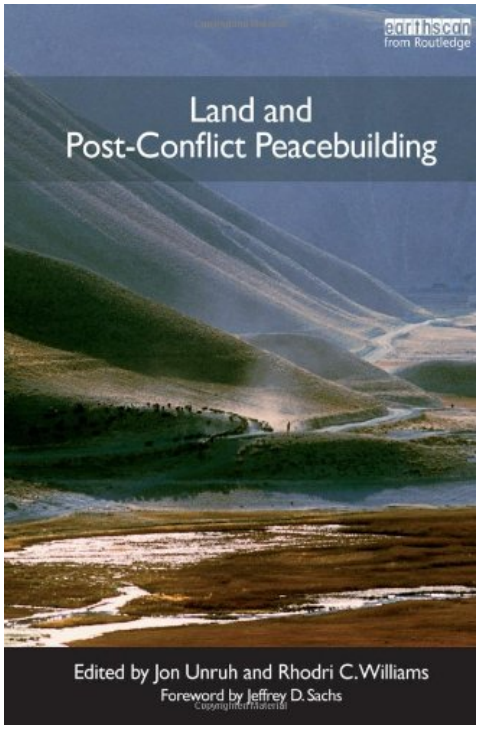
This chapter first appeared in *Land and Post-Conflict Peacebuilding,* edited by J. Unruh and R. C. Williams. It is one of 6 edited books on Post-Conflict Peacebuilding and Natural Resource Management (for more information, see www.environmentalpeacebuilding.org). The full book can be ordered from Routledge http://www.routledge.com/books/details/9781849712316/.



Lessons learned in land tenure and natural resource management in post-conflict societies

Jon Unruh [a] and Rhodri C. Williams
[a] *McGill University*

Online publication date: November 2013

Suggested citation: Unruh, J., and R. C. Williams. 2013. Lessons learned in land tenure and natural resource management in post-conflict societies. In *Land and post-conflict peacebuilding,* ed. J. Unruh and R. C. Williams. London: Earthscan.

PART 5

Lessons learned

Lessons learned in land tenure and natural resource management in post-conflict societies

Jon Unruh and Rhodri C. Williams

Since the mid-twentieth century, armed conflict has changed: instead of involving wars between different countries, armed conflict is more likely to involve governments and opposition groups; moreover, it usually occurs in regions where people depend on land and natural resources for their livelihoods. Of the thirty-seven armed conflicts under way in 2011, for example, only one was interstate, nine were internationalized internal armed conflicts, and thirty-four were located in developing agrarian economies (Themnér and Wallensteen 2012; UCDP n.d.). And in all but three of the more than thirty intrastate conflicts that occurred between 1990 and 2009, land-related issues played a substantial role (UNFT 2012; Alden Wily 2009). The shift to intrastate conflicts in resource-dependent regions has increased the associated risks: studies show that conflicts related to natural resources are more likely to relapse than those that are not, and do so twice as quickly (UNFT 2012).

In Afghanistan, where agriculture is the main source of livelihoods and 80 percent of households rely directly on natural resources for their livelihoods, land and water are the principal causes of local disputes.[1] Such disputes, which can become violent, have exacerbated the wider war and have complicated and weakened efforts to promote peace in the country. In Africa, 48 percent of civil conflicts that occurred during the first decade of this century were in areas where access to rural land matters deeply to the survival of the majority of the population (UNFT 2012; Alden Wily 2009). The conflict in Darfur, for example, is inextricably intertwined with competition over water and fertile land, and climate change is expected to exacerbate competition over these scarce resources (UNEP 2009).

Jon Unruh is an associate professor of geography at McGill University. Rhodri C. Williams is a human rights lawyer who specializes in land and forced-migration issues. Some material in this chapter is based on the authors' personal experiences, and several sections were informed by internal, unpublished reports developed by Jon Unruh for the World Bank.

[1] More than half of Afghan respondents to a 2007 Oxfam survey reported that land and water are the main causes of local disputes. Several other studies, including surveys conducted by the Independent Afghan Human Rights Commission and the Asia Foundation, corroborated these results (Waldman 2008).

In Colombia, which has been plagued by agrarian conflicts throughout its history, land has both sparked and funded conflict for several decades. Between the early 1980s and 2000, paramilitaries acquired approximately 50 percent of the country's most fertile and valuable land, and conflict between paramilitaries and guerrilla groups has led to the displacement of between 2 and 4 million Colombian peasants (Elhawary 2009).

Land and natural resources often contribute to conflict and are affected by conflict; thus, to achieve lasting peace, the post-conflict peacebuilding process must address the origins of conflict that are related to land and natural resources, the impacts of the conflict on the natural resource base, the challenges of displacement, and long-term development: all of these require careful attention to land-related issues, including land rights.

Even where land and natural resources are not central to the onset and conduct of conflict, they are crucial to post-conflict peacebuilding. Land affects livelihoods; macroeconomic recovery; governance; trust in government; and the reintegration of conflict-affected populations, including former combatants. A solid system of land management can strengthen governmental credibility and promote the rule of law; in addition, authoritative guarantees of tenure security help foster investment in and productive use of land resources (Collier et al. 2003). Despite its importance to many aspects of peacebuilding, however, land issues have been addressed unevenly in peacebuilding processes.

Post-conflict peacebuilding is often complicated by land and property issues that develop during and immediately after armed conflict. Typical conflict-related damage includes exploitation of valuable natural resources (often to finance the conflict); degradation of forests and agricultural lands; and destruction of public buildings, infrastructure, and homes. Lingering tensions often manifest themselves in competition for land and resources—and there is often a surge in competing claims to land and property, particularly as returning populations assert their rights. Eager to restart the economy, governments often grant large land concessions for agricultural production or natural resource extraction, sparking conflict with smallholders. The demands created by returning refugees, members of the diaspora, internally displaced persons (IDPs), and even members of the international assistance community can lead to acute housing shortages. Finally, land records may have been damaged, destroyed, or falsified in the conflict, creating obstacles to the resolution of disputes.

The chapters in this book underscore the critical role of land and land rights in the recovery from armed conflict. Taken together, these twenty-one chapters—based upon case studies from seventeen countries—illustrate a familiar lesson: although there are beneficial approaches to engaging with land rights—and, more broadly, addressing land issues—there is no one template for doing so successfully. The variables are too numerous and the contexts too individual; moreover, land issues are too embedded in other aspects of sociopolitical recovery. Nevertheless, the experiences recounted in this book offer broad lessons that are relevant to future post-conflict scenarios. Drawing upon the analyses in this book and the

broader literature, this chapter identifies lessons in conceptualizing and addressing post-conflict land tenure, management, and related issues.

The problems that arise in efforts to address post-conflict tenure security, particularly in developing countries, can be grouped into four broad categories: legal ambiguity, legal pluralism, disputes, and land recovery. The first four sections of this chapter address these categories, highlighting experiences and insights drawn from the case studies presented in this book. The chapter then proceeds with a discussion of the coordination and sequencing of interventions during the peacebuilding process, identifying approaches to managing land in post-conflict situations.

LEGAL AMBIGUITY

Legal ambiguity, one of the most immediate and obvious land-related problems in post-conflict situations, leads to confusion about a variety of legal and administrative issues, from the boundaries between parcels to the status of conflicting claims on the same parcel. The link between such confusion and tenure insecurity is clear (Bruce, Migot-Adholla, and Atherton 1994).

In the wake of conflict, legal ambiguity typically takes one of four forms:

- *Unclear rights of access to and use of natural resources*. When rights holders claim conflicting use or access rights, when customary and statutory rights differ, and when resource management systems are inconsistent, tensions can arise. Concessions that are granted on the basis of ambiguous, contested, or dated rules may exclude or antagonize local communities, particularly where such rules give concessionaires the right to deny communities access to land or land-based resources. In fact, many rebel groups and certain governments issue concession contracts of questionable legitimacy, which generates conflicts between claimants, users, and uses.
- *Confusion about which institutions govern land*. Particularly where postcolonial elites have retained the rules that once granted colonial authorities sweeping control of any lands not held under formal title, the disposition of rights to government land; public land; and tribal, indigenous, or community land is often unclear or misunderstood. Ambiguity is especially likely in rural areas, where customary administrative units (such as clan homelands and chieftaincies) and statutory administrative units (at the national and subnational levels) overlap. Where the distinctions between government land, public land, and tribal, indigenous, or community lands are unclear, ownership is often contested, particularly between local residents and returnees. In addition, local residents may misunderstand (and therefore oppose) attempts to survey land.
- *Disputes related to individual ownership of land*. The process by which individuals acquire deeds, titles, or other government-issued, land-related documents is often unclear, may involve many steps, can be easily corrupted, and can be especially difficult if land has historically been held under customary

tenure. Controversies often arise when the rules governing the inheritance of land make it difficult to determine who is the rightful heir. In post-conflict situations, squatters may lay claim to land under rules of adverse or acquisitive possession, creating particular concerns when original claim holders have been forced to vacate land as a direct result of conflict.[2] When fraudulent, coerced, or ambiguous land transfers are widespread, the competing claims that arise undermine tenure security, and thereby inhibit investment and growth.

- *Overlapping, incomplete, inconsistently applied, or outdated policies regarding land and property*. Particularly where statutory and customary systems intersect, confusion over which norms apply can impede governance of land and property. Incomplete and inconsistently applied regulations create additional barriers to effective land use and development. Finally, pre-conflict regulations may not fully reflect post-conflict reality.

Among the examples of legal ambiguity considered in this book is the relationship between Indonesian statutory law and the *adat* (customary) institutions of Aceh. As discussed by Arthur Green, tensions have arisen over three issues: (1) the extent to which Indonesia's formal recognition of adat practices confers governance power on adat institutions; (2) whether adat authority is exclusive or is shared with statutory institutions; and (3) whether changes in the composition of adat leadership structures require state approval (Green 2013*).[3] In another example, Allan Cain notes that in post-conflict Angola, the occupation of land has been contested where local officials had a practice of approving bills of sale themselves, as a matter of expedience, because the process of obtaining formal title to surface rights from provincial governments was arduous and inaccessible to the majority of inhabitants (Cain 2013*).

In Afghanistan, mistrust of the central government's motivations have run so high that communities engaged in efforts to register their land were uncertain which would entail greater risk: seeking state recognition or avoiding it (Stanfield et al. 2013*). In the Philippines, the Supreme Court held that sweeping rights granted in Mindanao under the 1997 Indigenous Peoples Rights Act (1) directly contradicted laws on land classification and environmental protection and (2) conflicted with the government's policy of promoting mining to augment national income (Defensor Knack 2013*); this ruling reflects a common tension between the goals of maximizing economic growth and protecting the rights of indigenous people.[4]

---

[2] The terms *adverse possession* and *acquisitive possession* refer to rules in common law and civil law, respectively, which set out legal conditions (that may vary by jurisdiction) under which those who use land that does not belong to them may eventually be recognized as lawful owners.

[3] Citations marked with an asterisk refer to chapters within this book.

[4] See also Oki (2013*).

These and other examples of legal ambiguity highlight a number of lessons. First, in post-conflict situations, land tenure is often messy and chaotic; at the same time, domestic and international capacity, financial resources, and expertise may be extremely limited. International and domestic actors have sometimes responded to such scenarios by attempting to resolve all outstanding land issues at once. For example, proposals have been put forward for temporary international assumption of responsibility for virtually the whole spectrum of land and property administration (UN-HABITAT 2007). But in Bosnia and Herzegovina, when international administrators assumed such responsibilities to prevent discriminatory land allocations, their own lack of capacity created a bottleneck that not only failed to halt such allocations but also inhibited legitimate investment (Williams 2013a*). The reality is that it is often counterproductive to attempt to quickly resolve post-conflict chaos, and that such chaos is often best managed until peace consolidation has advanced and capacity has increased (Fitzpatrick 2002).

A less ambitious—and often practical—approach to the fluidity of the post-conflict legal environment is to issue authoritative legal interpretations, executive instructions, or decrees to deal with specific categories of problems as they arise, rather than to undertake a full legislative review and reform process too quickly. When such rulings are developed through a consultative process and broadly disseminated, they can preempt certain kinds of disputes that occur in large volume, and allow others to be resolved outside of court.

Many of the land-related issues in post-conflict Liberia, for example, are highly contested, volatile, and potentially serious enough to undermine the peace process; thus, they need to be dealt with quickly. Among the issues that would likely benefit from specific legal rulings are the following:

- The legal distinction between government land, public land, and land held under tribal land deeds.
- Which rights are and are not included in a concession.
- Whether the years of conflict count toward the occupancy requirement for adverse possession.
- What constitutes a bad-faith or good-faith land transfer.
- Which laws are still to be applied—including old laws and received laws.[5]
- The precise legal steps for acquiring land deeds.
- The allocation of authority over land matters between statutory and customary institutions.
- The legality of previously issued concessions.

Approaches that involve rulings on specific issues, however, need to be implemented with some caution. In post-conflict Sierra Leone, attempts to increase

---

[5] The term *received laws* refers to those laws or parts of laws that are imported from another country—either during a colonial period, out of expediency, or because of lack of capacity on the part of the receiving country.

legal clarity by surveying boundaries led to renewed violence in some cases (Unruh 2008), suggesting that for some actors, ambiguity is desirable because it allows ongoing negotiation of overlapping land uses and claims. Ambiguity also reflects the fact that in customary systems, boundaries are not always clearly and permanently demarcated, but may take the form of zones that vary in use and precise location over time, and that have different meanings for various members of different groups.

