutual respect and understanding. The shared schools and water point have facilitated social cohesion.

### Community empowerment

Since the initiative is community-led and -owned, it has empowered the traditional leadership and civil society in promoting intercommunal peace. It has strengthened a people-centred, community-oriented traditional conflict resolution mechanism. It has brought the different communities together and enhanced confidence within and between them.

At the local level, the initiative has contributed to the on-going peace initiative by improving social interactions and the peaceful coexistence among the communities. It has strengthened land-use zoning to address conflict between the nomadic communities and farmers.

Trust building between communities is time-consuming and requires constant engagement and follow up. It is also necessary to manage the expectations of Darfuris that UNAMID and the UN Country Team can solve all their problems.



**Interventions in Sudan**

**Sustainable solutions**

UNAMID’s interventions to mitigate rising intercommunal tensions in Darfur culminated in a large peace conference, convened by the Sultan of Dar Massalit and supported by UNAMID and UNDP. This conference was attended by about 600 prominent Native Administrative leaders from the five states of Darfur, as well as from neighbouring Chad. UNAMID is disseminating the outcome of the conference to communities across Darfur.

Dourti IDPs were cognizant of their delicate situation and determined to forge peaceful relations with their neighbours until they are able to return to their home area. A long-lasting solution to the displacement is still being pursued. This is a Darfur-wide challenge that requires a multi-faceted approach. It is hoped that in the long term, conducive conditions would be created in Umsebeka that will encourage voluntary returns.

## 6 SOUTH SUDAN: MIGRATION DIALOGUES TO PREVENT CONFLICT BETWEEN HOST COMMUNITIES AND PASTORALISTS



**Author** Jimmy Okumu, United Nations Mission in South Sudan<sup>1</sup>

**Intervening organization** UN Mission in South Sudan, Civil Affairs Division

**Tools** Cross-border agreements for nomadic pastoralists

Each year during the dry season, large numbers of nomadic pastoralists migrate across the border from Sudan into South Sudan in search of pasture and water for their animals, returning as the rains begin. In the West, Misseriya pastoralists from Western Kordofan state in Sudan, and the Reizegat from Eastern Darfur, migrate into the Greater Bahr el Ghazal region of South Sudan, where they interact with the Dinka Malual and other communities. In the East (the focus of this case), the Fellata tribe from Blue Nile, Sennar and White Nile states in Sudan migrate into the Upper Nile region of South Sudan.

Intercommunal violence occurs every year as the nomadic pastoralists and host communities in South Sudan clash over land and resources. On the other hand, the migration is an essential part of the economy and has sustained communities in the border regions in both countries for decades. In the absence of a stable economy and a reliable source of livelihoods for host communities, the pastoralists supply goods and services and provide a market for local products such as fish, honey, skins, hides and minerals.

Decades of war in South Sudan have led to social fragmentation among the various tribes and cultures. Land, boundaries and resource disputes have become easy triggers of conflicts, which often escalate into full-scale intertribal warfare. The seasonal migrations, with

their associated competition for grazing and water sources, add a further layer of tension that intertwines with the local intercommunal conflicts.

### THEORY OF CHANGE

If the nomadic pastoralists and the host community are engaged in a mutual dialogue and territorial agreement, then resource-based conflict between the two groups will be prevented.

### THE UN MISSION IN SOUTH SUDAN, CIVIL AFFAIRS DIVISION

The UN Mission in South Sudan (UNMISS), established under the UN Security Council Resolutions 1996 (2001), 2327 (2016) and 2353 (2017), lays emphasis on finding durable solutions to the political stalemate in the country. Part of its work, led by its Civil Affairs Division (CAD), revolves around three strategic priorities: conflict management, social cohesion and reconciliation. As part of the peacekeeping mandate to address the drivers of conflict, CAD has prioritized preventing intercommunal conflict with a special focus on the nomadic pastoral migration.

<sup>1</sup> Reviewers: Guang Cong, Director of Civil Affairs, South Sudan, Anthony Agyenta, Civil Affairs team leader, Upper Nile, Malakal Field Office



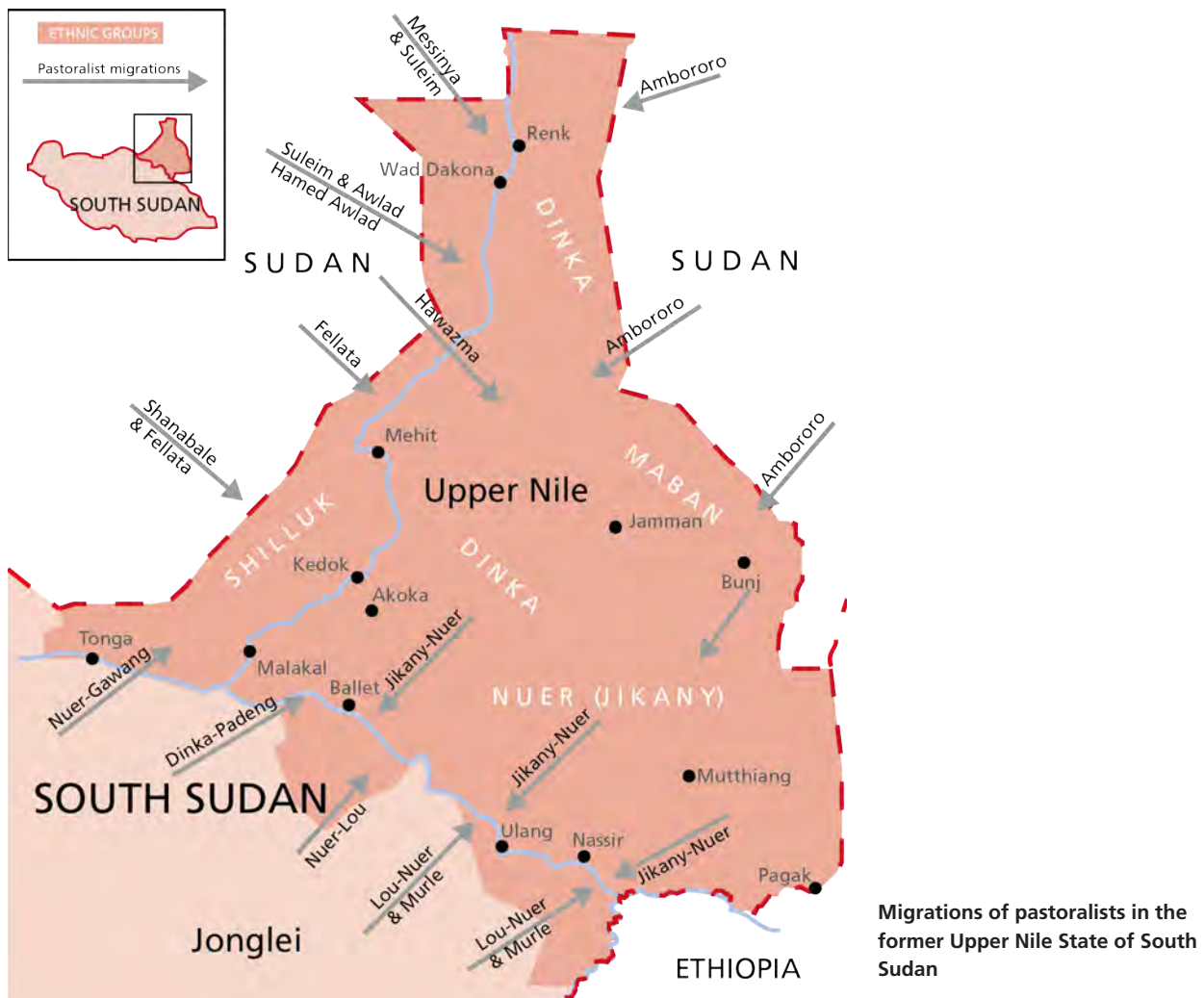
**TOOL: MIGRATION DIALOGUES**

CAD has developed migration dialogues to manage these conflicts. This includes three stages: planning meetings, pre-migration dialogues, and post-migration exchanges and learning.

**Planning meeting**

Each year, before the migration begins, nomadic communities send their key representatives for a planning and consultation meeting with the key leaders

of the host community. Participants include paramount chiefs, local government officials, the local cross-border peace committee, and the pastoralists union. CAD organizes the meeting and provides logistical and technical support. This stage is crucial because it enables both the nomadic and host communities to evaluate and streamline the methodology of conflict prevention, share experiences from the previous migration season, and plan how natural resources (land and water) will be used in the coming season. They do this using a participatory analysis approach that enables sharing of





**Members of the host and pastoralist communities discuss common mechanisms for cross-border nomadic pastoralist migration.** *Photo: UNMISS*



**A reward of a hug to a Civil Affairs Officer from a nomadic pastoralists after a successful dialogue.** *Photo: UNMISS*



**Women are key participants in migration conferences.** *Photo: UNMISS*

information among the key stakeholders, especially the elders of the two communities.

### Pre-migration dialogue

The most critical stage of the preparatory process is an open dialogue among key stakeholders from the two communities. Representatives, including local authorities, traditional leaders, religious groups, women and youth groups, deliberate decisions made by the elders during the planning meetings. They discuss the previous migration season: both the problems and the benefits that accrued to both sides: economic and security gains, and especially issues that might infringe on the social and cultural norms of the host communities. This forum enables knowledge to be shared and builds confidence and trust. CAD both acts as technical facilitator and enables the two groups to reach consensus.

The thrust of the pre-migration dialogue is to arrive at a common mechanism to manage the migration season. CAD applies conflict-management tools to address differences and concerns that may arise. The dialogue concludes with a formal agreement among all the stakeholders.

### Post-migration exchange and learning

At the beginning of the rainy season at the end of June, most of the pastoralists begin to move back to Sudan. Most conflicts occur at this time. To prevent tensions and escalation, CAD re-engages the decision-making structures and members of both communities. This exchange enables the communities, in a sober manner, to evaluate how the agreement was adhered to, whether and how it was breached, and what compensation needs to be made and by whom. The

meeting also draws up another set of migration routes to be used by the pastoralists on their way back north.

#### What worked

The pre-migration dialogues have worked as a scenario-planning mechanism. This is essential for conflict prevention. Both parties can envisage potential conflicts and plan how to avoid them. CAD's use of this technique has enabled both communities to identify the rules of engagement and discuss disputes before they get out of hand.

The agreements facilitated through the dialogues help reduce tensions between the communities and strengthen relations between them.

Using participatory, inclusive approaches at each stage builds confidence and trust and enables agreement to be reached and to be disseminated widely within the two communities.

The allocation of migration routes helps reduce damage to land and crops and has improved food security in the region.

CAD's presence at the local level enables it to address local problems. At the same time, its presence at the national level means it can coordinate with the national government. Working with governments on both sides of the border has guaranteed the security of participants at the dialogues.

Collaborating with partners has shared expertise and avoided duplication of effort and competing interests.

Parallel to the migration dialogues, markets such as those at Gok Machar and Warawar in Northern Bahr el Ghazal have been established for livestock and

goods. Pastoralists bring goods such as sugar, salt, soap, oil and household utensils with them to trade. Prices of these goods have fallen in the host areas as a result. Pastoralists also sell milk and animals, and buy locally produced produce. These markets stimulate the local economy and facilitate interactions between the communities.