In the wake of conflict, ambiguity regarding squatters' rights to land and other resources poses a significant problem in both rural and urban areas. In some cases, squatters attempt to establish claims not only through adverse possession but by planting trees or making other improvements. Meanwhile, evictions—particularly if they are carried out on a large scale, or involve excombatants or others who have been encouraged or allowed to settle on available property—may lead to social unrest. For instance, Cain describes the risks created by the fact that excombatants in Angola often lacked access to sufficient land to sustain their livelihoods (Cain 2013*). Rhodri C. Williams notes that in Bosnia, controversial land allocations, which favored the occupants of homes that were claimed by displaced persons, were used to dampen the political fallout that resulted when such occupants were eventually evicted (Williams 2013a*). In many cases, squatters feel that they have little to lose, and occupy land in the hope that any resulting dispute will result, at a minimum, in some form of compensation.

The low tenure security inherent in squatting can also lead to excessive exploitation of resources, including timber, minerals, and rubber, as in post-conflict Liberia (Smucker 2005; IRIN 2005). Because of the movement of IDPs, cities are also subject to an influx of squatters during and after conflict (Buchanan-Smith and McElhinney 2011; Assaf and El-Fil 2000; Bahir 2010; Williams 2011). In cities where IDPs have created informal settlements, a potentially constructive response to squatting is to engage squatters in development planning by offering them secure tenure in exchange for sweat equity and voluntary compliance with planning rules (Williams 2011). Generally, successful approaches to squatting depend on increasing tenure security and providing income sources, with the latter tending to follow from the former (Galiani and Schargrodsky 2010; Salas 1986).

In sum, in post-conflict situations where capacity is low, the best approach to legal ambiguity may be to gradually increase clarity by issuing binding legal interpretations, executive instructions, and decrees that allow specific problems to be resolved within the context of the existing legislative framework. It is crucial, however, to consult with affected parties in advance, to determine how they are likely to perceive, be affected by, and react to such measures. Consultation with vulnerable or potentially volatile groups—including IDPs, women, youth, squatters, excombatants, and members of ethnic, political, and religious groups—are particularly important. Broad dissemination of legal interpretations, executive instructions, and decrees is also important, to maximize their preventive effect on latent conflicts.

LEGAL PLURALISM

Legal pluralism is one of the most prominent features of post-conflict land tenure. In a pluralistic setting, difference types of laws—including ad hoc, customary, religious, and statutory (often localized)—coexist and function in parallel (Kamphius 2005; Plunkett 2005).[6]

In some contexts, legal pluralism may simply represent the accrued effects of long-standing legal ambiguities of the types described in the previous section. In Mindanao, for example, where differing legal systems coexist, Islamic courts may initially apply sharia to resolve a land dispute, but the decision may be appealed to the Supreme Court, which would apply statutory legislation (Oki 2013*). In Afghanistan, where different legal frameworks have been imposed successively over the past three decades—on the basis of tribal, communist, Islamic, and capitalist norms, among others—the situation is more complex (Sait 2013*). In many parts of the country, the combination of political insecurity and coercion, along with the inconsistent application of laws by successive regimes, has undermined the credibility of land laws and dispute resolution bodies (Batson 2013*).

Afghanistan illustrates both the opportunities and the challenges associated with legal pluralism. On the one hand, by offering locally legitimate rulings that are free and accessible even to illiterate villagers, land administration systems that integrate religious and customary practices have provided a measure of tenure security at times when the state has been unable to do so (Stanfield et al. 2013*). On the other hand, under such systems, rules may be applied inconsistently—in particular, in ways that favor local ethnic or economic elites (Batson 2013*). Nevertheless, such systems have broad appeal in post-conflict situations. In post-conflict Timor-Leste, for example, in the absence of a statutory regime governing land, customary legal structures have been crucial in addressing environmental problems (Miyazawa 2013*).

Alternative forums for land-related disputes offer advantages not only at the interpersonal level but also at the intergroup level. The complexity of the Abyei border dispute between Sudan and South Sudan, for example, has rendered it particularly intractable: the opposing parties had to first agree on the borders of the territory and then on the process for resolving the dispute before they could address the question of which side would gain control over the territory. Despite rulings from a number of early forums (including the Abyei Boundary Commission), the dispute remains unresolved; nevertheless, the decisions of these forums made it easier for the government of Sudan to accept the subsequent decision of the Permanent Court of Arbitration—at least initially (Salman 2013*).[7]

---

[6] For further consideration of the concept of legal pluralism, see Merry (1988) and Griffiths (1986).

[7] The problems associated with Abyei were still ongoing at the time of writing, primarily because of continued disputes over oil and the inability of local tribes to reach agreement on land-related issues. On September 27, 2012, Sudan and South Sudan signed agreements on oil and agreed to demilitarize their borders, but these agreements did not resolve the disputes associated with Abyei or other border regions.

In their exploration of the advantages and disadvantages of legal pluralism, Ruth Meinzen-Dick and Rajendra Pradhan note that pluralistic arrangements may offer more robust enforcement structures, may be more readily adapted to changing circumstances, and may help empower parties affected by a conflict (Meinzen-Dick and Pradhan 2013). Meinzen-Dick and Pradhan also observe that different parties may indeed have legitimate claims under different legal systems, and that pluralism allows individuals to cite the law that best supports their claim to a plot of land. Finally, they caution that attempting to clarify property rights by upholding the legitimacy of one legal system (such as statutory law) over others risks reigniting conflict between parties that rely on different normative bases for their claims.

A particular challenge presented by legal pluralism is forum shopping, in which disputants choose between a number of coexisting normative orders and institutions, seeking the forum that they believe offers the most advantageous arena in which to pursue property rights claims. Like legal pluralism itself, forum shopping offers both advantages and disadvantages. On the one hand, it creates considerable room for negotiation within the political-legal sphere (Lund 1996); moreover, if claimants believe that their options are not confined by rigid and uncompromising legal structures, they may be less likely to engage in violence (Berry 1993). On the other hand, such flexibility can also generate conflicting legal decisions from different bodies relying on different principles. Furthermore, where customary forums are no longer viewed as legitimate, the lack of enforcement mechanisms (beyond the expectation of voluntary compliance) may heighten the risk that forum shopping will be exploited as means of legitimizing land grabbing (Corriveau-Bourque 2010).

In some cases, forum shopping can be converted from a horizontal arrangement, in which parties can choose from different but equal forums, to a vertical arrangement, in which parties who are unsatisfied by the results from the first (usually customary) forum appeal to a second, superior (usually statutory) forum (Unruh 2003). Afghanistan, where disputants may move from customary systems, such as the tribal Pashtunwali system, to the formal court system, offers an example of vertical forum shopping (Mason 2011).

As is the case with legal ambiguity, post-conflict governments and the international community may attempt to rationalize legal pluralism too quickly, by introducing a single legal framework for land governance. The relatively rapid imposition of one set of rules has caused problems, however. In Sierra Leone, for example, a quickly developed and implemented land policy reform conflicted with customary forms of post-conflict tenure to such an extent that the reform process was reinitiated, to ensure that it more effectively embraced the realities of post-conflict land tenure (Renner-Thomas 2010; Foray 2011). Moreover, the preservation of customary rules and institutions can reduce land-related conflict, particularly in post-conflict situations. To succeed, rationalization of the tenure system must be a long-term endeavor.

A growing number of states formally recognize customary legal systems, sometimes specifically for land and sometimes more generally. The 2002 constitution of Timor-Leste, for example, recognizes customary law and calls for customary law to be incorporated into national law (Miyazawa 2013*). Customary law is a cost-effective way to handle natural resource issues—in particular, because it encourages intervillage dispute resolution and provides local communities with an additional avenue for voicing their concerns to the central government. Manami Sekiguchi and Naomi Hatsukano point out that although Cambodia's 2001 Land Law included mechanisms designed to formalize customary law and to recognize indigenous land rights, international pressure for quick reform led to the imposition of provisions that did not adequately conform to the nature of Cambodian customary rules (Sekiguchi and Hatsukano 2013*). Williams argues, however, that the government of Cambodia has been reluctant to be held accountable to any rules—statutory or customary—in making decisions regarding land and other resources (Williams 2013b*).

It is worth noting in this context that although governments are often inclined to apply statutory systems exclusively, international human rights law recognizes the rights of indigenous and traditional communities to land held under customary tenure.[8] As a consequence, states need to find approaches to land tenure that respect land held under customary forms of ownership. The processes for formally recognizing multiple legal orders governing land and property need not be rigid, however. Recovery from armed conflict occurs amid significant social change; in such contexts, the various sets of norms that coexist in a legally pluralistic setting may evolve over time, responding to contingencies as they arise. In fact, as several studies have noted, statutory law may gradually infiltrate customary law and other nonstatutory norms over time, until nonstatutory law comes to resemble state law (Michaels 2005; Merlet and Bastiaensen 2012; Peleikis 2006). And the reverse can also occur, in which statutory law borrows concepts and

---

[8] International and regional courts have interpreted rights to culture, property, and life in ways that limit the state power to void customary claims to land. See, for example, *Saramaka People v. Suriname*, Inter-American Court of Human Rights, November 28, 2007, Preliminary Objections, Merits, Reparations, and Costs, Series C No. 172, paras. 89–99 (finding that failure to recognize indigenous land tenure constituted a violation of the right to property under article 21 of the American Convention on Human Rights); *African Commission on Human and Peoples' Rights, Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v. Kenya*, no. 276/03, November 25, 2009, paras. 196–205 (interpreting article 14 of the African Charter on Human and Peoples' Rights to require states to recognize rights of indigenous communities to legal ownership of their ancestral territory); *Human Rights Committee, Chief Bernard Ominayak and the Lubicon Lake Band v. Canada, Communication*, no. 167/1984, 38th session, February 14, 1984, UN Doc. CCPR/C/38/D/167/1984, 1990, paras. 32.2–33 (finding that expropriation of territory of an indigenous band violated their right to culture under article 27 of the International Covenant on Civil and Political Rights); Miranda (2012); Anaya and Williams (2001).

symbols from other normative orders (Silliman 1985; Hayden 1984). Indeed, as John Griffiths asserts, legal pluralism may create a dynamic in which statutory and nonstatutory law eventually unite, in a pattern that renders legal pluralism instrumental to the process of nation building (Griffiths 1986).

Change that occurs through the interaction between customary and statutory law is not always slow and incremental, however. Michael S. Lund has argued, for example, that when negotiation is central to tenure conflicts, "open moments" arise during which significant social rearrangements may occur (Lund 1996). An open moment is defined as a period when the room for "situational adjustment is great and hence where the capacity to exploit it is crucial for the actors" (Lund 1998, 2). During and after conflict, legitimacy, authority, and rules are much more fluid and open than perhaps at any other time; in such contexts, social relationships may evolve rapidly, to reflect the pace of overall societal change. Open moments are thus likely to occur in the course of peace processes, when the sociopolitical forces associated with recovery challenge many aspects of legitimacy, authority, and rules, including those associated with tenure.

Although it has been suggested that state recognition of legal pluralism merely adds a layer of complexity to an already chaotic situation (Griffiths 1986), it can be argued that post-conflict scenarios are already inherently messy, and that measures likely to promote stabilization should be given greater priority than efforts to impose legal certainty by assigning primacy to statutory law. Particularly where state legitimacy and capacity are low, it may be important, in the course of a peace process, for the state to accord some degree of recognition to legal pluralism with respect to land and property. Siraj Sait has noted, for example, that Islamic land law can play a significant and positive role where state legitimacy and capacity to implement and enforce statutory land law are limited. Indeed, under such circumstances, states effectively depend on local communities to administer land (Sait 2013*). In Timor-Leste, for example, significant commitment to customary legal institutions has allowed for flexible management of natural resources that is grounded in local conditions (Miyazawa 2013*). And in Ethiopia, after several decades of civil conflict, legal pluralism has been formally recognized in a number of important domains: article 78 (5) of the constitution, for example, accords full recognition to customary and religious courts of law where both contesting parties consent to the forum (Unruh 2005a). Finally, in El Salvador's Chapultepec Peace Accords and in the General Peace Agreement for Mozambique (and subsequent legislation regarding land), state recognition of legal pluralism was a primary means of facilitating the reintegration of much of the population into productive activities (de Soto and del Castillo 1995; Unruh 2006).

When Sierra Leone's civil war ended in 2002, there was little interaction between nationwide statutory and local customary tenure systems or between the many forms of customary tenure practiced in the country's 149 chiefdoms (GOSL 2005). Such pluralistic arrangements were a significant obstacle to commercial investment; rule of law; gender equity; and the reintegration of excombatants,

refugees, and IDPs. In 2005, with the goal of attracting foreign and domestic investment, the government of Sierra Leone established the Lands Commission to modernize laws on commercial land use—particularly in the provinces, where customary law predominates.[9] The commission identified three key problems: legal pluralism, the low level of contact and communication between chiefdom leaders, and the failure to disseminate statutory or customary land tenure decisions. The commission concluded that improved communication and the publication of decisions would enable different chiefdoms to make use of approaches to land issues that had been adopted by the state and by other chiefdoms, which would facilitate the eventual harmonization of tenure administration between chiefdoms (LRC 2004). Unfortunately, these conclusions were not taken far enough in the new law—and, as noted earlier, an improved law was under development at the time of writing (Foray 2011).

In sum, legal pluralism and the forum shopping that may arise from it are problematic, potentially useful, and inevitable in post-conflict situations. In states characterized by low capacity and low legitimacy, there may be no choice but to recognize the results of normative processes that local populations accept, understand, and implement. State recognition of legal pluralism entails risk, however, where compliance with decisions made by customary bodies breaks down, or where forum shopping remains entirely horizontal and characterized by clashing and incompatible claims, instead of becoming a vertical process based on appeals to bodies that all parties to a dispute accept as legitimate.

After the immediate post-conflict period, when legal pluralism may be resistant to significant regulation, the establishment of a constructive long-term relationship between statutory and customary norms—one that allows for legal certainty, respect for human rights, and the affirmation of a shared normative framework—should occur in a way that respects and reflects the local context. Often, such a relationship will develop spontaneously, when dispute resolution requests overwhelm one or more forums, and the forums in question begin requiring disputants to submit their requests to another forum. This pattern fosters the transition from a horizontal to a vertical arrangement, with the consequent advantages noted earlier.

DISPUTES

Post-conflict situations generally feature numerous disputes over land, which vary in type and origin. Examples include disputes between pastoralists and farmers, between large- and small-scale landowners, and between returnees and squatters; disputes that predate the conflict may also flare up. A number of factors contribute to the pervasiveness of land disputes in the post-conflict context, including weak government capacity; low tenure security; legal ambiguity; legal pluralism; and

[9] Land Commission Act, 2005.

the resettlement of excombatants, refugees, and IDPs. A high number of land disputes can clog the legal system, adding further tension to an already unstable post-conflict situation. In post-conflict Burundi, for example, an overwhelming number of land disputes have generated a case backlog and threatened peace: between 2006 and 2011, the National Commission for Land and Other Goods, which was set up to reduce the burden on the courts, closed 4,701 files; 2,680 were outstanding (Baribeau 2011).

Timely resolution of land-related disputes is crucial to post-conflict reconciliation. It is also one of the foundations of economic recovery; in particular, dispute resolution supports livelihoods, food security, and self-reliance. Finally, to avoid further instability and resource degradation, it is essential to resolve disputes in ways that are seen as legitimate and equitable (Unruh 2002, 2003).

Disputes that occur in post-conflict situations characterized by legal pluralism and by tensions between different categories of tenure rights tend to fall into three categories, each of which requires its own set of solutions: (1) disputes between parties that are both operating within the statutory tenure system; (2) disputes between parties that are both operating within one or more customary tenure systems; and (3) disputes in which one party is relying on the statutory system and the other on customary systems.[10] These types overlap somewhat: for example, two claimants operating within the customary system may jointly seek resolution in the statutory system. Disputants may also attempt to use aspects of tenure systems other than those they would ordinarily use. Nesreen Barwari notes, for example, that in northern Iraq, returnees and secondary occupants used traditional mediation mechanisms, which were not necessarily their own, to resolve land disputes (Barwari 2013*). Barwari concludes that in addition to responding to concerns about overloading the court system, this approach reflected the difficulty of enforcing judicial or administrative decisions against losing parties. As noted earlier, however, tensions arising from legal pluralism in the tenure system may be aggravated in the wake of conflict.

Land disputes within the statutory system

Where post-conflict land disputes play out entirely within the statutory tenure system, many issues can arise. During and after conflict, land is often sold and resold with little or no reference to evidence of original ownership, registration, or proper transfer procedures. Titles, deeds, land records, registries, and archives are often destroyed in the conflict. Where documents supporting claims do exist,

[10] It is also possible to categorize disputes according to the parties—that is, (1) between individuals and the state, (2) between individuals and companies (which may, for example, involve alleged land grabbing), and (3) between individuals and other individuals (for example, squatters and original owners, or owners granted rights to the same piece of land by different regimes).

they may be fraudulent or inaccurate.[11] Courts are overwhelmed with land disputes, and conflicts are exacerbated by clashing documentation and evidence. While the disputes slowly make their way through the legal system, the government is often trying to rebuild the economy, and may be granting concessions without adequate demarcation and without ensuring that no competing claims exist. Even where attempts are made to search the records, dysfunctional registry systems may render full title searches impossible; moreover, when land is held under customary tenure, it is not usually reflected in registries.

Given a high volume of disputes and the likelihood of legal ambiguities in the prevailing tenure system, attempting to resolve all land disputes through case-by-case judicial adjudication may not be feasible.[12] Although cases that raise vital issues of precedent, that are related to acute problems, or that may affect the interests of powerful political actors may require individual attention, most disputes can be assigned to categories and addressed through tailored, ad hoc legal approaches—thereby reducing the burden on courts and the time, resources, and effort needed to hear and decide each case.

In Mozambique, for example, new legal regulations made it possible to resolve a number of dispute categories en masse. One such issue, the standing of returning Portuguese colonists and their descendants to make land claims, led the prime minister's office to determine that claims based on colonial-era law were not valid; as a result, a significant number of cases were dismissed from court. In a move that led to the exclusion of additional cases, clear rules were adopted regarding properties that had been abandoned by their residents because of the conflict. Disputes arising from the allocation, as stipulated in the peace accord, of specific lands to particular users were resolved through compensation.

Finally, the Mozambican government excluded from court jurisdiction disputes resulting from transactions that had been made in bad faith. Before the conflict, such transactions had primarily involved the seizure of land and property from users who lacked formal title by those who were able to obtain formal title. In such cases, the bad faith involved the failure, on the part of the title applicant, to provide current occupants with the required notice of the pending application. After the conflict, however, disputes involving bad faith were more likely to occur between holders of conflicting title documents; although the documents in question may have been valid, the transactions that led to them may have occurred in bad faith (for example, the transactions may have been coerced, or may have occurred without due process). The post-war law does not nullify titles that were improperly issued to land already occupied by someone else under customary ownership; instead, the law provides for titles to be reversed for failure

---

[11] This was the case, for example, in Bosnia, Cambodia, Croatia, Liberia, and Sierra Leone. See, for example, MOJ (2010), Davuth (2003), and USAID Liberia (2010).

[12] Bosnia, for example, experienced more than 200,000 property claims after the conflict (Williams 2013a*).

to comply with the business or development plan under which title was granted (*MPPB* 1997).

The Mozambican government also categorized claims so as to decrease the volume of disputes and make land available for restitution. To this end, the government notified 2,500 applicants that article 46 of the 1998 Land Law required them to resubmit any land applications (for title or concessions) still pending. Although applicants were notified through letters and radio announcements, the rate of renewal was low; as a result, the initial twelve-month renewal period was extended an additional three months in 1999, and a further four months in 2000. At the end of this period, the government archived all applications that had not yet been renewed, leaving open the possibility of individual renewal through July 2001. In August 2001, DINAGECA (Direcção Nacional da Terras, the national department responsible for land rights registration and mapping) cancelled the remaining applications, including 1,234 applications for more than 3 million hectares of prime agricultural land in Zambezi Province alone (Norfolk and Liversage 2003). The cancellations facilitated the restitution of significant tracts of land to communities that lost it under questionable circumstances before, during, and after the conflict (Tanner 2002).

Another approach to reducing the burden on the court system is to create temporary tribunals, separate from the ordinary judicial system, that hear only conflict-related land and property cases. This approach is common in mass-claims situations where large, conflict-related caseloads risk overwhelming ordinary institutions and imposing hardship and delay on claimants. Uganda, for example, as part of its peace process, created a tribunal system to handle the large number of land disputes (World Bank 2009). And a manual advising national legislators on IDP issues recommends setting up such "facilitated procedures" in a number of situations related to both property claims and documentation:

> Procedures before ordinary courts and adjudicatory bodies tend to place the primary burden of proof on the initiator of a case . . . who must bring evidence and establish the facts in that particular case. Such procedures normally involve elaborate and time-consuming fact-finding and may be subject to multiple appeals. In situations of mass displacement in which patterns of dispossession are similar across cases and generally can be documented, such elaborate fact-finding procedures not only are unnecessary but also impose a high burden in terms of production of formal evidence, expense, time, and uncertainty on claimants who often are already impoverished and traumatized by their experience (Brookings–Bern Project on Internal Displacement 2008, 176).

When setting up a new institution to handle land disputes, it is important to ensure that it reflects local political realities. As Peter Van der Auweraert notes, the establishment of such an institution can be perceived as beneficial to some parties and detrimental to others, particularly where parties are not aware of or engaged in the process (Van der Auweraert 2013*). The decision to create new institutions to deal with land issues should be made, however, only after an

analysis of stakeholders' views of existing institutions (both statutory and customary) that could play such roles. Dan E. Stigall argues that where local judicial bodies demonstrate sufficient capacity and are culturally embedded—as in Iraq, for example—any new institution should be grounded in the existing system, to ensure legitimacy and acceptance (Stigall 2013*).

Where state capacity is low, customary institutions can be given the authority and requisite training to undertake functions normally handled by the state. In Timor-Leste, for example, the state empowered the adat tenure system to handle land disputes, removing some of the burden from the courts in rural and peri-urban areas (Miyazawa 2013*). Similarly, in northern Iraq, the government facilitated the dispute resolution work of local *anjommans*—bodies consisting of elders, members of established families, landholders, teachers, and religious authorities (Barwari 2013*). Approaches that engage local actors who are familiar with customary forms of dispute resolution and land administration effectively provide a free good to the state.

Land disputes within the customary system

Although customary authorities are typically successful at brokering disputes within customary systems, the ability of customary systems to manage land disputes may break down under post-conflict tensions. In Liberia, for instance, ethnic tensions between settlers (descendants of the freed American slaves who founded the country) and indigenous groups have complicated the return of IDPs. In Monrovia and other areas, settlers who fled during the conflict are returning to claim land that they had "abandoned" and that was in many cases occupied by IDPs (Williams 2011).

In both India (Bavinck 1998) and Sierra Leone (Unruh 2006), customary law officers have been empowered to apply both statutory and customary rules, as well as ad hoc solutions, in order to mediate disputes. Where the losing party has the option of ignoring a decision (because it lacks the legitimacy accorded to negotiations that take customary rules into account), such approaches offer considerable flexibility in resolving cases where statutory adjudication often fails to hold.

In Liberia and Timor-Leste, intergroup political conflicts have, in some cases, manifested themselves as land disputes; in other cases, political conflicts have included a land dispute dimension through which larger political issues are being contested. When broad political issues are at stake, state involvement can undermine the capacity of customary institutions to resolve disputes. In some cases, however, external support can build the capacity of customary systems to resolve disputes. In Liberia, Mozambique, and Uganda, for example, the governments set up community-based documentation systems to help resolve inter- and intracommunity land disputes. But because community members were often ill-equipped to resolve the initial disputes that had to be addressed to complete the documentation process, simply establishing community-based systems was

not always enough. Provided with basic legal education and paralegal support, however, communities made significantly more progress (Knight et al. 2012).

Land disputes involving statutory and customary systems

In post-conflict situations, disputes may arise when squatters in urban and peri-urban areas occupy land owned by others, under either statutory or customary tenure. The vast majority of disputes between parties holding statutory and customary land rights occur, however, when states grant concessions to commercial entities and customary rights holders dispute the legality, legitimacy, and transparency of such transfers. Although foreign investment has the potential to spur development and provide revenues to fund government operations, much of it has been used for industrial-scale agriculture or mining—activities that may not be compatible with the traditions, needs, or rights of local communities, and that generate an increasing number of disputes (Huggins 2011).[13]

In Africa, where most of the large-scale land acquisitions by foreign investors have been centered, 46.6 million hectares of arable land were acquired in large-scale land acquisitions between October 2008 and August 2009, reflecting a tenfold increase over the amount of land acquired during the previous decade (Kachingwe 2012; Ghatak n.d.). In South Sudan, as much as one-tenth of the arable land may have been committed to large-scale investors before the country even became formally independent in July 2011 (Deng 2011). Sierra Leone has been the site of even more extensive acquisitions: according to internal UN analyses, 82 percent of the country has been allocated for mining exploration or exploitation, and 17 percent of the arable land is under agricultural concessions.[14]

Largely because of its 1998 Land Law, which vastly expands the rights of smallholders to claim land (Hanchinamani 2003), Mozambique has had some success in dealing with post-conflict disputes involving statutory and customary tenure systems. First, the Land Law recognized the possibility that the rights of smallholders who occupied land under customary rules would be upheld, to the detriment of commercial applicants (Tanner 2002); in addition, the process of requiring reapplication for pending commercial rights to land, mentioned earlier, included consultations with local communities or individuals occupying the land in question. A second and more innovative option offered by the law was designed

---

[13] Large-scale land acquisitions have increased dramatically since the global food crisis of 2007–2008, which increased both the volatility of food commodity prices and worldwide demand for land. Before the onset of the crisis, large-scale land acquisitions totaled 4 million hectares annually, but 2008–2009 saw 56 million hectares of large-scale acquisitions (Deininger and Byerlee 2011). As of this writing, much of the land in large-scale concessions is being used to produce biofuel. For a classification of land grabbing, see Borras and Franco (2012).