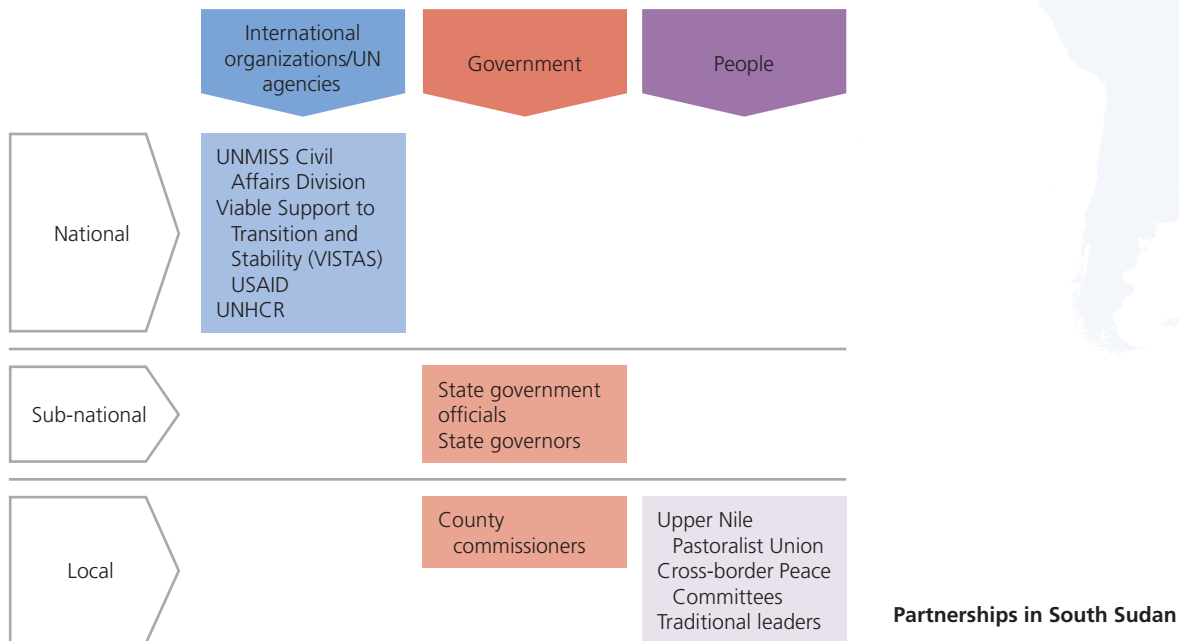
#### What did not work?

Even though participatory approaches convene all the stakeholders, they cannot effectively diagnose the deeper differences and perspectives that often become apparent during the migration season. These differences surface during the post-migration dialogue because they have not been effectively addressed.

The process of engagement has maintained a great measure of peaceful coexistence and cohesion throughout the migration cycle. But it is merely a preventive process that is not yet institutionalized. CAD is currently facilitating a national and cross-border initiative to correct this, based on the current approaches to intercommunal agreements and local conflict mitigation.

#### CAPACITY DEVELOPMENT

To gain their ownership and support, CAD has supported the capacity development of key local actors and structures in conflict prevention. It has trained traditional leaders, local authorities, cross-border peace committees and the Upper Nile Pastoralists Union on conflict management. The participants learned how to analyse the situation and use early-warning and response systems to prevent potential conflict. This has borne fruit; the traditional leaders convened a timely meeting with Ruffah pastoralists and designated migration routes for them in El Gelhak county in



northern Upper Nile, leading to a smooth migration season.

### GENDER

The involvement of women in community activities is a culturally sensitive topic in the region. CAD engages with the traditional leaders to gain their support for women to take part in in the group discussions. Holding women-only discussion groups permits the women to speak freely about their perceptions, concerns and priorities. They have demanded a soft border between the two countries to allow free movement of goods, as well as lower taxes to facilitate trade.

### PARTNERSHIPS

To manage the complex migration process, CAD has built partnership with a broad range of stakeholders that play key roles in the dialogues:

- **Cross-border peace committees and pastoralists union.** Some of these had been set up previously by Concordis International (a UK-based NGO) to prevent local cross-border conflicts. They include members from both communities. They mobilize influential individuals who have attended previous dialogues, ensure the agreement is disseminated widely among the communities, monitor implementation of the agreement, respond quickly if there are breaches to the peace, and mediate issues such as damaged crops, cattle rustling or burning of forests.
- **Civil society organizations.** These mobilize participants to take part in the dialogue and disseminate the decisions to other members of their communities.
- **International NGOs** such as Viable Support to Transition and Stability (VISTAS) provide financial and logistical support.
- **Government authorities.** The governments of both Sudan and South Sudan facilitate participants to attend the meetings.

## ENTRY POINTS IN SOUTH SUDAN

<p><b>Purpose of the tool across the conflict cycle</b></p>	<p><b>Before conflict</b> To provide an early warning of potential violence and enable a response.</p> <p><b>During conflict</b> To reach agreement on cross-border pastoral migration.</p> <p><b>Post-conflict</b> To give communities a way of monitoring and implementing agreements aimed at avoiding future conflicts</p>
<p><b>Type of land intervention</b></p>	<p>Land-dispute resolution Dialogue to agree on the use of grazing land and water resources between pastoralist and host communities. Capacity development Pastoralists and host communities learn together about how to analyse, resolve and avoid conflict and reach land use agreements.</p>
<p><b>Necessary factors/conditions for using the tool/approach</b></p>	<ul style="list-style-type: none"> <li>• Inclusion of key stakeholders in the process</li> <li>• Presence of organized local stakeholder groups such as cross border peace committees and pastoralists union</li> <li>• Well-organized communities</li> <li>• Political will from both governments</li> </ul>

- **UNHCR** in Maban has enabled refugees from Blue Nile State to attend the dialogues.

## RESULTS

### State-building and community empowerment

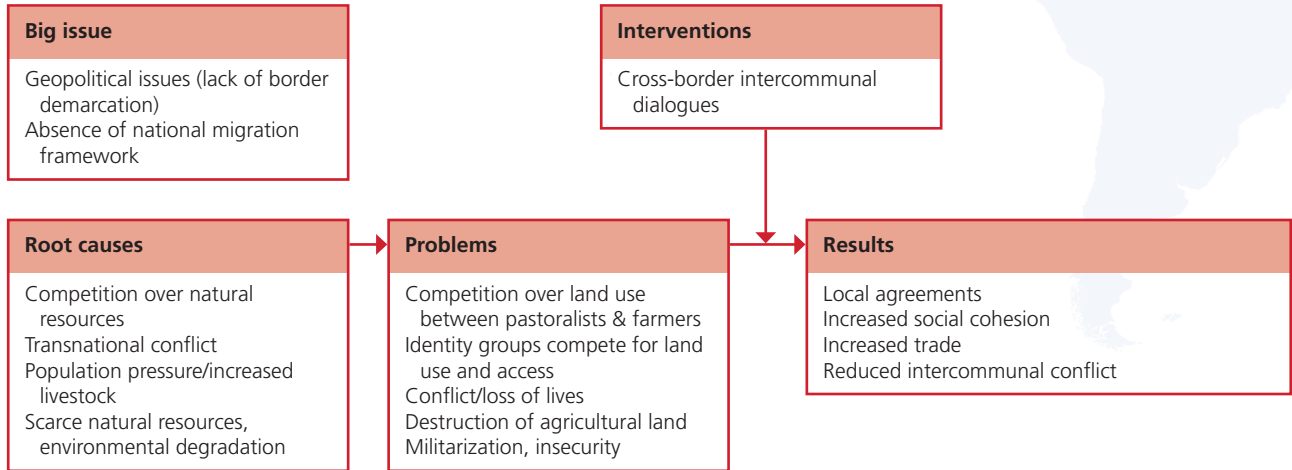
By working with customary institutions, CAD is helping to develop institutional capacity at the community level. This contributes to state-building from the bottom up, supporting and strengthening government capacity, which is weak in newly independent South Sudan.

With their enhanced roles, the pastoralist unions, peace committees and traditional authorities act as a buffer against the larger-scale political conflict in South Sudan.

By creating institutions to manage conflict over years, CAD hopes to leave a legacy with local leaders on how to prevent cross-border conflict with pastoralists, strengthen social cohesion and maintain durable peace.

The dialogues have helped both communities to see the economic benefits of the migration and of cooperation. The newly established markets benefit both sides economically and build ties between them.

CAD has created or strengthened political relationships across customary groups. It has built their capacity to analyse, resolve and avoid conflict. The solutions are sustainable because the local communities now know how to implement them.



### Interventions in South Sudan



## 7 PERU: DIALOGUE TO PREVENT AND MANAGE CONFLICTS OVER THE USE OF NATURAL RESOURCES



Empowered lives.  
Resilient nations.

**Author** Luis Francisco Thais, United Nations Development Programme<sup>1</sup>

**Intervening organizations** Presidency of the Council of Ministers of the Government of Peru, United National Development Programme Peru

**Tools** Multi-stakeholder forums for conflict prevention

During the period 2005 to 2015 Peru's GDP increased by 76%, at an average of 6% a year. Poverty fell from 42.4 % to 20.7 %. The country's economic expansion is strongly linked to the extractive industry – mainly mining and hydrocarbons, which account for an average 13.4% of the gross domestic product and 70% of the country's exports.

The sector has also proven an important source of income for the state, contributing as much as 19% of the total income tax and special tax revenues. Over USD 3.3 billion were transferred to regional and local governments between 2004 and 2016 to fund local infrastructure and poverty reduction programmes. Massive investments have been made in roads, bridges, dams, water channels, sewers, schools, hospitals and rural electrification. These investments have in turn helped increase family incomes and improved access to public services in historically depressed and marginalized areas, with important multiplier effects on investment, production and employment.

### TERRITORY AND CONFLICT

Despite all these positive macroeconomic impacts, extractive activities have become a major source of social conflicts. Peru experiences an average of 200 conflicts per year, of which 70% are linked to extractives. Paradoxically, the territories that benefit the most from the large influx of resource revenues are also the ones with largest number of conflicts.

Complaints over environmental pollution, water-use agreements, environmental legacies (impacts that past extractive operations have had on water, soil, air and the environment), land-acquisition processes, poor corporate sustainability practices, human-rights abuses and the limited presence of state institutions within territories have all contributed to an environment of mistrust, discontent and social unrest.

Between 2006 and 2016, social conflicts were responsible for 264 deaths, 4,436 injuries and the ousting of key ministers and public officials. From an economic standpoint, studies reveal that from 2011 to 2014, social conflicts have deferred and paralysed

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**Community members take part in a dialogue roundtable with the government in Chanchamayo about the exploration of the Block 108 natural gas concession.** Photo: National Office for Dialogue and Sustainability

investments to the sum of USD 62 billion, equivalent to a 2.2% annual GDP loss for the same period.

### Steps towards a natural resource governance framework

The Peruvian state has progressively implemented reforms for a more efficient management of the extractive industry. Notable among these are:

- The strengthening of environmental institutions.
- The expansion of programmes and new mechanisms for social investment in territories with a lot of extractive industries.
- New frameworks for the participation and consultation of communities, including the approval of the Law of the Right to Prior Consultation of the Indigenous or Originating Peoples in 2011 (C169 - Indigenous and Tribal Peoples Convention).
- The establishment of new mechanisms for reinforcing territorial planning and land use plans.
- Peru's full compliance with the Extractive Industries Transparency Initiative (EITI).

Peru was the first Latin American country to regulate the right to prior consultation of affected people through a national law. The law establishes the guidelines to promote the dialogue between the Peruvian state and indigenous peoples in order to reach agreements on administrative or legislative measures that may affect collective rights.

### A new approach to redress social conflicts

During 2011, the newly elected government committed to a new strategy to address social conflicts linked to the use of natural resources, by replacing previous policies that prioritized the restoration of order by force. The new strategy would promote a state-led approach to engage and work with local communities (targeting indigenous people and peasant communities) and extractives, to restore trust, and to build consensus-based agreements that could tackle the causes of conflicts.

Under this approach, conflicting actors would be active participants in the government-led conflict-management and prevention processes. The tool used to support this approach was multi-stakeholder dialogue processes.

### THEORY OF CHANGE

If communities, extractive industries and the government are equipped and encouraged to build consensus through multi-stakeholder dialogue to promote sustainable development within territories, conflicts arising from the use of natural resources can be reduced and democratic governance strengthened.

**BOX 14. DEMOCRATIC DIALOGUE**

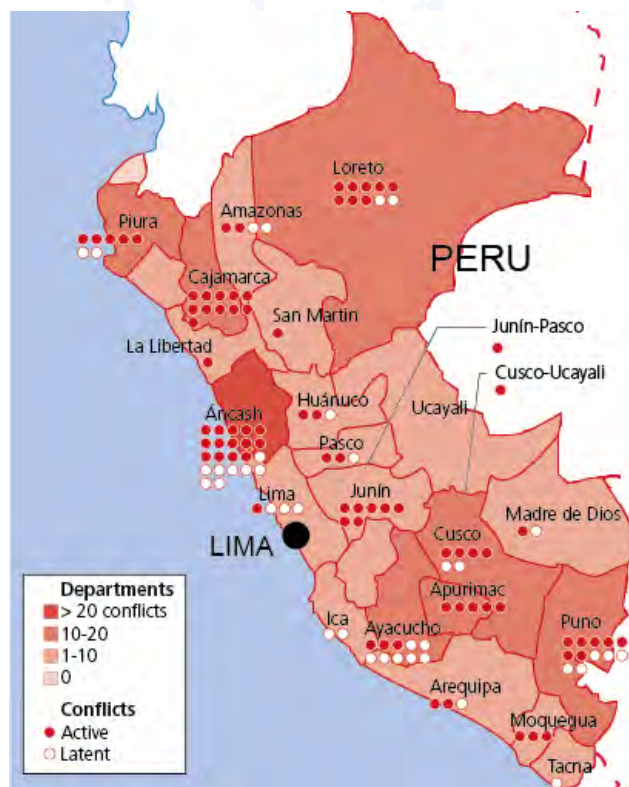
Democratic dialogue is a cross-institutional process for addressing complex social problems or challenges that cannot be adequately (successfully, sustainably, legitimately and peacefully) addressed by any single institution. It is a cross-institutional tool for democratic governance that complements democratic institutions such as legislatures, political parties and government authorities.

Source: UNDP 2014 p. 14

**UNDP AND THE OFFICE OF THE PRESIDENT OF THE COUNCIL OF MINISTERS**

During 2012, the United Nations Development Programme and the Office of the President of the Council of Ministers (the Prime Minister's office), with financial support from the government of Canada, launched the project "Prevention of Social Conflict with the Use of Natural Resources". This aimed to develop capacities and institutionalize dialogue throughout the national and regional governments and civil society. The expected outcome was to strengthen democratic governance and sustainable development by reducing conflicts linked to the use of natural resources.

The UNDP project supported the government's leadership in coordinating multi-stakeholder dialogue processes to manage conflicts and institutionalize dialogue within central and regional governments. As "insider mediators" (UNDP and EU 2013) it also sought to engage organized and non-organized civil society actors – including community leaders, NGOs, indigenous communities, universities, mining companies and guilds, in support of dialogue processes and the consolidation of a nationwide infrastructure for peace.



**Social and environmental conflicts at the national level in Peru.** Source: Defensoría del Pueblo. *Adjuntía para la Prevención de Conflictos Sociales y la Gobernabilidad*

**TOOL: MULTI-STAKEHOLDER DIALOGUE**

UNDPs support to multi-stakeholder dialogue has operated under the wider umbrella of democratic dialogue (Box 14). In Peru, multi-stakeholder dialogue is a conflict-prevention and management tool for convening and coordinating government, extractives and local communities to agree on a common agenda that addresses sustainable development gaps that impact the well-being of a community or territory. The agreed common agenda defines a list of priority development commitments (productive projects and strategic infrastructure with defined funding windows) and policy measures that the different stakeholders agree and share responsibility on. The model is still evolving, and commitments are being linked to wider



**Representatives of the Indigenous Federations of Loreto, signing the Lima Agreement (March 2015) with Presidency of the Council of Ministers.** *Photo: National Office for Dialogue and Sustainability*

territorial development plans and policies to reduce social gaps.

As of 2010, 241 multi-stakeholder dialogue processes have been implemented, leading to 2,856 commitments, spread throughout 14 of the 24 regions of Peru. Of these, 62% are the responsibility of the state, 27% of the private sector, 7% of non-specified actors, and 4% of civil society. These commitments address specific territorial development needs. They cover farming and agriculture, housing, construction and sanitation, transport and communications, health, education, environmental governance, productivity and other areas. Policy measures have included environmental emergency decrees, human-rights protections and indemnification mechanisms, and the review of land-use and land tenure plans.

While the tool is still evolving, its greatest strength is its ability to improve coordination and collaboration within the government (at the ministerial level) and between national, regional and local government to accelerate public and social investments and widen the state's presence in the territories. In addition, the tool has boosted the creation of highly innovative financial mechanisms for financing development and infrastructure projects under public-private partnerships, works for taxes (a programme that allows companies to pay a portion of their tax bill by undertaking public works or infrastructure projects) and the creation of territorial social development funds.

Multi-stakeholder dialogue has also helped improve participatory and democratic processes that have opened the way for decisions and actions in keeping with the needs and expectations of involved parties, together with public and private investment



commitments in accordance with the territory's development priorities.

#### How does the tool work?

Multi-stakeholder dialogues are implemented through three complementary modalities (Willaqniki 2013):

- **Dialogue roundtables.** These are a venue where actors in conflict convene to seek solutions. The different sides meet and share viewpoints and claims in an effort to create a climate of trust that will facilitate and allow for agreements to be reached.
- **Technical roundtables.** These usually complement dialogue roundtables and are constituted by experts and technical specialists that gather to seek alternative responses to a specific conflict. Often they originate as round-table dialogue subgroups, where participants agree to establish a technical roundtable to address a specific matter.
- **Development roundtables.** These are designed to address a territory-specific problem and discuss appropriate solutions that channel state investments and private-sector contributions to the territory.

Roundtables are created by decision of the national government or at the request of regional and local authorities and communities to deal with a conflict. In some cases, they are formed *de facto*, without any regulatory backing. In others, a Ministerial Resolution is issued, providing for their establishment and stipulating their ends and purposes, membership and periods of operation.

The dialogues are convened by the government in coordination with local authorities or community representatives. They are usually held in local authorities' municipal buildings or at venues proposed by the government or local communities. The roundtables

are facilitated by a technical secretariat of government officials, which sets the agenda and writes minutes. Decisions are made by consensus. Once agreements are reached, participants sign a document.

The formation of roundtables can vary depending upon the particular case and type of conflict in question. But they always involve the participation of all actors in a social conflict: different parts of the state, communities and the extractive company. Roundtables may also include regional and municipal authorities. Leaders of local organizations represent the communities. Roundtables may also include churches, NGOs, professional associations, companies and other institutions.

As part of the roundtables and as part of the government's wider conflict-prevention strategy, conflict-management information and early warning systems were designed to monitor local controversies and tensions with the potential to escalate into conflicts. In addition, government staff have been trained in dialogue and confidence-building mechanisms to facilitate and lead multi-stakeholder dialogue processes. Mechanisms to supervise and follow up the implementation of agreements and commitments have been set up.

#### Challenges

While a basic framework for the institutionalization of multi-stakeholder dialogue is currently under consolidation, a key challenge relates to the implementation of the agreements. In May 2017, the newly elected government reported that 63% of the 2,856 commitments (mostly agreed during the previous administration of 2011–16), were the responsibility of the State (80% central government, 13% regional governments and 7% local governments). But only

25% of these have (or have had) an allocated budget under the National System of Public Investment. The remaining 75% do not have a budget and are being renegotiated in the framework of broader territorial development plans. Following up these agreements will be key to guarantee that multi-stakeholder dialogue processes remain credible.

In addition, government is designing a set of measures to make the Peruvian market more attractive to foreign direct investment. Although the current mining portfolio alone is equivalent to USD 51 billion, the rise in international commodity prices is expected to generate a new boom of investments. However, the arrival of new investments means it is necessary to ensure that appropriate mechanisms are in place to secure compliance with environmental and human-rights standards.

### CAPACITY DEVELOPMENT

The implementation of the multi-stakeholder dialogue tool has required a sustained, long-term commitment. This has entailed developing the capacities of central and regional governments and the institutional infrastructure to operationalize the tool. It has meant building the capacities of civil society actors within the prioritized territories. It has also involved leadership development, supporting networks and creating the knowhow to contribute to the dialogues. Key actions have included:

- Capacity development for public officials and civil society representatives through training, workshops, seminars and virtual courses on dialogue, conflict prevention and the governance of natural resources.
- Creation of new regulatory frameworks and institutional infrastructure with the aim of building

coherence and sustainability to match developed capacities.

- Strengthening coordination and collaboration mechanisms within central government ministries and between central and regional governments.
- Supporting leaders, networks and organizational strengthening within civil society.
- Strengthening knowledge management mechanisms, producing toolkits, policy booklets and guidelines.
- Non-traditional capacity development tools, such as a large number of dialogue spaces to support coordination and agreements between government actors, extractive industries and civil society organizations.

### GENDER

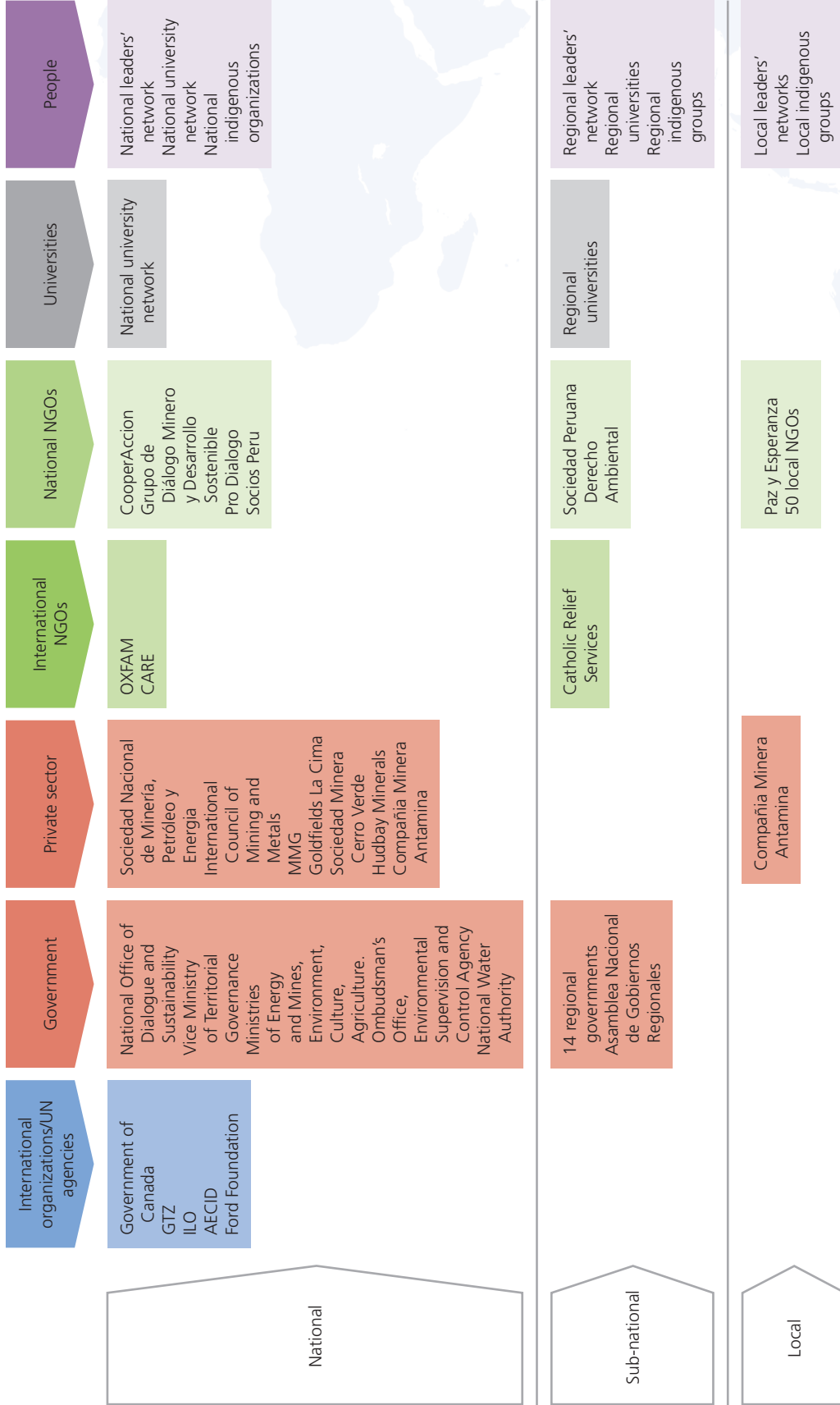
One of the critical aspects in institutionalizing dialogue has been to develop the capacities of women leaders and women's groups, organizations and networks to take a more proactive role in the dialogue roundtables. This has included working with government partners to ensure that conflict-management mechanisms are more inclusive and incorporate a gender dimension. It has also meant strengthening women's groups and networks to lead community decision-making about dialogue roundtables and development priorities. A capacity-building platform has supported the strengthening of female leaders and their networks; this has been implemented in eight regions in the country.