[14] See Provost and McClanahan (2012).

to attract and retain investment by encouraging both foreign and domestic investors to negotiate directly with local communities. (Where occupants were absent because of colonial-era or wartime dislocation, the reoccupation of land triggers the requirement for negotiation, which is meant to further both dispute resolution and investment goals.) Under the new law, the rights accorded to customary smallholders both empowered and encouraged them to retain a significant role in natural resource management and conflict resolution, and to set limits on the areas available to private investors (Tanner 2002; Hanlon 2002; Norfolk and Liversage 2003).

Under what is known as the open-border model, a statutory commercial rights system can coexist with customary rights, including community rights of occupation; what makes the coexistence possible is a partial transfer of rights, based on a negotiated arrangement (Tanner 2002; Norfolk and Liversage 2003; Hanlon 2002; *MPPB* 1997).[15] The use of such a model is especially important in Mozambique, where there is no land in the country that has not been claimed by a local community in some form (De Wit 2002).

Conflict between nomadic pastoralists and sedentary farmers is another source of tension between statutory and customary systems. In the central highlands of Afghanistan, for example, the nomadic Kuchi and the settled Hazara communities have vied for access to land and pasture since the late nineteenth century. For more than a century, successive governments have attempted to replace customary with statutory tenure systems; some have favored the Hazara, and most have favored the Kuchi. From 2006 to 2008, the Afghan government attempted to resolve the conflict by allowing community landholdings to be formally recognized, which benefited the Hazara, while also creating a system to allow seasonal access to pasture, which benefited the Kuchi. Unfortunately, the larger national conflict exacerbated violence in the area, so the new reforms have not yet had much effect (Alden Wily 2013).

Sudan has experienced similar conflict, and the roots of the fighting in Darfur lie, in part, with tensions between pastoralists and farmers. Between 1987 and 1989, drought sparked fighting between sedentary non-Arab farmers and nomadic Arab herders. When the herders were backed by the central government in Khartoum, it marked the first time that Arab groups across the country had unified over a particular issue. In the decades since, both sides have viewed the conflicts in Darfur primarily as a fight over land, and attempts by nomadic Arab herders to establish statutory land claims in areas where customary systems had previously been in force exacerbated conflict along ethnic lines, with the government and Arab herders on one side, and rebel groups (made up of farmers) on the other (Tubiana 2007).

---

[15] The term *open borders* refers to the legal recognition of the boundary of a specific community; the border is "open" in the sense that investors are permitted to negotiate for rights within the boundary (Tanner 2002).

LAND RECOVERY

Where land grievances fueled conflict or arose from fighting and displacement, aggrieved individuals and groups are likely to demand the recovery of their land. Post-conflict restitution of rights to housing, land, and property (HLP) has become an increasingly common component of peace agreements, and tends to be viewed, by both domestic and international observers, as an indicator of respect for human rights (Williams 2007). As a result, parties negotiating ceasefires and peace accords are increasingly likely to face politically difficult decisions about land and property: given the value and inherently limited nature of land, any effort to secure land resources for conflict-affected populations will necessarily require concessions from other groups.

The most concrete manifestation of the trend toward addressing HLP in post-conflict situations is the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (also known as the Pinheiro Principles)—a soft-law standard that asserts the right to post-conflict property restitution. The principles, which are anchored in international law, set out steps that states should take to give effect to this right (ECOSOC 2005). Although the Pinheiro Principles represent a step in the right direction, state actions do not consistently support the international trend toward the assertion of greater post-conflict rights to recovery of land and other assets. One reason is that many parties to armed conflict regard property seized from opposing forces as (1) territory that was won and should be controlled for strategic purposes, and (2) spoils of war that can be parceled out to supporters and patronage networks, to secure their continued loyalty. Another reason is that the permanent expulsion of particular population groups is often one of the goals of ethnic or sectarian conflict; thus, the confiscation and occupation of property left by fleeing minorities is viewed as crucial to preventing their return and thereby consolidating wartime gains. As the case of Bosnia illustrates, even where parties are willing to yield, on paper, to international demands to restore land, preventing such restoration may actually be a key post-conflict goal on the part of former combatant groups (Williams 2013a*).

Criticism of restitution-centered approaches to post-conflict land issues has been growing, not only because such programs are difficult to implement but also because of more principled concerns. For instance, Samir Elhawary and Sara Pantuliano observe that attempts to restore the status quo ante may be counterproductive where pre-conflict land relations were unjust, inequitable, politically destabilizing, or economically unsustainable (Elhawary and Pantuliano 2013*). Faced with hundreds of thousands of returning refugees and IDPs and insufficient land to accommodate everyone, post-conflict Rwanda applied an approach that reflected the general spirit of the Pinheiro Principles but compromised with regard to their implementation (Bruce 2013*). Although most observers continue to defend the utility of restitution-based approaches

in specific post-conflict circumstances,[16] there is now wide agreement among both academics and practitioners that land recovery must be understood more broadly.

Because conflict-based displacement tends to accelerate existing patterns of demographic change, including migration from rural to urban areas (de Waal 2009), IDPs and refugees may have little incentive to return or to seek to recover land that they left behind. Indeed, in light of the tendency for IDPs and refugees to become stranded indefinitely in provisional and unsatisfactory settlements established by humanitarian agencies—as well as the legal uncertainty, land grabbing, and forced evictions that often characterize immediate post-conflict situations—access and secure tenure to land and housing at the site of displacement is often the most pressing need. Regardless, however, of whether land and tenure rights pertain to the place of return or to the site of displacement, negotiating such rights is a delicate process. Efforts to understand the land-related needs and vulnerabilities of conflict-affected populations, and to develop nuanced approaches to land recovery, raise crucial issues, a number of which are addressed in the following five subsections.

Consultation and land recovery

Consultations with affected populations are key to the effective design and implementation of post-conflict land recovery efforts. Although such consultations can be time-consuming and complicated by questions of representativeness and manipulation, they are necessary not only as a matter of human rights but also as a matter of sound policy (Brookings–Bern Project on Internal Displacement 2008). Policy arguments for conducting a consultative process as a prelude to the development of post-conflict land measures include the following:

- Consultation helps to ensure that the populace is committed to the approach.
- Consultation creates an opportunity for those most affected by land issues to help develop nuanced understandings of problems and suggest innovative solutions to them.
- Consultation can help raise awareness of the statutory rules and procedures that protect HLP rights.
- By allowing different views of land issues to be aired, consultation potentially facilitates their peaceful resolution.
- Between the time that the need for new laws or policies is identified and the passage and implementation of those laws or policies, consultation can be used both to build political momentum and to manage public expectations.

---

[16] See McCallin (2013*), for example.

The last item deserves particular mention. In the immediate aftermath of conflict, legal, financial, administrative, and material capacity to manage land issues is often lacking, and individuals and groups may have no choice but to make decisions about their HLP rights and claims largely on their own (Unruh 2003). In Rwanda, for example, during the mass repatriation that occurred between 1994 and 1997, the government's failure to articulate clear land policies or consult with stakeholders encouraged conflict-affected parties to take things into their own hands, in some cases through violent takeovers of property (Huggins 2004). To avert such outcomes, the state must protect against the most serious forms of conflict and opportunism that can arise when governance capacity is low; engaging in stakeholder consultations helps ensure that the state is perceived as taking an active role in resolving land issues (Unruh 2003, 2005b). At the same time, however, the state and the international community must communicate that it will take some time (often years) for reforms and results to emerge. National and regional workshops are one way to make the public aware that its concerns are being heard and that serious work is under way.

The experiences of four countries—Mozambique, Timor-Leste, Sierra Leone, and Angola—provide lessons about consultation and land recovery. In Mozambique, a three-year national consultation involving numerous stakeholders produced a successful land law but was criticized for being time-consuming.[17] Questions were also raised about (1) state attempts to control the debate; (2) the standing of former Portuguese colonists to claim restitution; and (3) the role of foreign donor agencies, embassies, and nongovernmental organizations in the process. In light of the significant natural resource and agricultural export opportunities at stake, political maneuvering (including occasional foreign involvement) over issues such as the privatization of state land and zoning to distinguish commercial land from customary areas was often intense, rendering outcomes more unpredictable (Unruh 2004b).

Unlike Mozambique, which used an exhaustive consultative process to develop a single, comprehensive post-conflict land law, Timor-Leste proposed numerous laws early in the post-conflict period to address specific topics, including land dispute mediation, land and title registration, land and title restitution, formal and traditional rights, requirements for foreign owners to comply with the Timor-Leste constitution, state property administration, and the cadastre system. Accordingly, separate consultative processes were initiated for each piece of draft legislation. These individual processes were more rapid than a single, comprehensive process would have been, but they were also repetitive, as a new process had to be undertaken (albeit in a more streamlined form) each time new legislation was proposed. In Timor-Leste, the political controversies associated

[17] Although the consultative process took three years, the development of Mozambique's new land law took four years from beginning to end—which is comparatively rapid in comparison to Sierra Leone (which, as of October 2012, had been without a new land law for seven years) and Timor-Leste (thirteen years).

with the development of land laws centered on the initial skepticism, on the part of the Ministry of Justice, toward sustained consultative processes.[18]

Sierra Leone's approach, which was similar to that of Timor-Leste, called for several laws, instead of only one; these included the 2000 Legal Practitioners Act (amended in 2004 and 2005), 2003 Restitution: The Chaytor Committee, the 2004 Commercial Use of Lands Act, the 2004 Local Government Act, the 2005 National Lands Policy, and the 2005 Lands Commission Act (Unruh 2008). While the topics differ from those addressed by Timor-Leste, both countries opted to divide the messy particulars of post-conflict land tenure and management into more easily managed components, and to engage in consultation on those particular components. Although the overall amount of time spent on consultation may have been longer in Timor-Leste and Sierra Leone than in Mozambique, the case-by-case approach allowed Timor-Leste and Sierra Leone to identify topics that required immediate attention (restitution in Timor-Leste, and commercial land use in Sierra Leone) and to focus on those priorities.

In Angola, by contrast, the development of the initial post-conflict land legislation involved little stakeholder consultation—and the consultation that did occur, spontaneously or with the assistance of nongovernmental organizations, was not clearly reflected in the final result. Cain notes that the failure to actively solicit public input, which stemmed largely from a desire to resolve land issues quickly, left the government unaware of tensions that had been simmering over land that had been abandoned as early as the 1970s, in the context of a previous civil conflict. Although Angola's 2001 decree on IDP resettlement (Norms on the Resettlement of the Internally Displaced Populations[19]) and the land and planning laws drafted in 2002 were intended to have included consultation and participatory planning, Cain observes that lack of coordination undermined public participation (Cain 2013*).

A number of the other chapters in this book expand on the issue of consultation. Barwari, for example, notes that a community-based consultative process was crucial to the reintegration of IDPs in northern Iraq after the 1990–1991 Gulf War. She points out that early efforts to actively solicit local input and constructively manage disagreements paid off: the local anjomman consultation structure successfully and sustainably resolved land disputes, provided information about conditions for return, and marshaled local support for development projects even after funding from the Oil-for-Food Programme had dried up (Barwari 2013*). Alexandre Corriveau-Bourque points out that in post-conflict El Salvador, the government's failure to consult *campesinos* (peasants) fostered a new sense of disenfranchisement, stoking the potential for future conflict (Corriveau-Bourque 2013*).

---

[18] As of October 2012, most of the legislation had yet to be formally adopted.
[19] Council of Ministers Decree Number 1/01, 2001.

Community participation, along with transparency, accountability, and monitoring, can promote confidence in the adjudication and demarcation of property. Green notes that before substantive issues are addressed, a community-led needs assessment should be conducted in such a way as to effectively integrate women and minorities into the process. He also argues that establishing an independent monitoring institution and requiring regular disclosure can be more effective for ensuring public participation than relying on existing institutions to police themselves (Green 2013*). On the basis of his experience promoting sustainable land management in the Pamir Mountains Project in Tajikistan, Ian D. Hannam observes that by helping to improve trust and harmony between different groups, participatory approaches allow joint resolution of shared problems related to livelihoods and environmental security (Hannam 2013*). The benefits of participatory processes reflect broader lessons on the importance of engaging affected communities and individuals as part of the peacebuilding process (Nichols, Muffett, and Bruch 2013).

Evidentiary issues

In post-conflict situations, the presentation and evaluation of evidence to support asserted rights to land is important in both statutory and customary regimes for managing land. Broadly, the production of evidence involves making logical connections between observed reality and the interpretations and inferences linking that reality to specific claims. Thus, bringing evidentiary meaning to an observation or purported fact involves constructing an argument to support a connection (Murphy 2003). The "argument" notion of evidence is important: all land claims require the construction of an evidence-based argument. Even the existence of full statutory title is only an argument whose evidentiary basis can be contested as easily as claims that are based, for example, on the notion that particular lands belong to the members of a particular tribe, ethnic group, or religion.