### PARTNERSHIPS

The project has partnered with various types of counterparts. The partnership has included both collaboration and capacity building.

**National government.** Partnerships were created with the National Office of Dialogue and Sustainability





Partnerships in Peru

and the Vice Ministry of Territorial Governance of the Presidency of the Council of Ministers. In the area of natural resources, partners included the Ministries of Energy and Mines, the Environment, Culture and Agriculture. Autonomous government agencies such as the Ombudsman’s Office, the Environmental Supervision and Control Agency and the National Water Authority also played key roles.

**Regional governments.** Partners have included the National Assembly of Regional Governments (to coordinate regional government policies and networks) as well as 15 regional governments (to create dialogue and conflict prevention units).

**Civil society.** Some 140 formal and non-formal civil society organizations were involved. These included national and local organizations, local media, universities, national and local indigenous groups, and organizations and local communities.

**Extractive sector.** The project also engaged with mining and petroleum companies throughout the project to build shared visions (Mining Vision 2030). It also worked through dialogues on territorial

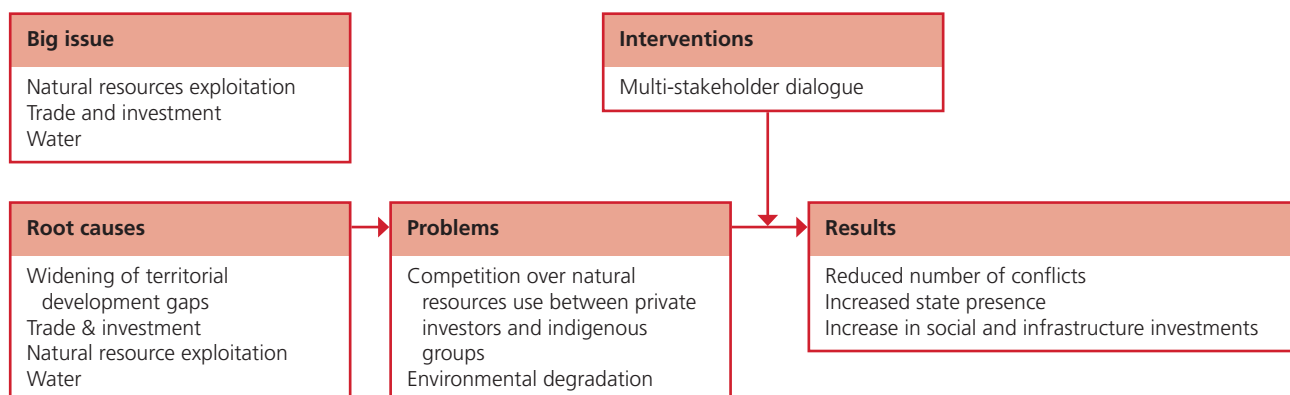
development approaches and the Sustainable Development Goals.

### RESULTS

#### Strengthening institutions

Today the Peruvian state has clear policies and mechanisms to prevent and manage conflicts – albeit still in need of strengthening – together with a mediating presence in conflicts. Most conflicts have dialogues underway. Conflicts have also been reduced in both intensity and number. Between August 2012 and June 2017, the number of conflicts dropped considerably. The progress made in institutionalizing dialogue has led to the creation of ministerial and regional dialogue and conflict prevention units, complemented by the implementation of conflict-information and monitoring tools, early warning systems and conflict-management protocols and toolkits that address natural resource governance.

Multi-stakeholder dialogues have also created a more coordinated intervention procedure among state institutions to address territorial development gaps, while guaranteeing the respect for human rights and



Interventions in Peru

ENTRY POINTS IN PERU	
<b>Purpose of the tool across the conflict cycle</b>	<b>Before, during and after conflict</b> To enable conflicting parties to express their views, reach mutual understanding and agree on how to resolve disputes.
<b>Type of land intervention</b>	<b>Capacity development</b> Building the capacity of communities to express their views peacefully, government to manage the dialogue process and design projects that meet local people’s needs, and mining companies to understand the concerns of local people and avoid disruption to their investments.  <b>Land-policy development</b> Involving local communities in decisions about land use and infrastructure investments.
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Government sensitive to the needs of local communities and willing to manage extractive industries</li> <li>• Organization of communities to express their views</li> <li>• Capacity within the government to manage the process</li> </ul>

the maintenance of internal order. With the evolution of the National Office for Dialogue and Sustainability to a Vice Ministry of Territorial Governance, the new government has strengthened the linkages between dialogue and territorial development.

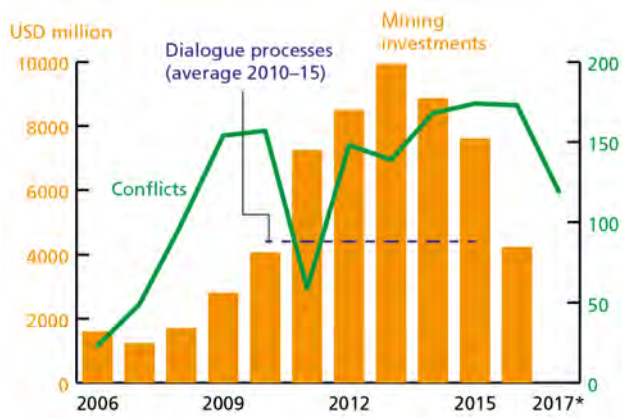
The use of the multi-stakeholder dialogues has been scaled up. It is now being implemented in various government- and civil society-led conflict-prevention initiatives, many of them with the support of UNDP. For example, the Ministry of Environment has used

multi-stakeholder working arrangements to build the capacities of regional and local environmental commissions and strengthen the credibility of environmental management mechanisms, so diffusing tensions over the impact of mining on water and ecosystems. The Ministry of Energy and Mines has supported local participative monitoring commissions that monitor the environmental impacts of mining operations. The newly created Indigenous Policies Working Group, led by the Ministry of Culture, brings together national government and seven national indigenous organizations. It has piloted an agenda to shape government policies in favour of indigenous populations.

**Community empowerment**

The tool has helped to strengthen democratic practices by formalizing venues for people’s participation in drawing up policy agendas and supporting territorial development. This gives those agendas greater legitimacy and sustainability over time.

Most important, a critical mass of civil society and community organizations spread throughout Peru are



**Evolution of social-environmental conflicts and mining investments 2006-2017**

now leading initiatives to promote and consolidate multi-stakeholder dialogues. Such is the case of the Dialogue Group on Mining and Sustainable Development (GDMSD) that coordinates meetings between mining companies, municipal governments and social organizations to reduce mistrust and deeply-rooted stereotypes.

Community organizations such as the National Network of Leaders for Dialogue – an association of community leaders from nine regions – have been multiplying capacities among communities to promote dialogue as a way to engage with extractives and the government to redress grievances and development gaps.

Several companies within the extractive industry have also committed to the multi-stakeholder dialogues. Many have coordinated venues for multi-stakeholder dialogues as an integral part of their operations, helping them to improve the design of social investments and community relations programmes in the territories.

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## 8 BRAZIL: ACCESS TO JUSTICE FOR SECURING HOUSING, LAND AND PROPERTY RIGHTS OF INFORMAL URBAN DWELLERS



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**Intervening organization** Habitat for Humanity Brazil

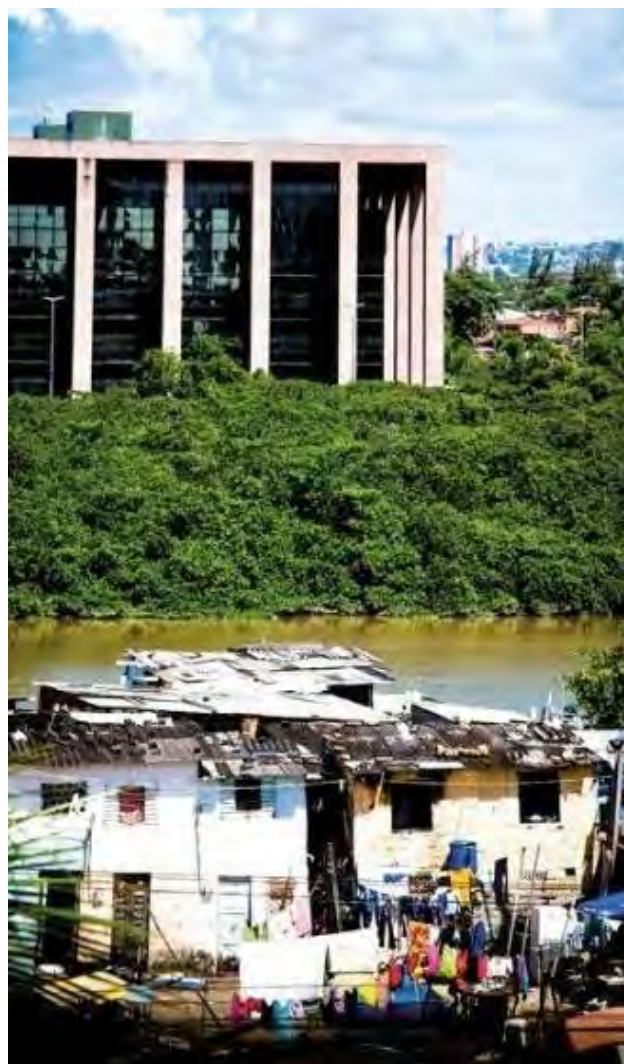
**Tools** Informed advocacy and capacity building to prevent and mediate land conflicts

### LAND RIGHTS IN INFORMAL URBAN SETTLEMENTS

Informal urban settlements are often where systematic, long-standing abuses of housing, land and property rights take place, and from where people are forcibly evicted. This case presents an approach to address “silent land conflicts”, a nationwide phenomenon in which the imminent threat of eviction is spread across entire cities in Brazil.

In Brazil, 86% of the population live in urban areas, which cover less than 2% of the country’s land area. Within the cities, the poor are highly concentrated in informal settlements, spread across and beyond the city’s borders, often in environmentally fragile areas, such as wetlands and hillsides (Maricato 2012).

The root causes of informal settlements include intense urbanization and major socioeconomic inequalities, unequal land distribution and poor land management. Brazil’s land system was originally designed by the elites to hinder formal access to land for the most vulnerable groups, such as former slaves and the poor. However, over the last few decades, as land-reform movements have become more organized, Brazil has developed one of the most advanced legal frameworks for the recognition of land rights and land tenure security for



The Fórum Rodolfo Aureliano, a court building in Recife, Brazil, opposite an informal urban settlement. *Photo: Flavio Costa / Cendhec*

<sup>1</sup> Reviewers: Jane Katz and Maria Luisa Alvarado.



the most vulnerable in Latin America and the Caribbean. It has inspired legal reforms across the region, such as in Ecuador, Mexico, Colombia.

The 1988 Constitution and the 2001 Cities Statute, together with a series of national laws, provide for the social function of property as well as for the right to housing and property. They build on the principles of fair distribution of benefits and burdens of urbanization, and democratic city management. For the land sector, this means that low-income informal dwellers are legally entitled to claim land rights (ownership or use) over private and public land, usually after 5 years of peaceful possession. In addition, it is widely recognized that property rights should be provided especially to women.

### LAND SPECULATION AND MARKET- OR DEVELOPMENT-BASED EVICTIONS

The situation on the ground, however, is quite different from what such a progressive legislation implies. A few privileged landowners control much of the land, which is not always used for a “social function” (as required by the 1988 Constitution). Instead it has weak land governance, regulatory and planning frameworks. In many cities, land and buildings lie empty for decades in areas serviced with infrastructure; this leaves less land available to house and feed an increasing urban population. Competing interests and growing demand for land enable private owners to benefit from the resultant skyrocketing property values and land speculation.

Evictions also take place as a result of development activities, such as large-scale infrastructure projects. The 2014 World Cup and the 2016 Olympic Games were examples of development-based evictions: nearly 250,000 people were evicted, affected or threatened by



eviction in various cities across the country (Articulação Nacional dos Comitês Populares da Copa 2011).