In Liberia, the problem of missing, incomplete, destroyed, or fraudulent documentation has reduced the evidentiary value of statutory documents and increased the value of nondocumentary evidence in land disputes (Pichel et al. 2012). Similar circumstances prevailed after the 1999 withdrawal of Indonesian forces from Timor-Leste: because most documents relating to land and property had been destroyed, reliance on statutory title became more problematic (Marquardt, Unruh, and Heron 2002). Moreover, because most land held by local communities had never been formally titled, customary tenure was of more importance to many segments of the population, particularly in rural and peri-urban areas. In response to these circumstances, rural state officials and customary smallholders agreed, at least for the immediate post-conflict period, on what would constitute valid evidence for a land claim. The initial devaluation of documentary evidence vis-à-vis customary evidence, which was based on the agreement between the state and customary smallholders, not only allowed greater harmonization between

the statutory and customary land tenure systems but also presented an opportunity to incorporate this compatibility into the reform of Timor-Leste's land law (Unruh 2006).

Although efforts to follow through with this opportunity have not been without issue, the lesson is that such opportunities do arise and can be capitalized on. At a minimum, Timor-Leste's experience suggests that caution should be exercised in the application of statutory evidence rules that either bar admissibility on the basis of factors other than relevance and probative value, or that unduly constrain the way evidence is collected, discovered, or researched on the basis of criteria other than ethical concerns.[20] In post-conflict Angola, for example, elites exploited the lack of formal documentation by selectively marshaling historical evidence (in the form of colonial-era maps), and thereby asserting control over the central highlands—the country's agricultural breadbasket (Unruh 2012).

While institutions and procedures for resolving land disputes must be effective, they need not be exclusively statutory. In post-conflict situations where effective and legitimate statutory institutions are lacking, traditional forms of landscape-based evidence are often used, particularly in support of claims based on occupation. For example, the intentional planting of trees—in particular, perennial fruit-bearing trees—is a widely accepted means of asserting legitimate occupation in a number of customary settings (Raintree 1987; Meinzen-Dick et al. 2002; Otsuka et al. 2001; Rocheleau and Edmunds 1997).[21] In the contested landscapes of the Middle East, where mutually legitimate institutions to resolve competing claims are lacking, tree planting has played a powerful informal role as evidence in both Palestinian and Israeli land claims (Cohen 1993). The potency of tree planting as evidence for land claims is underscored by the fact that in Liberia, Sierra Leone, and other post-conflict situations, groups such as women, tenants, and migrants are subject to legal restrictions on tree planting (Unruh 2008, 2009).

Although planting trees may be one way to substantiate claims, clearing land is an even more persuasive means of creating evidence of occupation. Despite the risk of deforestation posed by clearing, the practice remains widespread, in part because it is so effective. Where land adjudication institutions are weak, it is hard to imagine a more visible way not only to assert a claim but also to preempt counterclaims and obviate the need for institutionalized dispute resolution. Among the places where effective institutions are lacking and clearing has been used as evidence of occupation are Cameroon (Delville 2003), the Philippines (Uitamo 1999), Sierra Leone,[22] Uganda (Mulley and Unruh 2004; Aluma et al.

---

[20] For a discussion of customary and statutory evidentiary considerations in land disputes in Guatemala, see Bailliet (2003).

[21] For an annotated bibliography on trees and tenure, see Fortmann and Riddell (1985).

[22] This observation is based on fieldwork conducted by Jon Unruh in Sierra Leone in 2005.

1989), and Zambia (Unruh, Cligget, and Hay 2005). Finally, unregistered papers attesting to the local validity of transactions (André 2003; Delville 2003) are yet another means of transforming landscape evidence into legal or quasi-legal arguments.

In the context of post-conflict land tenure, what tree planting, clearing, and unregistered documents have in common is that they are (1) reactions to the absence of clear, effective, fair, and affordable statutory institutions and procedures, and (2) an affirmation of the relationship between evidence and tenure security.

In post-conflict Mozambique, standards for customary evidence in the case of land disputes have been tested by the particularly difficult relationship between large commercial interests and the smallholder sector. These two groups often claim the same land, but under different regimes of authority, legitimacy, and proof, raising complex and potentially destabilizing questions about what forms of evidence are legitimate and persuasive. After the conflict, research found that forms of customary evidence that were more compatible with statutory notions of occupation tended to be favored (Unruh 1997). So, for example, planted trees became particularly important, both because they represented clear sociohistorical evidence and because they were consistent with statutory definitions of occupation (*MPPB* 1997; Norfolk and Liversage 2003; Pancas 2003; Kloeck-Jenson 1998). The Mozambican Land Commission incorporated the results of this research into its deliberations on land policy reform; as a result, article 9 of the 1997 Land Law stated that customary forms of evidence were to be treated as equivalent to evidence asserted through written title (Negrão 1999; Norfolk and Liversage 2003).

Many chapters in this book address evidentiary issues. At the level of general policy, Elhawary and Pantuliano recommend that land registration systems in post-conflict situations take legal pluralism into account, which includes recognizing communal forms of land governance (Elhawary and Pantuliano 2013*). Although standards such as the Pinheiro Principles reflect broad acceptance of such approaches, observers have noted that it is still important to ensure that land registration systems are (1) developed on the basis of consultation with local communities; (2) designed to meet their needs; and (3) designed to preserve, rather than supplant, the central characteristics of traditional land administration regimes.[23]

Although a locally sensitive approach to the development of local land registries is necessary, it should be followed by efforts to create some degree of integration with the central government's land management framework. In Afghanistan, the failure to take this step led to the gradual erosion of the accuracy of previous cadastral surveys, thus limiting their usefulness. As J. D. Stanfield and his colleagues note, local Afghan communities have developed sustainable procedures for documenting local landownership and land use rights, largely on

[23] See, for example, Alden Wily (2009).

the basis of customary evidence (Stanfield et al. 2013*). The self-contained nature of this system obviates the need to spend time and money traveling to provincial capitals to consult with government agencies, but it also reflects a deep-seated ambivalence about the role of government, which is viewed as both the ultimate guarantor of rights and as a system of potentially predatory and overreaching institutions. In a context such as Angola, where many rural residents do not own their land but where wealth is nonetheless tied to it, Cain notes that it is particularly important that local registration systems reflect local institutions, procedures, and practices, rather than the interests of national elites or outsiders (Cain 2013*). In Cambodia, a well-meaning effort to create tenure security through a registration program that admitted customary evidence was frustrated by the failure to assign priority to those land users who were most vulnerable to land grabbing—namely, small-scale rural farmers (Sekiguchi and Hatsukano 2013*).

Capacity building

Post-conflict situations are typically characterized by a wide variety of training and capacity-building needs related to land and property rights. Statutory systems are often crippled by the death or displacement of qualified staff, as well as by the destruction of facilities and official records. Even where customary institutions fill in the gap, their legitimacy and capacity may also have been weakened by conflict and displacement.

Various approaches have been used to address the needs of a recovering land management structure. In Angola, Sierra Leone, and Timor-Leste, for example, such efforts involved locating professionals (at different levels, and in different locations throughout the country) who had previous land and property administration experience. Bosnia, in contrast, relied on previous staff—which meant that in some cases, the local administrative authorities who had reallocated property left behind by fleeing minority groups were responsible, by default, for implementing post-conflict restitution laws that required them to reverse their wartime decisions and reinstate individuals and families displaced during the conflict (Williams 2007).

Where qualified staff did not exist before the conflict or can no longer be located, both short-term initiatives (such as rebuilding a cadastre) and long-term management (for example, administering the cadastre after donor funding ceases) often require training. Given both the weakness of post-conflict education systems and the amount of study necessary to qualify for work in land administration, however, training can be time-consuming. Mozambique, Sierra Leone, and Timor-Leste met this challenge by creating or reinstituting training and research units that were connected to in-country universities; the goal was not only to train land management professionals but also to promote research in areas related to land reform. Establishing such centers at national universities also meets two longer-term objectives: first, research capacity related to land reform will remain relevant for years, as the focus shifts to development and urban planning. Second,

the rapid creation of a cadre of researchers can be crucial to fieldwork supporting proposed reforms throughout the country. In both Mozambique and Timor-Leste, particular donors took the lead in building land administration capacity and opened offices at the newly created research units they had helped to fund.

In Liberia and other countries, the administrative, technical, and judicial components required to handle land matters are underdeveloped, overstretched, or scattered among various ministries. Some countries have dealt with the need to develop new administrative units and procedures by identifying and reallocating capacity and mandates within existing land and property institutions. In Timor-Leste, for example, specific functions from various ministries were relocated to the Directorate of Land and Property within the Ministry of Justice, which provided a focal point for coordinating donor- and UN-supported projects. In Mozambique and Sierra Leone, the necessary institutions were in place but lacked the required physical infrastructure and trained personnel. Efforts to revive institutions crippled by conflict are expensive, and donors often bear the costs (Unruh 2009).

The development of land administration systems should not be regarded as a separate goal in the post-conflict phase but should instead be directly tied to peacebuilding priorities. In Timor-Leste, the U.S. Agency for International Development (USAID) working in collaboration with the Timorese government, developed land titling and registration policies. By integrating land management issues into its aid program, USAID hoped to revitalize and stabilize the economy and support the growth of democratic institutions (USAID 2004). In Aceh, in contrast, despite donors' efforts to address the risks posed by post-tsunami tenure insecurity, land registration efforts were not integrated with parallel efforts to support economic development, sustainable livelihoods, reintegration of combatants, and the resettlement of IDPs; as a result, donors missed the opportunity to support these peacebuilding aims (Green 2013*).

Finally, a note of caution: donors must ensure that their support for a recovering land and property system does not yield arrangements that exceed the financial and administrative capacity of the receiving country. Sierra Leone, for example, initially requested numerous institutional, training, administrative, and infrastructural components for its tenure system that would have been more appropriate for a developed country, and that would have been unsustainable after the withdrawal of donor support. Instead, donors provided a more modest level of support that they believed would be more easily sustained (Unruh 2005b).

Women and land recovery

With men having been killed in combat, imprisoned, displaced, or stigmatized by their participation in conflict, post-conflict societies typically have a higher proportion of female-headed households. And because women often face discrimination under both statutory and customary law, attention to women's land rights is crucial. Perhaps the most pervasive form of discrimination against women

involves restrictions on their ability to inherit land or to assert title to it in the case of a husband's death (Wanyeki 2003). Discrimination can take many other forms, however, all of which limit women's ability to access land and dispose of it in ways that are necessary to both survival and self-reliance in post-conflict situations.

Because of discrimination, women tend to have lower literacy, experience more severe poverty, and enjoy fewer livelihood options; they also have less knowledge about their land rights than men. In Cambodia, for example, under land distribution reforms carried out in the 1980s, women and men initially benefited relatively equally; today, however, because they are less able to obtain agricultural loans and inputs (such as seeds, fertilizers, and pesticides) and to contest attempts to seize their land, women are more at risk of losing land than their male counterparts (Williams 2013b*). In fact, generally speaking, women are less able to defend their land rights and more vulnerable to land grabbing (Unruh and Corriveau-Bourque 2010). Afghanistan and South Sudan are among the many post-conflict situations in which such patterns have been identified (Rashid, Jan, and Wakil 2010; McMichael and Massleberg 2010).

Despite the attention that donors give to community involvement in reconstituting post-conflict land rights, representatives such as elders, chiefs, and lineage heads rarely speak for women, or adequately understand or respond to the problems that female-headed households face. As a result, female-headed households returning to reoccupy land may require particular assistance when asserting or claiming both customary and statutory rights (Unruh and Corriveau-Bourque 2010).

Land and the reintegration of former combatants

Reintegrating excombatants into civilian society—particularly through the provision of nonmilitary occupations and income sources—is a pillar of peacebuilding and post-conflict community development.[24] Given that most violent conflicts occur where livelihoods substantially depend on land and natural resources, the provision of sufficient and appropriate land can be critical in the reintegration of former combatants. Typically, 50 percent of former combatants participating in reintegration programs choose agriculture; in some cases, the proportion is as high as 80 percent. Access to land can be a limiting factor for such programs (UNEP 2012), however, and can thereby undermine the implementation of reintegration provisions in peace agreements.

---

[24] The allocation of land to excombatants has to be balanced against the needs of other vulnerable groups that would benefit from the recovery of land (especially women, youth, and IDPs). Appearing to favor excombatants over other groups will inevitably lead to new disputes, creating the potential for further violence and conflict (Douglas et al. 2004; UNEP 2012).

For example, El Salvador's 1992–1997 land transfer program (Programa de Transferencia de Tierras, or PTT), which was undertaken after the civil war, redistributed lands that the original owners willingly sold to the program. The PTT then sold the lands to a capped number of former combatants from both sides of the conflict. The PTT also facilitated the transformation of the FMLN (Frente Farabundo Martí para la Liberación Nacional), the rebel military force, into a nonmilitarized political party.

Many problems undermined the efficacy of the PTT. Much of the land distributed was of poor quality, and there were limits on the amount of land that could be obtained through the program. Also, between the government's lack of technical capacity to deliver titles efficiently, lack of political will, and refusal to distribute agricultural production credits and technical assistance until beneficiaries held title (which was difficult to obtain), excombatants were often left with insecure tenure, little incentive to improve the land, and insufficient skills to achieve productive livelihoods in agriculture. The combination of economic insecurity, residual societal inequity, and inability to return to the FMLN led many excombatants to join armed gangs or private security firms (de Soto and del Castillo 1995; Paris 2004; Özerdem 2009).

COORDINATING AND SEQUENCING INTERVENTIONS

Given the diverse and profound needs, competing visions, and powerful peacebuilding potential associated with land, it can be difficult to determine, after conflict, where to begin. Because essential land-related measures—such as reforming tenure policies and laws, rebuilding registries and cadastres, and resolving disputes—may require years to achieve, it is critical to begin addressing land issues early in the peacebuilding process, and sometimes even before conflict is over. Even in the immediate aftermath of conflict, many steps can be taken to lay the foundation for longer-term development and reforms.

Table 1 highlights approaches to seven aspects of land management—legal ambiguity, legal pluralism, land disputes, land recovery, land policy reform, capacity building, and land allocation—that can be undertaken during the two principal stages of the peace process (immediate aftermath and peace consolidation). The diversity of approaches reflects the diversity of contexts: both timing and approach should be tailored to the needs, capacities, and opportunities of the particular context.

It is often necessary to proceed along parallel tracks: developing and reforming the legal framework governing land, rebuilding cadastres and other information management systems, resolving disputes, and building institutional capacity. Designing post-conflict initiatives that work toward a variety of objectives in parallel provides both resilience (in case one activity stalls) and opportunities for synergy (among the activities).

In Timor-Leste, the Ita Nia Rai ("Our Land") project—undertaken between 2007 and 2012, with support from USAID and in partnership with the Timorese

Table 1. Approaches to managing land in post-conflict situations

	Immediate aftermath	*Peace consolidation*
Legal ambiguity	Assess the degree of ambiguity associated with statutory and customary law and the interactions between them, including the extent of fraud, knowledge of laws, public trust in laws, and the emergence of conflict-related approaches to law. Instead of attempting to impose clarity, focus on managing ambiguity and chaos in land rights. In particular, (1) assign priority to the issuance of authoritative legal interpretations, executive instructions, and decrees that can be used to quickly manage broad problems as they arise, and (2) broadly disseminate them, in order to maximize their preventive effect on latent conflict. Examples include the following: Whether the years of conflict are to be included in claims of adverse possession. What constitutes bad-faith versus good-faith transactions. The legality of previously issued concessions. The state's legal recognition of certain customary institutions. The fate of lands subject to secondary occupation. Engage in consultations, with both prominent and marginalized stakeholders, regarding their primary land-related concerns, reaction to decrees, etc. Among the stakeholders who should be consulted are internally displaced persons (IDPs); women; youth; squatters; excombatants; and members of ethnic, political, and religious groups.	Through the development and implementation of laws and regulations, move toward the resolution of remaining legal ambiguities, giving priority to those that are causing problems. At the same time, resist the temptation to bring clarity to all forms of ambiguity: some ambiguities have uses for certain groups or support certain purposes, and attempting to eliminate them entirely may cause conflict. Move forward with institutional reform.
Legal pluralism	Given that in the wake of conflict, national law will have limited legitimacy and national institutions limited capacity, provide formal recognition of customary tenure systems even if they are at odds with state law: harmonization with statutory law is a subsequent process. Options include (1) recognizing customary forms of evidence as legal for claims; (2) providing limited statutory recognition to nonstatutory forums for land allocation, use, and the resolution of land disputes, even if they are not part of customary systems; and (3) considering the recognition of religious approaches to land rights where doing so would not encourage divisiveness.	Instead of attempting to prohibit certain forums outright, encourage a gradual shift from forum shopping based on multiple equal forums to more of an appeals format. Examine the intersections between statutory, customary, and other norms that shape land administration to identify commonalities, points of contradiction and contention, and legal gaps. The goal is to establish a constructive long-term relationship between statutory and nonstatutory norms that supports legal certainty, respect for human rights, and a shared normative framework.

Table 1. (*cond't*)

	Immediate aftermath	*Peace consolidation*
Land disputes	Establish separate land courts or tribunals, or significantly expand the capacity of the existing court system, in order to handle the surge in land disputes. Recognize the potential outcomes of forum shopping (for example, among customary, religious, and ad hoc approaches) for dispute resolution. Explore the potential for programs under which donors and nongovernmental organizations would support alternative dispute resolution, including mediation. Consider using decrees or legal rulings to handle broad categories of disputes, such as bad-faith transactions made during the conflict, and issues associated with secondary occupation. Apply specific articles of existing law to solve immediate problems, such as right of reversion.	As the national court system recovers and the number of land disputes drops, transition from land courts or tribunals to an integrated court system. Continue to formally recognize the outcomes of forum shopping under different rule-of-law systems, while evaluating how such systems might be integrated into the national court system. Reduce the use of alternative dispute resolution. Move away from addressing land issues through decrees and legal rulings—by, for example, legally assigning termination dates to decrees, so they cannot be abused as the peace process proceeds. Consider legally establishing a date beyond which certain conflict-related disputes will no longer be heard (e.g., land claims made by members of the returning diaspora and by those who belonged to the losing side in the conflict).
Land recovery	Consult with affected populations regarding restitution, focusing on the following: Achieving buy-in from the populace. Developing innovative solutions and a nuanced understanding of problems. Educating the populace about statutory protections of land rights. Airing different views, and thereby facilitating peaceful resolution of disputes. Building political momentum and containing expectations. Demonstrating that the state is moving forward to address land issues. To address fraudulent, missing, destroyed, or incomplete documentation, take quick legal action to revamp evidentiary rules for land claims. Assess the restitution needs of vulnerable populations, including women, marginalized ethnic groups, squatters, and excombatants. Begin to reintegrate insurgent and other forces.	Integrate local and customary land registries with national registries. Continue with restitution programs, establishing a date by which conflict-related restitution programs will end.

Land policy reform	Assess the functionality of the statutory and customary land management and administration systems. Assess the presence and functionality of other approaches to land rights (for example, ad hoc approaches that are related to religion or to the authority of warlords, or that arose during the conflict or as a consequence of neglect). Initiate consultations to support reforms that will connect, harmonize, or support positive interactions between statutory and customary land administration systems.	Complete land policy reforms; this includes the following: Completing consultations and evaluating the results. Moving from consultation to legal drafting. Widely disseminating drafts of the new land policy. Initiating political, parliamentary, and other processes for passage. Develop either an overarching land law covering all issues, or a number of laws that address specific problems (the second approach may proceed more quickly). Engage donors to fund and provide technical assistance for specific components of the reform process.
Capacity building	Locate and hire technical staff from pre-conflict land and property institutions, avoiding those who were in leadership positions and were complicit in developing or implementing divisive land policies. Establish training programs through national universities, ensuring that they foster the skills necessary to interact with customary systems and authorities. As an interim approach, consider asking donors to conduct rapid training that is aligned with the most pressing needs.	Expand training efforts by establishing training programs in land and property administration institutions as well as in universities, and by sending students to neighboring countries for training. Assign priority to placing trained staff in rural areas, where they can work directly with customary authorities on land issues. Seek donor funding for the infrastructural aspects of capacity building (for example, surveying, developing cadastres, and purchasing computers and other equipment).
Land allocation	Establish temporary forms of, and rights to, occupation for squatters, IDPs, excombatants, and others who are unable to return to their areas of origin in the near term. Develop secure forms of renting, leasing, sharecropping, and lending to (1) provide the landless with agricultural land, housing, and shelter (as appropriate), and (2) provide tenure security for landowners.	Move from temporary forms of and rights to land occupation toward permanent rental, leasing, and sharecropping arrangements in a land market, where land can be bought and sold as a commodity.

Ministry of Justice—strengthened property rights despite the absence of a national land law. During the Indonesian occupation of Timor-Leste (1975–1999), much of the rural population had been forcibly displaced; and during Timor-Leste's war for independence from Indonesia, land records were destroyed. After independence, returning Timorese settled where they could.

In 2002, when the transitional UN peacekeeping administration transferred control of the country to a nascent Timorese government, there was no statutory system in place for administering land rights, there was substantial confusion about who owned which lands, and it was unclear what legal framework should be used to regulate land. The fragile post-conflict state was subject not only to conflicting legal influences (remnants of both the Portuguese colonial system and the years of Indonesian occupation), but also to competing interests: some groups, for example, wanted to privatize all land, and commercial entities that held concessions for coffee production wanted to protect their contracts. Finally, particularly in rural areas, the customary resource and land management system continued to play a strong role in land administration and management.

The goals of the Ita Nia Rai project were to strengthen land policy, law, and regulations; to assist with the surveying, registration, and titling of land; to implement land administration and information systems; to develop dispute resolution mechanisms and capacity; and to increase public awareness of land issues (USAID Timor-Leste n.d.). With technical support from the project, a new land law was developed and submitted for legislative consideration, but it languished in parliament.

As part of its effort to survey and register land across the country,[25] the Ita Nia Rai project used local media and community meetings to familiarize communities with the project and its goals. Data collection teams visited each neighborhood, documenting who claimed each parcel of land and taking photographs of the claimaints; noting the global positioning system coordinates and photographing the markers that defined the corners of each land parcel; and compiling relevant information about the history or ownership of the land. Where neighbors disagreed regarding the boundaries or there were competing claimants, the team recorded the disputed boundaries and identified the competing claimants. Aerial photography was then used to create master maps of each community, on which all parcels (including disputed ones) were delineated; the maps also included photos of the recorded claimants. The maps were displayed in a local public place for thirty days, during which residents could verify their claims and correct errors.

From the beginning, the project gave priority to parcels that were not in dispute, while encouraging community members to discuss and resolve disputes.

---

[25] The project was initially intended to survey and register all land in the country, but the Ministry of Justice, USAID, and the other partners agreed to focus on urban and peri-urban areas, largely because there was as yet no land law that defined the legal status of customary land tenure regimes.

There was a conscious effort on the part of project staff to avoid creating incentives to contest ownership (for example, by making funds available to provide compensation); instead, the project provided local staff trained to mediate disputes, along with the necessary space for such mediation to occur. The Ita Nia Rai project collected information on more than 50,000 parcels, with an overall dispute rate of less than 10 percent (Ita Nia Rai 2012). In 2011, an executive decree formalized all undisputed private claims to land; by December of that year, landowners received their first certificates of land registration (Tetra Tech ARD n.d.).

Even though some disputes remained unresolved by the end of the project, and despite the fact that Timor-Leste still lacks a land law, the open discussion of landownership encouraged by the project led to the local resolution of many disputes; in addition, by transparently producing a new and wide-ranging national cadastre covering both urban and peri-urban areas, the Ita Nia Rai project improved tenure security.[26] Legal approaches to land and land rights issues in post-conflict societies are essential to long-term security; as the Ita Nia Rai project demonstrates, however, parallel methods can usefully bolster such approaches.

CONCLUSION

Post-conflict situations are frequently characterized by weakened and chaotic statutory land administration systems and vigorous but fluid customary tenure regimes, both operating in a larger context that includes new normative rules set out in peace accords, political wrangling over land and other resources, and pressure from international actors with diverse interests in the outcome of the peace process. While this constellation carries risks, it also represents real opportunities for resolving disputes, strengthening livelihoods, improving governance, and, ultimately, laying the foundation for a durable peace.

Post-conflict initiatives to reformulate the national laws, policies, and institutions that govern land need to look beyond the confines of ministries and missions; instead, such efforts should focus on institutions and processes that are developing on the ground, so as to draw legitimacy from them. Without this purposeful connection, local, regional, and national tenure institutions risk evolving in different directions. With such a connection, however, new frameworks can be designed to support approaches that already work and to strengthen ongoing reintegration and development. As experiences in Afghanistan and elsewhere show, an approach that bolsters local land management institutions can be an important part of rebuilding trust in government after conflict-induced state collapse (Stanfield et al. 2013*).

Following conflict, there is a window of opportunity to reform land tenure and administration. During this time, the international community can provide

---

[26] In 2011, the Ministry of Justice assumed full responsibility for the management of the Ita Nia Rai project.

invaluable assistance by helping to resolve important or contentious issues in ways that are compatible with human rights obligations and development best practices. Such efforts may include crafting laws that support the livelihoods of the poor, as was the case in Ethiopia (Unruh 2005b), Mozambique (Unruh 2004a, 2004b), and Nicaragua (Barquero 2004). In some cases, such as Mozambique, the post-conflict period provides an opportunity to supplant an inequitable and problematic tenure system while systematically addressing the problems that the system had created, both before and during the conflict. In practice, this entailed setting a date after which the new, fairer system was used for all new title applications, while making separate efforts to resolve preexisting problems—by, for example, cancelling titles and concessions that had been acquired in bad faith.

In post-conflict countries, the rudimentary recovery of livelihood patterns in the immediate post-conflict lull gradually gives rise to the need for a full-fledged property rights system. The resulting surge of land tenure problems may continue for as many as five years after fighting has stopped, and may become particularly acute when international peacekeeping forces depart. Although some post-conflict countries have successfully pursued innovative approaches to tenure problems, others have had difficulty. And while the elements that make for a well-functioning tenure system in both developed and developing countries are known, the primary question for post-conflict situations is how to capitalize on the window of opportunity that is often present and assemble the elements in a workable format and in a timely fashion. Thus, while it may be tempting to import approaches that have worked elsewhere, either in whole or in part, it is crucial to keep in mind the importance of both local context and the particular types of vulnerability that can result from both conflict and displacement. In the post-conflict context, some issues—such as rampant opportunism, individual and group grievances, and near-term food security—will be magnified after a conflict; other issues, such as those related to the taxation of land and property, may have less immediate priority.