In addition, market-led interventions, such as upper-class real-estate developments and gentrification – where the poor sell their properties to the middle class, are also becoming more evident. Often the poor then return to living in informal settlements. This is often termed market-based eviction. This shows that land-titling programmes focused on individual ownership are not necessarily a sustainable alternative to ensure land tenure security for the most vulnerable.

### CAPACITY GAPS OF RIGHTS HOLDERS AND OFFICIALS

The holders of rights lack capacity in claiming their rights; at the same time, officials lack capacity in meeting their obligations. Governments at all levels have become major drivers or perpetrators of housing-rights violations. Judicial responses to land claims have tended to favour the property rights of privileged landowners, even when this overrides the housing, land and property rights of the urban poor. Access to justice

is a privilege: the most vulnerable often lack access to public defence and cannot afford private legal advice. Many citizens are not aware of their property rights and tend to continue living on undocumented land, even when they are entitled to claim rights to it.

The gap between progressive legislation, which recognizes the land rights of the most vulnerable Brazilian citizens, and the reality of the increasing number of evictions and displacements, reveals that land tenure security in Brazil is not a legal or technical issue, but a political one.

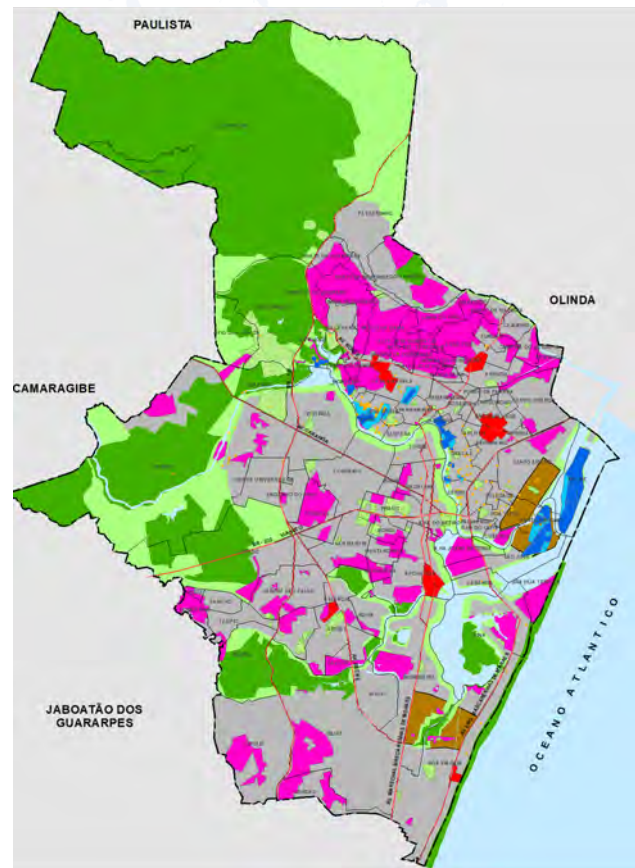
Habitat for Humanity Brazil's work in Pernambuco, a state in north-eastern Brazil, shows what comes next if pro-poor, conflict-sensitive legislation is available but still cannot secure the land tenure security for the most vulnerable. From a development perspective, the case illustrates that once the land rights framework is clear enough, the land conflict cycle tends to move into different institutional spaces, such as the courts and judicial system, and the bottleneck becomes land policy implementation.

### THEORY OF CHANGE

If capacity is developed in the judiciary and in communities about informal urban dwellers' land rights, their land rights will be secure.

### HABITAT FOR HUMANITY

Habitat for Humanity is an international NGO and a network of local NGOs working across the continuum of land rights to increase access to adequate housing and land tenure security. It uses a variety of integrated housing approaches, bringing together communities and the public and private sectors. It currently leads the Global Land Tool Network's cluster of urban civil



**Informal settlements (in pink) in Recife, where over 50% of the population is concentrated in less than 15% of the land area.** Source: ESIG – Sistema de Informações Geográficas, Prefeitura do Recife

society organizations (the GLTN CSO Cluster) and the “Solid Ground” advocacy campaign to improve access to land for shelter around the world. The knowledge platform “Suelo Urbano”, created under the Cluster’s work plan in Latin America and the Caribbean, is the ongoing strategy to develop capacities, foster public dialogue and advance on co-creating knowledge and collaboration towards innovative land tools in the region.

Over the last decade, Habitat for Humanity Brazil has developed a strategy to build sector impact, working with a network of partners and through institutional

**BOX 15. LOW-INCOME FAMILIES LIVING ON PUBLIC LAND THREATENED BY EVICTION**

Entre Apulso is an area in Recife, the capital of Pernambuco, occupied mainly by informal dwellers and recognized as a Special Zone of Social Interest since 1983. It sits near a shopping mall, which affects the land market prices and increases pressure on the residents. In 2017, after nearly 30 years of legal claims, the judge came out in favour of the supposed private owner of this public land. Hundreds of families were ordered to leave. They have refused to do so, and are now expecting eviction.

spaces for democratic city management. It seeks to influence public policies, systems and practices to improve access to adequate housing and the realization of the right to the city, land, property and housing.

**TOOLS: INFORMED ADVOCACY AND CAPACITY BUILDING TO IMPROVE TENURE SECURITY**

Habitat for Humanity Brazil aims at empowering communities, improving policies and making judicial responses more effective to protect the land rights of informal urban dwellers threatened by eviction. It does so through an advocacy and capacity-building approach, which combines:

- **Awareness-raising** of judicial authorities through informed dialogues and workshops.
- **Advocacy** for policy implementation through the Cities Councils. These are multi-stakeholder forums at the national, state and municipal levels. Established by the national framework for participatory city management, they enable communication between government and civil society.

- **Community empowerment** through training of rights-holders and -defenders at the state and local levels.

**Dialogues within the state judicial system**

Box 15 illustrates how the judicial system can be a bottleneck for informal urban dwellers in securing their land rights. Judges often rule in favour of privileged private landowners, even when it endangers the housing and land rights of the most vulnerable. Sometimes “imaginary conflicts” are created, for instance, when a single settler seeks to regularize their property rights through a judicial process. In such cases, judges often take decades to respond to land claims and impose extra requirements, demonstrating a lack of understanding of the reality on the ground and of the progressive land legislation available. There is no clear, formal framework for interaction between the civil society and the judicial authorities.

**Performance tracking study.** Habitat for Humanity and local partners studied the performance of judges and judicial system representatives in relation to land claims of social interest in Pernambuco (Alvarado et al. 2012). Time was found to be a major challenge to those claiming property rights, and one of the reasons the poor lack trust in the judicial institutions. The complete judicial process can take decades, which makes litigation more expensive and discourages informal urban settlers from seeking legal redress. The study also revealed the judges’ conservative interpretation of legislation, as well as structural obstacles (bureaucracy and conflicts in mandates among state institutions, lack of capacity, etc.). The findings served as a base of evidence to initiate a series of informed dialogues and workshops to raise awareness of officials within the judicial system about informal dwellers’ housing and property rights



**Informal dwellers present their views during a workshop with judicial authorities.** Photo: Aline van der Linden/AMPPE

and the mechanisms available in national legislation to protect them.

**Capacity building.** Through a series of awareness-raising workshops with judicial authorities, rights-holders were invited to speak with the judges about the situation on the ground. Civil-society representatives presented the study findings along with recommendations, such as the need to unify the judicial proceedings for land claims of social interest and to strengthen the capacity of the Public Defenders' Office. Representatives from all entities of the Pernambuco judicial system (the Court of Justice, the Public Defenders' Office, and the Public Prosecutor's Office) were invited to speak and react to the presentation. This led to their public commitments and action planning on the issue.

The workshops led to the following immediate results:

- A special court in Recife issued a decision to harmonize the way the judges handle future land claims.
- The President of the Court of Justice of Pernambuco implemented a Programme to Accelerate Judicial Processes related to adverse possession.

- The Public Defenders' Office, which for long had failed to perform a role in housing and property issues, created a task force to assist families claiming property rights.

**Collaborative mapping of land conflict.** The next step is to update and expand the base of evidence on urban land conflicts. A collaborative mapping is being conducted through the framework of the National Forum of Urban Reform and will inform the priority issues for the coming workshops.

#### Civic engagement with government through Cities Councils

The study's findings raised questions related to policy change and implementation that could not be addressed only within the judicial branch of government but required a response from the executive branch. Habitat for Humanity and its local partners leveraged their participation in the Cities Councils of Pernambuco to propose two resolutions and have them approved:

- A pro-poor, gender-responsive policy proposal for prevention and mediation on urban land conflicts for Pernambuco.
- A proposal to create a multi-stakeholder hub specialized on land conflicts within the judicial system, with representation from various entities and sectors.

The policy drafts were discussed and improved together with NGOs, grassroots groups and social movements through Urban Reform Forums (forums that bring together various segments of civil society). The proposals were then forwarded to the general assembly of the Cities Council of Pernambuco. This approved both proposals, raising the profile and legitimizing the land conflict agenda. The holders and defenders of rights were empowered to draft policy proposals,





**A woman trained through the School of Women Leaders explains what she has learned to her neighbours.** *Photo: Maria do Carmo Carvalho*

engage in social networks and forums, and bring unheard voices to participatory decision-making spaces such as the Cities Councils.

### Community empowerment and gender

A third element of Habitat for Humanity's approach was to train the holders and defenders of rights, particularly women in informal settlements who are threatened by eviction. The goal was to raise the awareness and strengthen the capacity of NGOs, social movements and grassroots organizations to understand and defend their housing, land and property rights.

The training methodology was drafted based on Habitat for Humanity and its local partners' years of experience in land, housing and women's rights. The methodology was discussed, improved and validated with a group of specialists and potential beneficiaries.

There were two types of training courses:

- A "school of women leaders in tenure security", targeting women in communities facing evictions and land conflicts.

- A mixed training course, which also targeted men and traditional leaders.

Both courses included theoretical and practical modules. They brought together trainees with different backgrounds and levels of engagement with activism: urban and rural, young and older people, community organizations and NGOs, traditional leaders, young and experienced professionals, university students, etc. Trainers included university professors, representatives of the Public Prosecutor's Office of Pernambuco, professionals and activists. This mix enhanced the information exchange among participants, fostered interaction between "old" and "new" generations, and enabled participants to reframe their views and approaches.

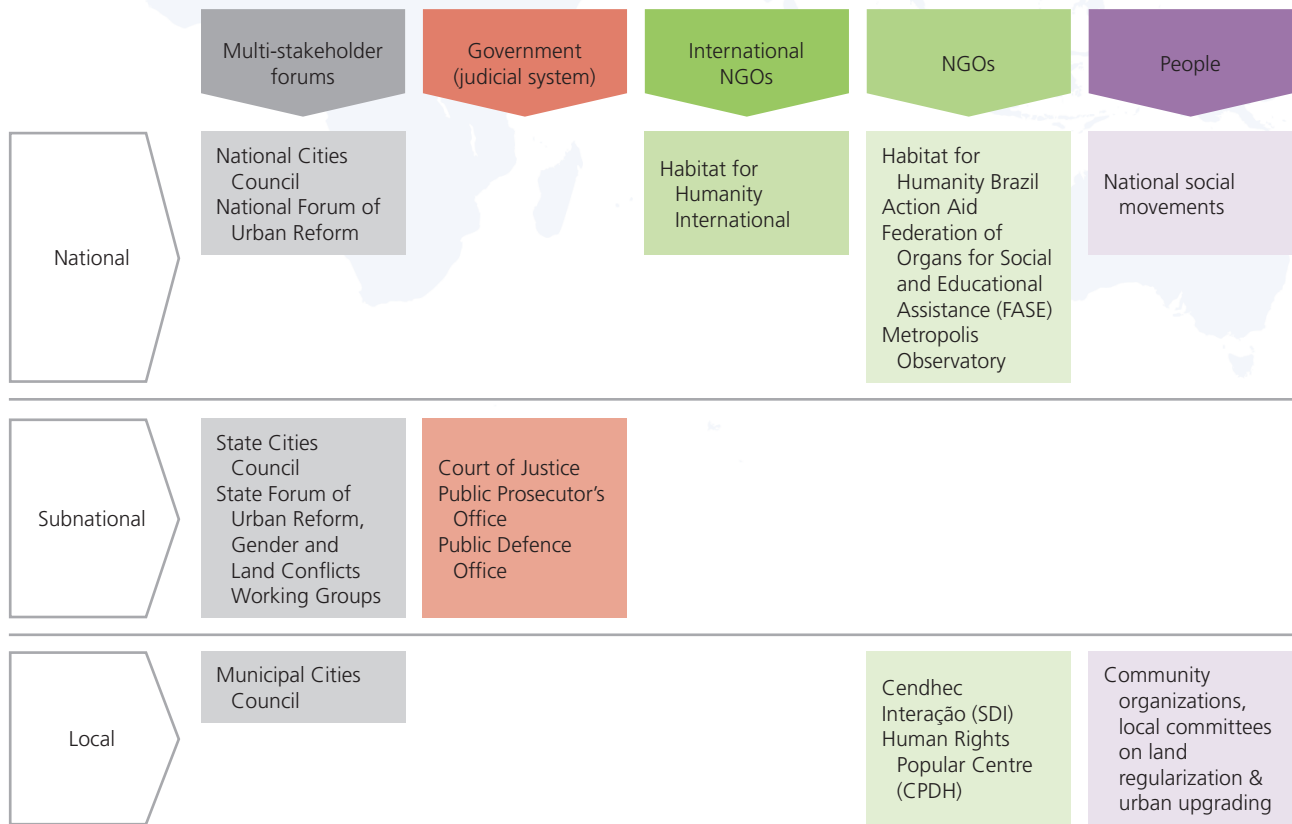
The courses boosted the participants' ability to understand and defend their land rights at family, community and city levels. Women learned that they have equal rights to land. Participants said that the courses helped them understand technical issues and made it easier for them to interact with specialists and the authorities. Many passed on what they had learned to their communities.

### PARTNERSHIPS

Habitat for Humanity works closely with networks and partners, ranging from the Public Prosecutor's Office to grassroots organizations, from academia to social movements. It does this through multi-stakeholder forums as well as less formalized interactions.

Habitat for Humanity Brazil is an elected representative of civil society at the national, state and municipal Cities Councils. These councils enable civil society representatives to propose policy drafts. If approved





**Partnerships in Brazil**

by the plenary, the drafts become resolutions for the executive branches of government to consider.

Habitat for Humanity also fosters less formal relations with the judicial authorities, through informed dialogues and workshops. It also maintains organic relations with social movements, grassroots groups, community organizations and academia through networks of partners such as the Urban Reform Forums.

The entry point has been at the state level, where land claims are generally made. Interventions lead to local impacts when local people have their rights to land recognized. National-level work, through sharing information at the Cities Council, has led to upscaling. The proposal to create a multi-stakeholder hub on land

conflict within the judicial system was first approved in Pernambuco; it was then presented and approved as a national resolution for all states in the country.

The Public Prosecutor's Office of Pernambuco has been a strategic ally, with officials providing training and advice, and coordinating with other judicial authorities. Through this partnership, the president of the state's Court of Justice helped organize the awareness-raising workshop with judicial authorities, provided a venue at the court building, and invited judges and judicial authorities to participate. Habitat for Humanity International has nurtured relations with the judicial authorities by enabling their participation in international knowledge-sharing activities.

ENTRY POINTS IN BRAZIL	
<b>Purpose of the tool across the conflict cycle</b>	<p><b>Silent, long-standing conflict involving land rights abuses</b> To increase access to justice to secure land rights of informal settlement dwellers, by building the capacity of officials to meet their obligations, and of rights holders to understand and defend their rights.</p>
<b>Type of land intervention</b>	<p><b>Land reform</b> Improved efficiency in judicial processes of land regularization.</p> <p><b>Land-dispute resolution</b> Legal procedures, harmonization of judicial response to land claims in informal settlements, creation of a multi-stakeholder hub within the judicial system to specialize on land conflicts.</p> <p><b>Capacity development</b> Rights holders more aware of their property rights. Judicial authorities aware of national laws and tools that protect the land rights of the most vulnerable.</p> <p><b>Land-policy development</b> A state law for prevention and mediation of land conflicts.</p>
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Clear legislation that protects land rights of informal settlers</li> <li>• Functioning courts</li> <li>• Evidence of barriers within the judicial system to securing land rights of informal dwellers.</li> <li>• Partnerships with key actors, either through evidence-based interaction or multi-stakeholder forums.</li> </ul>

Habitat for Humanity has also collaborated closely with other stakeholders, including informal residents who took part in the workshops with judicial authorities, and academics who offered training. A strong coalition has emerged with other NGOs, social movements and community groups to support policy proposals at the Cities Council.

### RESULTS

This advocacy and capacity-building approach has strengthened the base for informed dialogue between civil society and the public sector by increasing the awareness of public-sector representatives and by improving the skills of grassroots and civil-society groups to understand, defend and advocate for their land rights. It has also strengthened the ability of different sectors of civil society to articulate the various claims

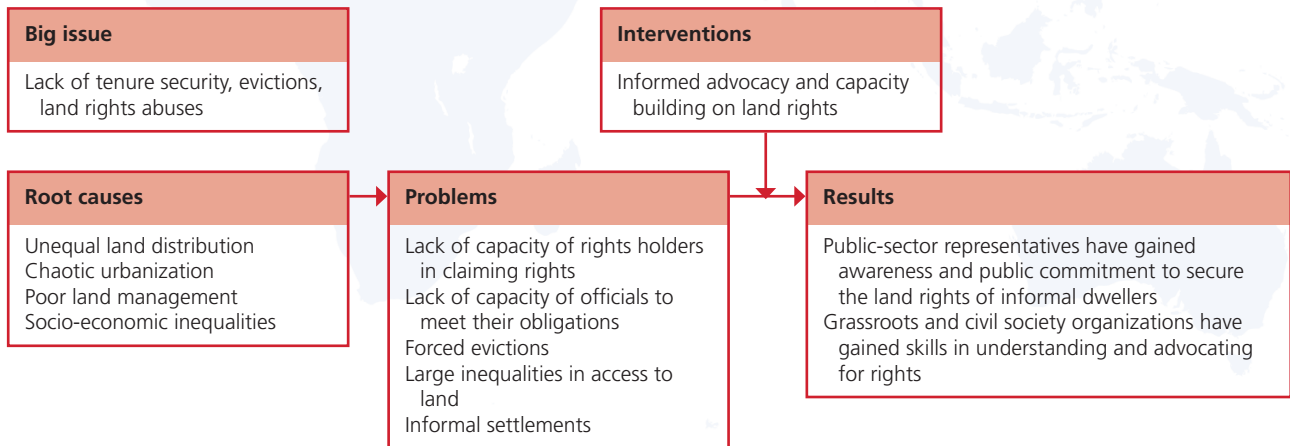
and interests into common proposals for submission to decision makers.

### Strengthening institutions

One of the main objectives of the intervention was to raise awareness and build the capacity of judicial authorities about the legal framework and tools available to protect land rights of informal dwellers. The immediate results include:

- A harmonized judicial response to land claims.
- A programme to accelerate such judicial processes.
- A Public Defender's Office taskforce to assist informal dwellers seeking judicial redress.

These changes show it is possible for the judicial system to respond more effectively to land claims. It may be



**Interventions in Brazil**

possible to replicate this approach in other states in Brazil.

Another element of institution strengthening was a resolution to create a multi-stakeholder hub within the judicial system, specialized on land conflicts. This resolution was approved at state and national levels through the Cities Council, becoming a recommendation for all states in Brazil.

The approach also included policy development. A policy proposal for prevention and mediation of land conflict was approved through the Cities Council of Pernambuco.

State–society relations were strengthened through capacity development of women leaders and through a series of awareness-raising workshops with judicial authorities where land rights-holders were able to speak with the judges about the situation on the ground.

**Dispute resolution**

The intervention resulted in a harmonized way for judges to handle land claims.

**Promotion of human rights**

By facilitating access to justice for informal dwellers, the initiative has promoted the right to adequate housing, and particularly security of land tenure.

**Community empowerment**

Another key objective was to empower communities, and especially women living in informal settlements facing threats of eviction, to understand their land rights. It helped women to communicate with judicial authorities and to take part in drafting policy proposals.

**Knowledge sharing**

Habitat for Humanity International helped record and disseminate this experience by undertaking capacity building within the organization itself and across its network of partners. The School of Women Leaders has been replicated in Bolivia; an initiative in Peru is being prepared to empower women to advocate for the right to housing in the constitution. A regional online forum on urban land conflicts was held on the Suelo Urbano knowledge platform, where this case and other

experiences have been shared, to inspire replication, adaptation and solidarity across the region.

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## 9 COLOMBIA: COLLECTIVE APPLICATIONS FOR THE RESTITUTION OF DISPOSSESSED LAND IN SALAMINITA



**Author** Adriana Ortiz-Serrano, Landesa<sup>1</sup>

**Intervening organization** Colombian Commission of Jurists

**Tools** Collective application for the restitution of forcibly abandoned or dispossessed land

### LAND RIGHTS IN COLOMBIA

In Colombia, the distribution of land is extremely uneven. The Gini index for land inequality – a measure of the concentration of rural property – was 0.88 in 2009 (0 = total equality, and 1 total inequality) (Oxfam 2016). Unequal access to land has helped perpetuate rural poverty and social segregation and is one of the main causes of the armed conflict that has plagued the country.

For more than 50 years, Colombia has faced an internal armed conflict involving guerrillas, paramilitary groups, drug cartels, state forces, and other groups. The conflict has spread mainly in rural areas, where armed actors have used military and political strategies in complex alliances with social groupings. Their purpose has been to rule over Colombia's land, control the local economy and gain advantage throughout the war.

The spread and intensity of the conflict and the atrocities perpetrated has had serious repercussions. The main victims have been non-combatant civilians. Between 1958 and 2012, 180,000 civilians died through the violence. Approximately 52,000 people were “disappeared” and 23,000 were kidnapped. Official figures count 1,754 victims of sexual violence

related to the conflict (mostly women) and over 5,000 children recruited by force by illegal armed groups (Centro Nacional de Memoria Histórica 2013).

Armed groups have forcibly displaced millions of rural residents, indigenous groups and people of African descent. They have used their land as troop corridors, to secure drug routes, control mining and natural resources, to benefit their allies, or as an investment. Between 1985 and 2016, over 7,250,000 individuals were forcibly displaced (Unidad para las víctimas 2017). More than half of the displaced households had land, and 94% of them were dispossessed or forced to abandon it. About 5.5 million hectares have been affected: some 10.8% of the country's agricultural area (Comisión de Seguimiento 2009).

### LAND RESTITUTION LAW

Colombia is now on the verge of breaking from its decades of conflict. Even before signing the peace agreement with the FARC guerrilla group in 2016, it adopted a series of measures reflective of transitional justice norms. One is the “Victims and Land Restitution Law”, which guarantees the right to truth, justice and reparation to victims and establishes a special, fast-track process for land restitution. Land may be

<sup>1</sup> Author: Adriana Ortiz-Serano, fellow with the Barer Institute for Law & Human Services at the University of Washington School of Law, on assignment to Landesa, 2017. Previously, she worked for the Colombian Commission of Jurists (CCJ). Contributor: Paula Andrea Villa, land restitution attorney, CCJ. Reviewed by: Jolyne Sanjak, chief programme officer, Landesa; Jennifer Duncan, Africa region director and senior land policy advisor, Landesa.





**The site of Salaminita village, cleared of debris by new landlords. The village was demolished by paramilitary groups, forcing the residents to abandon the land.** Photo: *El Espectador*

restituted to proprietors, tenants or occupiers of vacant land if they were forced to abandon it after 1991 as a result of serious human rights abuses or violations of international humanitarian law.

This chapter focuses on implementation of this innovative law, using the Salaminita village case to highlight the collective application process for land restitution. This collective approach was introduced as a tool to improve the pace and outcomes of the restitution process in certain circumstances.