Finally, while certain solutions may seem attractive in theory, it is crucial to anticipate and focus on issues that may arise in practice. For instance, given that land and property transactions go on, as a matter of necessity, with or without governmental laws or decrees, if registry offices freeze land and property transactions while updating their records and procedures, a black market in land and property is likely to result—because land and property transactions within a population cannot, in reality, be frozen. Similarly, the prolonged absence of effective courts or other dispute resolution mechanisms may also create incentives to participate in black market alternatives. Although delays are likely inevitable in efforts to reform tenure systems in the wake of conflict, well-publicized consultation programs can encourage parties to potential transactions to adopt a wait-and-see approach, providing valuable time and political space for the formulation of effective solutions.

As the twenty-one chapters in this book illustrate, land offers both serious challenges and vital opportunities in post-conflict situations. Land disputes are

often long-standing and difficult to resolve; post-conflict states have limited capacity and legitimacy for managing land; and wartime actions can exacerbate tensions. But it is possible to tailor solutions to specific situations, and thereby support livelihoods, economic recovery, human rights, local governance, and overall peacebuilding goals. Despite consistently being one of the most difficult tasks in post-conflict peacebuilding, effectively addressing land tenure and management can alleviate a powerful source of tension and help prevent conflict relapse.

REFERENCES

Alden Wily, L. 2009. Tackling land tenure in the emergency to development transition in post-conflict states: From restitution to reform. In *Uncharted territory: Land, conflict and humanitarian action*, ed. S. Pantuliano. Rugby, Warwickshire, UK: Practical Action Publishing.

———. 2013. Resolving natural resource conflicts to help prevent war: A case from Afghanistan. In *Livelihoods, natural resources, and post-conflict peacebuilding*, ed. H. Young and L. Goldman. London: Earthscan.

Aluma, J., C. Drennon, J. Kigula, S. W. Lawry, E. S. K. Muwaga-Zake, and J. Were. 1989. *Settlement in forest reserves, game reserves and national parks in Uganda: A study of social, economic, and tenure factors affecting land use and deforestation in Mabira Forest Reserve, Kibale Forest Reserve, and Kibale Game Reserve/Corridor*. Madison: Land Tenure Center, University of Wisconsin. http://minds.wisconsin.edu/handle/1793/31704.

Anaya, S. J., and R. A. Williams, Jr. 2001. The protection of indigenous peoples' rights over lands and natural resources under the Inter-American human rights system. *Harvard Human Rights Journal* 14:33–86.

André, C. 2003. Custom, contracts and cadastres in north-west Rwanda. In *Securing land rights in Africa*, ed. T. A. Benjaminsen and C. Lund. London: Cass Publishing.

Assaf, G., and R. El-Fil. 2000. Resolving the issue of war displacement in Lebanon. *Forced Migration Review* 7:31–33.

Bahir, A. L. 2010. Challenges and consequences of displacement and squatting: The case of Kore area in Addis Ababa, Ethiopia. *Journal of Sustainable Development in Africa* 12 (3): 261–285.

Bailliet, C. 2003. Property restitution in Guatemala: A transitional dilemma. In *Returning home: Housing and property restitution rights of refugees and displaced persons*, ed. S. Leckie. Ardsley, NY: Transnational Publishers.

Baribeau, G. 2011. Land conflict in Burundi: A strategic review of programming. Washington, D.C.: Search for Common Ground. www.sfcg.org/programmes/burundi/pdf/BDI_EV_Feb12_Land%20Conflict%20in%20Burundi%20A%20Strategic%20Review%20of%20Programming.pdf.

Barquero, R. 2004. *Access to land in post-conflict situations: A case study in Nicaragua*. Rome: Food and Agriculture Organization of the United Nations.

Barwari, N. 2013. Rebuilding peace: Land and water management in the Kurdistan Region of northern Iraq. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Batson, D. E. 2013. Snow leopards and cadastres: Rare sightings in post-conflict Afghanistan. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Bavinck, M. 1998. "A matter of maintaining peace." State accommodation to subordinate legal systems: The case of fisheries along the Coromandel coast of Tamil Nadu, India. *Journal of Legal Pluralism* 40:151–170.

Berry, S. 1993. *No condition is permanent: The social dynamics of agrarian change in Sub-Saharan Africa*. Madison: University of Wisconsin Press.

Borras, S. M., Jr., and J. C. Franco. 2012. Global land grabbing and trajectories of agrarian change: A preliminary analysis. *Journal of Agrarian Change* 12 (1): 34–59.

Brookings–Bern Project on Internal Displacement. 2008. *Protecting internally displaced persons: A manual for law and policymakers*. Washington, D.C.: Brookings Institution.

Bruce, J. W. 2013. Return of land in post-conflict Rwanda: International standards, improvisation, and the role of international humanitarian organizations. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Bruce, J. W., S. E. Migot-Adholla, and J. Atherton. 1994. The findings and their policy implications: Institutional adaptation or replacement? In *Searching for land tenure security in Africa,* ed. J. W. Bruce and S. E. Migot-Adholla. Dubuque, IA: Kendall/Hunt Publishing.

Buchanan-Smith, M., and H. McElhinney. 2011. City limits: Urbanisation and vulnerability in Sudan; Nyala case study. With H. Bagadi, M. A. Rahman, A. Dawalbeit, A. Dawalbeit, M. Khalil, and B. El Din Abdalla. London: Humanitarian Policy Group. www.odi.org.uk/resources/docs/6515.pdf.

Cain, A. 2013. Angola: Land resources and conflict. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Cohen, S. E. 1993. The politics of planting: Israeli-Palestinian competition for control of land in the Jerusalem periphery. Geography Research Paper No. 236. Chicago, IL: University of Chicago Press.

Collier, P., L. Elliot, H. Hegre, A. Hoeffler, M. Reynal-Querol, and N. Sambanis. 2003. *Breaking the conflict trap: Civil war and development policy*. World Bank Policy Research Report. Oxford, UK: Oxford University Press.

Corriveau-Bourque, A. 2010. Confusions and palava: The logic of land encroachment in Lofa County, Liberia. Oslo: Norwegian Refugee Council. www.nrc.no/arch/img.aspx?file_id=9481898.

———. 2013. Beyond land redistribution: Lessons learned from El Salvador's unfulfilled agrarian revolution. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Davuth, L. 2003. Country report: Cambodia. Phnom Penh, Cambodia: Permanent Committee on GIS Infrastructure for Asia & the Pacific. www.fig.net/cadastraltemplate/countryreport/Cambodia.pdf.

Defensor Knack, P. 2013. Legal frameworks and land issues in Muslim Mindanao. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Deininger, K., and D. Byerlee. 2011. *Rising global interest in farmland: Can it yield sustainable and equitable benefits*? With J. Lindsay, A. Norton, H. Selod, and M. Stickler. Washington, D.C.: World Bank. http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf.

Delville, P. L. 2003. When farmers use "pieces of paper" to record their land transactions in Francophone rural Africa: Insights into the dynamics of institutional innovation. In *Securing land rights in Africa*, ed. T. A. Benjaminsen and C. Lund. London: Cass Publishing.

Deng, D. K. 2011. *The new frontier: A baseline survey of large-scale land-based investment in Southern Sudan*. Researched by Generation Agency for Development and Transformation–Pentagon and the South Sudan Law Society. Report 1/11 (March). Oslo: Norwegian People's Aid. www.npaid.org/filestore/NPA_New_Frontier.pdf.

de Soto, A., and G. del Castillo. 1995. Implementation of comprehensive peace agreements: Staying the course in El Salvador. *Global Governance* 1 (2): 189–203.

de Waal, A. 2009. Why humanitarian organizations need to tackle land issues. In *Uncharted territory: Land, conflict and humanitarian action*, ed. S. Pantuliano. Rugby, Warwickshire, UK: Practical Action Publishing.

De Wit, P. 2002. Land conflict management in Mozambique: A case study of Zambezia Province. Rome: Food and Agriculture Organization of the United Nations. www.fao.org/DOCREP/005/Y3932T/y3932t05.htm.

Douglas, I., C. Gleichmann, M. Odenwald, K. Steenken, and A. Wilkinson. 2004. *Disarmament, demobilisation and reintegration: A practical field and classroom guide*. Frankfurt, Germany: German Technical Co-operation, Gesellshaft für Technische Zusammenarbeit, Norwegian Defence International Centre, Pearson Peacekeeping Centre, and Swedish National Defence College. www.acus.org/files/publication_pdfs/82/0401-DDR_Guide.pdf.

ECOSOC (Economic and Social Council, United Nations). 2005. Economic, social, and cultural rights. E/CN.4/Sub.2/2005/17. www.unhcr.org/refworld/docid/41640c874.html.

Elhawary, S. 2009. Between war and peace: Land, conflict and humanitarian action in Colombia. In *Uncharted territory: Land, conflict and humanitarian action*, ed. S. Pantuliano. Rugby, Warwickshire, UK: Practical Action Publishing.

Elhawary, S., and S. Pantuliano. 2013. Land issues in post-conflict return and recovery. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Fitzpatrick, D. 2002. Land policy in post-conflict circumstances: Some lessons from East Timor. New Issues in Refugee Research Working Paper No. 58. Geneva, Switzerland: Office of the United Nations High Commissioner for Refugees.

Foray, K. M. 2011. Draft National Land Policy for Sierra Leone. National Land Policy Reform Project, Ministry of Lands, Country Planning and the Environment. Freetown, Sierra Leone.

Fortmann, L., and J. Riddell, with S. Brick, J. Bruce, A. Fraser, N. Garcia-Pardo, and R. Labelle. 1985. *Trees and tenure: An annotated bibliography for agroforesters and others*. Madison, WI: Land Tenure Center; Nairobi, Kenya: International Council for Research in Agroforestry. http://pdf.usaid.gov/pdf_docs/PNAAT387.pdf.

Galiani, S., and E. Schargrodsky. 2010. Property rights for the poor: Effects of land titling. *Journal of Public Economics* 94 (9–10): 700–729.

Ghatak, S. n.d. Land acquisition is rampant in Asia, Africa and Latin America, conclusion drawn by recent reports. Rome: Food and Agriculture Organization of the United Nations. http://typo3.fao.org/fileadmin/user_upload/fsn/docs/HLPE/Land_grab_ghatak.pdf.

GOSL (Government of Sierra Leone). 2005. National land policy. Freetown.

Green, A. 2013. Title wave: Land tenure and peacebuilding in Aceh. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Griffiths, J. 1986. What is legal pluralism? *Journal of Legal Pluralism* 24:1–52.

Hanchinamani, B. 2003. The impact of Mozambique's land tenure policy on refugees and internally displaced persons. *Human Rights Brief* 7 (2): 10–12, 16.

Hanlon, J. 2002. The land debate in Mozambique: Will foreign investors, the urban elite, advanced peasants or family farmers drive rural development? London: Oxfam.

Hannam, I. D. 2013. Transboundary resource management strategies in the Pamir mountain region of Tajikistan. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Hayden, R. M. 1984. A note on Caste Panchayats and government courts in India: Different kinds of stages for different kinds of performances. *Journal of Legal Pluralism* 22: 43–52.

Huggins, C. 2004. Land access issues in post-genocide Rwanda. Rome: Food and Agriculture Organization of the United Nations.

———. 2011. A historical perspective on the "Global Land Rush." Rome: International Land Coalition.

IRIN (Integrated Regional Information Networks). 2005. Liberia: Ex-fighters making money from latex refuse to leave rubber plantation. IRIN Humanitarian News and Analysis, April 19. www.irinnews.org/Report/53970/LIBERIA-Ex-fighters-making-money-from-latex-refuse-to-leave-rubber-plantation.

Ita Nia Rai. 2012. Data and statistics. March 8. http://itaniarai.mj.gov.tl/eng/data.html.

Kachingwe, N., with contributions from S. Ambrose, R. Tripathi, and C. Gatundu. 2012. From under their feet: A think piece on the gender dimensions of land grabs in Africa. Johannesburg, South Africa: ActionAid. www.actionaid.org/sites/files/actionaid/actionaidfromundertheirfeet.pdf.

Kamphius, B. 2005. Economic policy for building peace. In *Postconflict development: Meeting new challenges*, ed. G. Junne and W. Verkoren. Boulder, CO: Lynne Rienner.

Kloeck-Jenson, S. 1998. Locating the community: Local communities and the administration of land and other natural resources in Mozambique. Paper presented at the Cape Town Conference on Land Tenure Issues, University of Cape Town, South Africa, January 27–29.

Knight, R., J. Adoko, T. Auma, A. Kaba, A. Salomao, S. Siakor, and I. Tankar. 2012. *Protecting community lands and resources: Evidence from Liberia, Mozambique and Uganda*. Executive summary. Rome: International Development Law Organization; Washington, D.C.: Namati. www.idlo.int/Publications/CommunityLandReport1.pdf.

LRC (Law Reform Commission, Sierra Leone). 2004. Annual report 2003. Freetown. http://lawrefcom.sl/2003.pdf.

Lund, M. S. 1996. *Preventive diplomacy: A strategy for preventing violent conflicts.* Washington, D.C.: United States Institute of Peace.