### THEORY OF CHANGE

If groups of displaced people collectively apply for the land to be returned to them, the process of land restitution is quicker and more effective and contributes to community empowerment and peace-building.

### COLOMBIAN COMMISSION OF JURISTS

The Colombian Commission of Jurists (Comisión Colombiana de Juristas, CCJ) is a non-profit human-rights organization that promotes human rights and the rule of law in Colombia. Since 2013, it has legally represented victims of forced land abandonment and

dispossession in the land-restitution procedure under the Victims' Law. This work has been in partnership with the Land Restitution Unit (Unidad de Restitución de Tierras) and with funding from the Swedish Embassy in Colombia. It has so far represented 6,242 victims of forced land abandonment and dispossession, in a total of 744 cases presented before the land-restitution judges. Of these, 120 victims (a total of 600 people including family members) of land abandonment and dispossession have so far had their right to land restitution recognized.

### TOOL: COLLECTIVE (OR GROUP) APPLICATION FOR THE RESTITUTION OF FORCEDLY ABANDONED LAND

The land-restitution process aims to provide a free, quick and effective mechanism for victims of forced land abandonment and dispossession to regain their land. It is governed by a legal and regulatory framework that includes a new institutional structure (the Land Restitution Unit), providing a route for land restitution, and new legal entities and procedures. These help victims overcome the obstacles in the previous law. The Land Restitution Unit, part of the Ministry of Agriculture, reviews applications for land restitution and legally represents the applicants before the judges. The law also creates specialized judges who decide if the land should be returned to the applicant.

The land-restitution process has three stages:

1. **Administrative stage.** The Land Restitution Unit reviews the claim to ensure the applicants are eligible for restitution and to reconstruct the history of ownership of the property in question.
2. **Judicial stage.** The case is put before a land-restitution judge. Applications may be presented individually or collectively. Collective applications

TABLE 6. PARTIES TO THE CONFLICT IN COLOMBIA

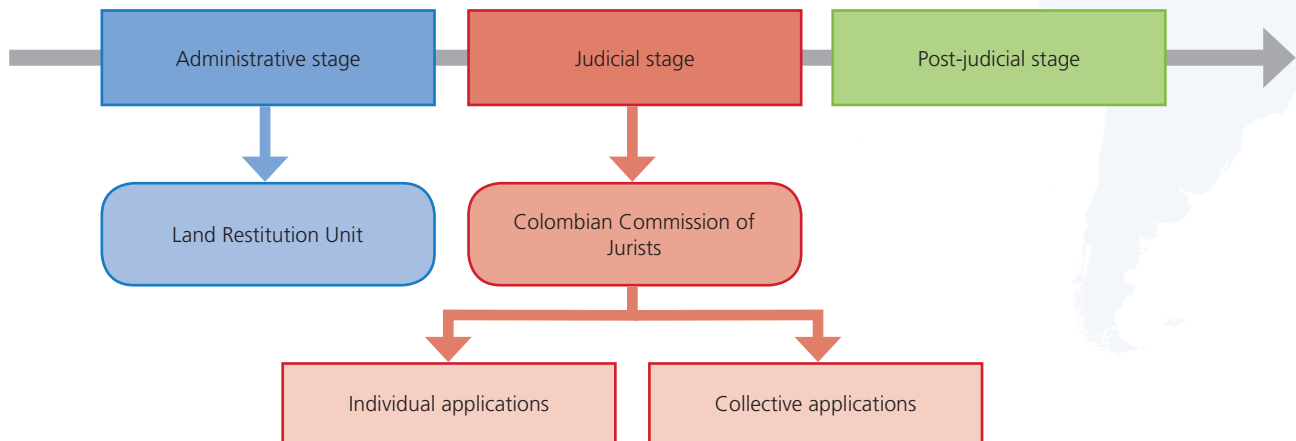
<b>Guerrilla groups</b>	Guerrilla groups began to grow after the mid-1960s as a result of unresolved agrarian issues. The two main groups were FARC (Revolutionary Armed Forces of Colombia) and ELN (National Liberation Army). They were mainly responsible for kidnappings, attacks on small towns and infrastructure, the destruction of property, looting, use of anti-personnel mines, and siege of the local population.
<b>Paramilitary groups</b>	As the guerrilla groups expanded, paramilitary groups backed by the state military were formed to protect large and medium landowners. The paramilitaries were accused of targeted killings, massacres, sexual violence and land dispossession.
<b>State forces</b>	State forces established alliances with the paramilitaries against the guerrillas and civilians. They were responsible for extrajudicial executions and selective murders.
<b>Drug cartels</b>	Drug cartels became involved in the conflict at the beginning of the 1980s to promote and finance paramilitary groups. They also provided the guerrillas with supplies and resources as payment for drug plantations and laboratories.
<b>Social, political and economic elites</b>	Social, political and economic elites supported, financed and associated with illegal armed groups, mainly paramilitaries, favouring their economic and political interests associated with control over land.
<b>Public officials</b>	Some public officials at the national and local levels served the interests of illegal armed groups and social and political elites.

may be presented if the claimed plots are in close proximity to each other, and the applicants were displaced at the same time and under the same circumstances. The judge decides if the land is to be returned, and orders measures to secure the applicants' land rights and their return, stability and decent living conditions.

- 3. Post-judgement stage.** The measures ordered by the judge are implemented by the responsible local, regional and national authorities.

As of August 2017, 106,833 applications for land restitution have been presented before the Land Restitution Unit. For 19,822 (nearly 20%) of these, a review has been completed and they are considered eligible for restitution. Some 13,948 (13% of the total) have been presented before the judges; 5,407 cases (5%) have been solved (Unidad de Restitución de Tierras 2017).





The land-restitution process in Colombia

CCJ has prioritized the submission of collective applications over individual applications. It has created specialized interdisciplinary teams of lawyers, social scientists, psychologists and gender specialists to handle the cases. The lawyers lead the applications, while the other team members help reconstruct the context for each case, identify the individual and collective harm suffered by the victims to ensure adequate reparation, and support the victims during the restitution process. They also help organize and strengthen the communities involved. The gender specialists ensure that women's rights to the claimed land are recognized, and attend to the special needs and vulnerabilities of women during the process.

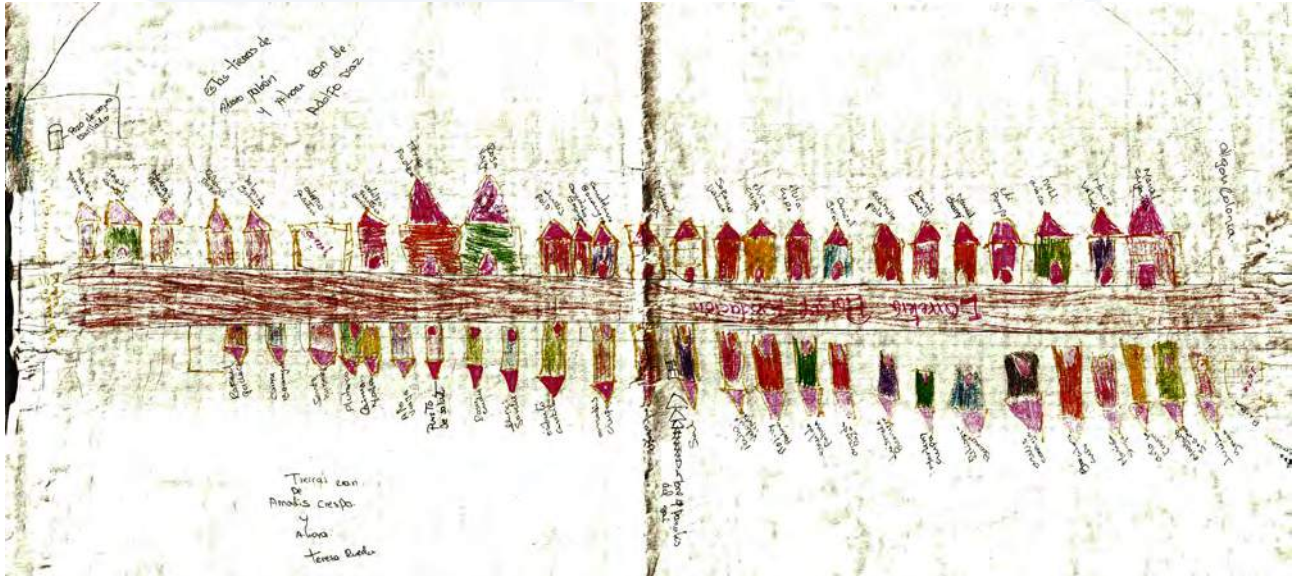
For some of the cases, CCJ has partnered informally with national and international organizations. These have monitored the implementation of protection measures and compliance with the restitution rulings, and undertaken specific actions with the individuals or communities involved.

### THE STORY OF SALAMINITA

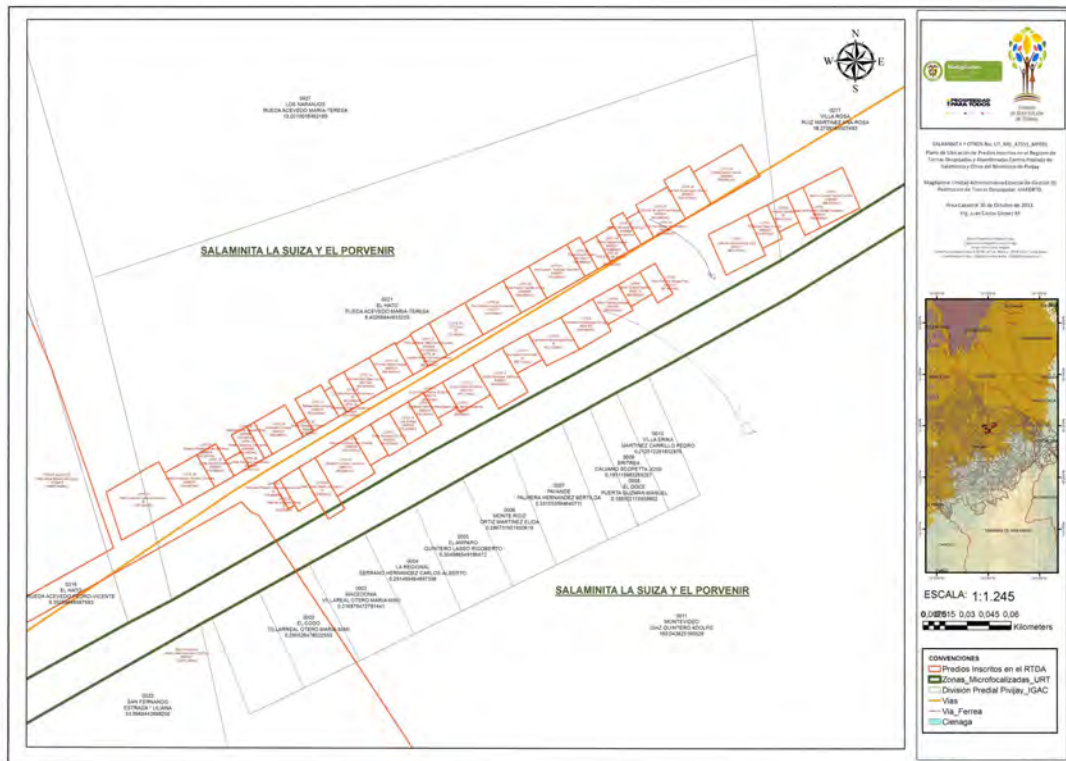
One of the cases handled by CCJ was that of the people of Salaminita. This was a small village in the Department of Magdalena, in northern Colombia. The village was established on vacant land by rural landless people who gradually settled in the area and built their houses. It consisted of 49 houses, a health centre and a school.

In June 1999, paramilitary forces arrived and brought together all the residents of the village and the surrounding area at one of the grocery stores in the village. They forced them to witness the murder of three residents, including a woman who had been the village police inspector for over 12 years. After this massacre, all the village residents abandoned their houses and belongings. Most moved to towns and cities in other parts of Colombia, where they faced marginalization, exclusion and poverty.

The paramilitary group later returned with bulldozers and levelled the village. Two years later, wealthy landowners whose farms bordered the village offered around USD 60 to buy the land from the former residents. Some residents accepted this paltry amount



Social mapping made by the victims of Salaminita to identify their plots in a workshop carried out by the Colombian Commission of Jurists



Cadastral map of Salaminita



out of fear; others refused. It made no difference; their land was taken regardless. Later, after the paramilitary group had been demobilized, some members said that the landlords had financed its activities.

In 2014, CCJ filed a collective land-restitution application on behalf of the residents of Salaminita. The Land Restitution Court ruled in their favour two years later. The court ordered the landlords who had bought or occupied the land to return it to its previous owners. It also ordered the government to issue the residents formal land-ownership titles, rebuild the village, provide free healthcare and education and occupational training, and build a memorial to record the events of 1999. This highlights the complexity of social, economic and political dynamics in the Colombian conflict and the restitution processes.

The government has granted the claimants titles to the plots; after some resistance, the landlords have finally given back the land they had seized. This is a step forward, but there is still a considerable way to go before the village can be rebuilt and the victims can return to their land in decent, safe conditions.

Foreseeing that the land restitution and the residents' return might pose risks to their lives or well-being, CCJ has sought protection measures from the authorities on the community members' behalf. The Norwegian Refugee Council is following up the implementation of these measures and is monitoring the authorities' compliance with the ruling. The Center for Research and Popular Education (Centro de Investigación y Educación Popular, CINEP) is a national NGO affiliated with the Jesuits. It strengthens the community's ability to monitor compliance, and runs workshops on protection and self-protection measures that help the community mitigate and respond to potential risks and

threats against their life and personal integrity related to the land-application process.

### ADVANTAGES OF COLLECTIVE APPLICATIONS

Collective applications for land restitution have been effective in various ways:

- They help reveal the truth about the magnitude, patterns and effects of forced abandonment and dispossession of land.
- They favour the implementation of comprehensive reparations measures that might facilitate the return of displaced people and promote rural development.
- They contribute to reuniting, organizing and strengthening communities that were broken apart by their forced displacement.
- They accelerate judges' decisions in cases of forced land abandonment and dispossession, and prevent congestion in the court system.

### CHALLENGES

People claiming land restitution and defenders of land rights in Colombia still face risks and threats to life and limb. According to Global Witness, Colombia is (after Brazil) the second-most dangerous country in the world for land defenders. In 2016, 37 land defenders were killed in Colombia. Returning community members are often attacked for reclaiming land stolen during the conflict.

In Salaminita, some of the applicants have faced threats that require a prompt and adequate response. Despite requests by CCJ for protection measures on their behalf, limited progress has been made.

**GENDER**

The Victim’s Law acknowledges the need for a gender-specific approach in redressing the injustices of the armed conflict. Whenever the process of land restitution is decided in favour of a claimant, titles should be granted jointly also to his or her partner or spouse.

These provisions, and the presence of a gender specialist in the interdisciplinary litigation teams, have made it possible to include special claims in collective applications for land restitution that aim to guarantee women’s rights to land. One of these is to ask the judges to solve the underlying legal situations that may interfere with the legal and material restitution of the land to women, such as the declaration of *de facto* unions, the division of community property upon divorce, and the distribution of the estate.

In the case of Salaminita, the judge recognized the *de facto* unions that existed at the time of the forced displacement and ordered both partners to be awarded ownership titles. Where the titling depended on the distribution of an estate the judge decided not to distribute it. However, the judge ordered that the

affected applicants should receive free advice and legal representation from public defenders before the competent courts for a decision.

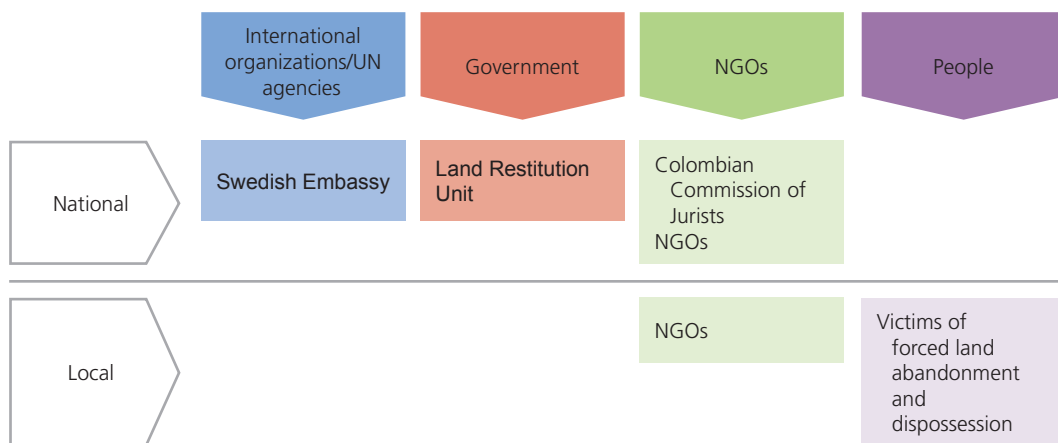
**PARTNERSHIPS**

CCJ has been involved in various partnerships in the land-restitution process.

**Government: the Land Restitution Unit.** Part of the Ministry of Agriculture, created by the Victims’ Law. It carries out the administrative stage of the land restitution process and is responsible for representing the victims of forced land abandonment and dispossession at the judicial stage.

**The Swedish Embassy** financed the partnership between the Land Restitution Unit and CCJ for legally representing victims of land abandonment and dispossession. In the case of Salaminita, the Embassy has advocated for compliance with the land restitution ruling.

**National and international NGOs.** CCJ has partnered with national and international NGOs in some of the



Partnerships in Colombia



ENTRY POINTS IN COLOMBIA	
<b>Purpose of the tool across the conflict cycle</b>	<b>Post-conflict</b> To restitute land rights to people who have forcedly abandoned or have been dispossessed of their land in the midst of internal armed conflict.
<b>Type of land intervention</b>	<b>Land-dispute resolution</b> Legal procedures to adjudicate land rights and restitute rights to the rightful holders. <b>Land-policy development</b> Creation of laws and procedures to restitute rights to land.
<b>Necessary factors/conditions for using the tool/approach</b>	<ul style="list-style-type: none"> <li>• Political willingness to correct past injustices.</li> <li>• Identifiable claimants and evidence to support their claims.</li> <li>• Favourable legal framework.</li> <li>• Reliable and committed new public entities.</li> <li>• Qualified specialists in law, gender, community organizing.</li> </ul>

cases it has worked on. In Salamina, these have included the Norwegian Refugee Council and CINEP.

**Victims of forced land abandonment or dispossession.** In its first meeting with the applicants, CCJ explains the land restitution process to them. If they agree, the applicants then grant CCJ power of attorney to represent them. In Salamina, CCJ represented 38 land-restitution applicants and their families.

### RESULTS

#### Strengthening Institutions

Traditionally, public entities providing services to the rural sector favoured elite groups and their own interests, creating an atmosphere of public distrust. The land-restitution process introduced new state entities such as the Land Restitution Unit and the land-restitution judges. These have introduced new staff-selection processes and improved transparency and the way the government interacts with the citizens, particularly with the victims of armed conflict. They are now better organized and more reliable.

By recognizing the rights to truth, justice and reparations, the land-restitution process has helped build a suitable climate to start negotiations with the remaining guerrilla groups. In 2016, the government signed a peace agreement with FARC; negotiations with ELN are in progress.

#### Dispute resolution

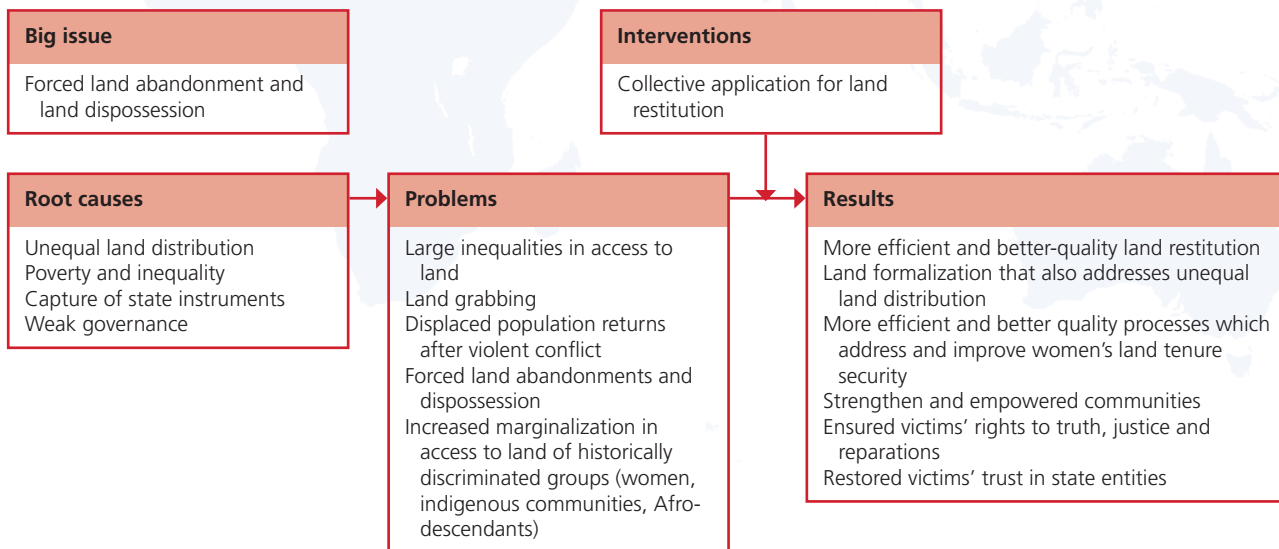
As a transitional justice mechanism, the land-restitution process creates flexible legal entities that facilitate victims' access to justice. The process has helped solve conflicts over land that traditional approaches would not have resolved.

#### Sustainability

The land-restitution process helps secure land rights, promotes women's access to land and fosters the return of internally displaced people.

#### Community empowerment

The communities are trained about their rights and how to realize them. They receive advice and support to create or strengthen community-based organizations.



**Interventions in Colombia**

The people displaced from Salaminita created "Asorenacer", a community organization that aims to promote and protect the community and the rights of the victims. Asorenacer has advocated to ensure compliance with the judge's ruling and has partnered with other victims' organizations to defend the land-restitution policy.

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UN-Habitat helps the urban poor by transforming cities into safer, healthier, greener places with better opportunities and where everyone can live in dignity. UN-Habitat works with organizations at every level, including all spheres of government, civil society and the private sector, to help build, manage, plan and finance sustainable urban development. Our vision is cities without slums that are liveable places for all, which do not pollute the environment or deplete natural resources. More information: [www.unhabitat.org](http://www.unhabitat.org).

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IIRR is a non-profit, non-governmental organization that aims to improve the quality of lives of the rural poor in developing countries through rural reconstruction: a sustainable, integrated, people-centered development strategy generated through practical field experiences. More information: [www.iirr.org](http://www.iirr.org).

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The Global Land Tool Network (GLTN) is an alliance of international partners committed to increasing access to land and tenure security for all, with a particular focus on the poor and women. The Network's partners include international civil society organizations, research and training institutions, bilateral and multilateral organizations, and international professional bodies. GLTN develops, disseminates and implements pro-poor and gender-responsive land tools. These tools and approaches contribute to land reform, good land governance, inclusive land administration, sustainable land management, and functional land sector coordination. More information: [www.glt.net](http://www.glt.net).



## ABOUT THIS PUBLICATION

Land is often a critical aspect of conflict: it may be a root cause or trigger conflicts, or may become an issue as the conflict progresses. Conflicts lead to forced evictions; the people who are displaced by conflict need somewhere to live, often leading to further disputes over the use of land and other resources.

This publication shows how addressing land issues can mitigate conflict, facilitate solutions to it, and improve the likelihood that people can return to their homes after the violence is over. It draws on cases in nine countries in Asia, Africa and Latin America with a range of conflict parties: farmers, herders, landlords, villagers, mining companies, host communities, displaced people, gangs, and various levels of government. The cases and analysis describe how various land-related approaches have been used throughout the conflict cycle, from conflict prevention through humanitarian assistance, recovery and development. While each conflict is different, the emphasis is on practical methods that can be adapted to suit the situation.

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