———. 1998. Struggles for land and political power: On the politicization of land tenure and disputes in Niger. *Journal of Legal Pluralism* 40:1–22.

Marquardt, M., J. Unruh, and L. Heron. 2002. Land policy and administration: Assessment of the current situation and future prospects in East Timor; Final Report. Dili: United States Agency for International Development / Government of Timor-Leste. http://pdf.usaid.gov/pdf_docs/PNACS142.pdf.

Mason, W. 2011. *The rule of law in Afghanistan: Missing in inaction*. New York: Cambridge University Press.

McCallin, B. 2013. The role of restitution in post-conflict situations. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

McMichael, G., and A. Massleberg. 2010. Landmines and land rights in Southern Sudan. Geneva, Switzerland: Geneva International Centre for Humanitarian Demining.

Meinzen-Dick, R., A. Knox, F. Place, and B. Swallow, eds. 2002. *Innovation in natural resource management: The role of property rights and collective action in developing countries*. Baltimore, MD: Johns Hopkins University Press.

Meinzen-Dick, R., and R. Pradhan. 2013. Legal pluralism in post-conflict environments: Problem or opportunity for natural resource management? In *Governance, natural resources, and post-conflict peacebuilding*, ed. C. Bruch, C. Muffett, and S. S. Nichols. London: Earthscan.

Merlet, P., and J. Bastiaensen. 2012. Struggles over property rights in the context of large-scale transnational land acquisitions: Using legal pluralism to re-politicize the debate. Discussion Paper 2012.02. Antwerp, Belgium: Institute of Development Policy and Management. www.agter.asso.fr/IMG/pdf/2012-02_dp_merlet_bastiaensen_legal-pluralism.pdf.

Merry, S. E. 1988. Legal pluralism. *Law and Society Review* 22 (5): 869–896.

Michaels, R. 2005. The re-*state*-ment of non-state law: The state, choice of law, and the challenge from global legal pluralism. *Wayne Law Review* 51:1209–1259.

Miranda, L. A. 2012. The role of international law in intrastate natural resource allocation: Sovereignty, human rights, and peoples-based development. *Vanderbilt Journal of Transnational Law* 45 (3): 785–840.

Miyazawa, N. 2013. Customary law and community-based natural resource management in post-conflict Timor-Leste. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

MOJ (Ministry of Justice, Republic of Croatia). 2010. Real property registration and cadastre project: Final project report. Zagreb. www.uredjenazemlja.hr/web//uploads/assets//dokumenti_eng/final_analisys/Final_Project_Report_ENG_.pdf.

MPPB (*Mozambique Peace Process Bulletin*). 1997. After NGO lobbying, new land law increases peasant rights. October 1.

Mulley, B. G., and J. D. Unruh. 2004. The role of off-farm employment in tropical forest conservation: Labor, migration, and smallholder attitudes toward land in western Uganda. *Journal of Environmental Management* 71 (3): 193–205.

Murphy, P. 2003. *Evidence, proof, and facts*. Oxford, UK: Oxford University Press.

Negrão, J. 1999. The Mozambican land campaign, 1997–1999. Paper presented at the Conference on the Associative Movement of Mozambique, Maputo, December 1999. www.caledonia.org.uk/land/mozambiq.htm.

Nichols, S. S., C. Muffett, and C. Bruch. 2013. Fueling conflict or facilitating peace: Lessons in post-conflict governance and natural resource management. In *Governance, natural resources, and post-conflict peacebuilding*, ed. C. Bruch, C. Muffett, and S. S. Nichols. London: Earthscan.

Norfolk, S., and H. Liversage. 2003. *Land reform and poverty alleviation in Mozambique*. Pretoria, South Africa: Human Sciences Research Council.

Oki, Y. 2013. Land tenure and peace negotiations in Mindanao, Philippines. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Otsuka, K., S. Suyanto, T. Sonobe, and T. P. Tomich. 2001. Evolution of land tenure institutions and development of agroforestry: Evidence from customary land areas of Sumatra. *Agricultural Economics* 25 (1): 85–101.

Özerdem, A. 2009. *Post-war recovery: Disarmament, demobilization and reintegration*. London: I. B. Tauris.

Pancas, M. 2003. Mozambique access to land. Paper presented at the Land and Food Security Seminar, Copenhagen, Denmark, December.

Paris, R. 2004. *At war's end: Building peace after civil conflict*. Cambridge, UK: Cambridge University Press.

Peleikis, A. 2006. Whose heritage? Legal pluralism and the politics of the past: A case study from the Curonian Spit (Lithuania). *Journal of Legal Pluralism* 53–54: 209–237.

Pichel, F., P. B. Sayeh, A. Thriscutt, and O. Kemeh-Gama. 2012. Implementing an affordable, rapid deployment land records management solution for Liberia. Paper presented at the Annual World Bank Conference on Land and Poverty, Washington, D.C.

Plunkett, M. 2005. Reestablishing the rule of law. In *Postconflict development: Meeting new challenges*, ed. G. Junne and W. Verkoren. Boulder, CO: Lynne Rienner.

Provost, C., and P. McClanahan. 2012. Sierra Leone: Local resistance grows as investors snap up land. *Guardian*, April 11. www.guardian.co.uk/global-development/poverty-matters/2012/apr/11/sierra-leone-local-resistance-land-deals.

Raintree, J. B., ed. 1987. *Land, trees and tenure: Proceedings of an international workshop on tenure issues in agroforestry, Nairobi, May 27–31, 1985*. Nairobi, Kenya: International Centre for Research in Agroforestry; Madison, WI: Land Tenure Center.

Rashid, S. R., M. Jan, and M. Wakil. 2010. Landmines and land rights in Afghanistan. Geneva, Switzerland: Geneva International Centre for Humanitarian Demining. www.gichd.org/fileadmin/pdf/ma_development/wk-landrights-oct2010/LMAD-wk-Afghanistan-case-study-Nov2010.pdf.

Renner-Thomas, A. 2010. *Land tenure in Sierra Leone: The law, dualism and the making of a land policy*. Central Milton Keynes, UK: AuthorHouse.

Rocheleau, D., and D. Edmunds. 1997. Women, men and trees: Gender, power and property in forest and agrarian landscapes. *World Development* 25 (8): 1351–1371.

Sait, S. 2013. Unexplored dimensions: Islamic land systems in Afghanistan, Indonesia, Iraq, and Somalia. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Salas, C. 1986. *Jamaica Land Titling Project: Feasibility report*. Washington, D.C.: Inter-American Development Bank.

Salman, S. M. A. 2013. The Abyei territorial dispute between North and South Sudan: Why has its resolution proven difficult? In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Sekiguchi, M., and N. Hatsukano. 2013. Land conflicts and land registration in Cambodia. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Silliman, G. 1985. A political analysis of the Philippines' Katarungang Pambarangay system of informal justice through mediation. *Law and Society Review* 19 (2): 279–302.

Smucker, P. 2005. Liberian gold rush threatens forest preserve. *New York Times*, March 2. www.nytimes.com/2005/03/01/world/africa/01iht-forest.html?pagewanted=all.

Stanfield, J. D., J. Brick Murtazashvili, M. Y. Safar, and A. Salam. 2013. Community documentation of land tenure and its contribution to state building in Afghanistan. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Stigall, D. E. 2013. Refugees and legal reform in Iraq: The Iraqi Civil Code, international standards for the treatment of displaced persons, and the art of attainable solutions. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Tanner, C. 2002. Law-making in an African context: The 1997 Mozambican land law. FAO Legal Papers Online No. 26. Rome: Food and Agriculture Organization of the United Nations.

Tetra Tech ARD. n.d. Highlight of the month: Strengthening property rights in Timor-Leste. www.tetratechintdev.com/intdev/index.php?option=com_k2&view=item&id=460:highlight-of-the-month-strengthening-property-rights-in-timor-leste&Itemid=55&lang=us.

Themnér, L., and P. Wallensteen. 2012. Armed conflicts, 1946–2011. *Journal of Peace Research* 49 (4): 565–575.

Tubiana, J. 2007. Darfur: A war for land? In *War in Darfur and the search for peace*, ed. A. de Waal. Cambridge, MA: Global Equity Initiative, Harvard University.

UCDP (Uppsala Conflict Data Program). n.d. UCDP Conflict Encyclopedia. Uppsala University. www.ucdp.uus.se/database.

Uitamo, E. 1999. Modeling deforestation caused by the expansion of subsistence farming in the Philippines. *Journal of Forest Economics* 5 (1): 99–122.

UNEP (United Nations Environment Programme). 2009. *From conflict to peacebuilding: The role of natural resources and the environment*. Nairobi, Kenya. http://postconflict.unep.ch/publications/pcdmb_policy_01.pdf.

———. 2012. *Greening the blue helmets: Environment, natural resources and UN peacekeeping operations*. Nairobi, Kenya. http://postconflict.unep.ch/publications/UNEP_greening_blue_helmets.pdf.

UNFT (United Nations Interagency Framework Team for Preventive Action). 2012. *Land and conflict: Toolkit and guidance for preventing and managing land and natural resources conflict*. New York. http://postconflict.unep.ch/publications/GN_Land_Consultation.pdf.

UN-HABITAT (United Nations Human Settlements Programme). 2007. *A post-conflict land administration and peacebuilding handbook*. Vol. 1 of *Countries with land records*. Nairobi, Kenya.

Unruh, J. D. 1997. The role of land conflict and land conflict resolution in a peace process: Mozambique's return to agriculture. *Refuge* 16 (6): 28–33.

———. 2002. Local land tenure in the peace process. *Peace Review* 14 (3): 337–342.

———. 2003. Land tenure and legal pluralism in the peace process. *Peace and Change* 28 (3): 352–376.

———. 2004a. Mozambican land law issues: Foreign owner compliance with laws reserving the right to ownership of land to nationals/the state; and land title restitution experiences, strategies, and options. Burlington, VT: Associates in Rural Development East Timor Land Law Program.

———. 2004b. Rural property rights in a peace process: Lessons from Mozambique. In *WorldMinds: 100 geographical perspectives on 100 problems*, ed. D. G. Janelle, B. Warf, and K. Hansen. Dordrecht, Netherlands: Kluwer Academic Publishers.

———. 2005a. Changing conflict resolution institutions in the Ethiopian pastoral commons: The role of armed confrontation in rule-making. *GeoJournal* 64:225–237.

———. 2005b. *Land tenure and its relationship to food security and investment in postwar Sierra Leone*. Rome: Food and Agriculture Organization of the United Nations.

———. 2006. Land tenure and the "evidence landscape" in developing countries. *Annals of the Association of American Geographers* 96 (4): 754–772.

———. 2008. Land policy reform, customary rule of law and the peace process in Sierra Leone. *African Journal of Legal Studies* 2 (2): 94–117.

———. 2009. Land rights in postwar Liberia: The volatile part of the peace process. *Land Use Policy* 26 (2): 425–433.

———. 2012. The interaction between landmine clearance and land rights in Angola: A volatile outcome of non-integrated peacebuilding. *Habitat International* 36 (1): 117–125.

Unruh, J. D., L. Cligget, and R. Hay. 2005. Migrant land rights reception and "clearing to claim" in Sub-Saharan Africa: A deforestation example from southern Zambia. *Natural Resources Forum* 29 (3): 190–198.

Unruh, J., and A. Corriveau-Bourque. 2010. Landmines and land rights in conflict affected countries. Policy Brief. Geneva, Switzerland: Geneva International Centre for Humanitarian Demining. www.gichd.org/fileadmin/pdf/publications/Landmines-LR-2011/Landmines-LR-Policy-Brief-Dec2010.pdf.

USAID (United States Agency for International Development). 2004. USAID strategic plan for East Timor: A new nation moving forward; 2005–2009. http://pdf.usaid.gov/pdf_docs/PDACD442.pdf.

USAID Liberia (United States Agency for International Development–Liberia). 2010. Proposed Threshold Country Program (TCP) for land tenure. March 12. http://liberia.usaid.gov/node/86.

USAID Timor-Leste (United States Agency for International Development–Timor-Leste). n.d. Timor-Leste. http://timor-leste.usaid.gov/sites/default/files/ARDfactsheet.pdf.

Van der Auweraert, P. 2013. Institutional aspects of resolving land disputes in post-conflict societies. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Waldman, M. 2008. Community peacebuilding in Afghanistan: The case for a national strategy. Oxfam Research Report. Oxford, UK: Oxfam International. www.oxfam.org/sites/www.oxfam.org/files/community_peacebuilding_in_afghanistan_report_feb08.pdf.

Wanyeki, L., ed. 2003. *Women and land in Africa: Culture, religion and realizing women's rights*. London: Zed Books.

Williams, R. C. 2007. The contemporary right to property restitution in the context of transitional justice. ICTJ Occasional Paper Series. New York: International Center for Transitional Justice.

———. 2011. Beyond squatters' rights: Durable solutions and development-induced displacement in Monrovia, Liberia. Norwegian Refugee Council Thematic Report. Oslo: Norwegian Refugee Council. www.nrc.no/arch/_img/9568756.pdf.

———. 2013a. Post-conflict land tenure issues in Bosnia: Privatization and the politics of reintegrating the displaced. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

———. 2013b. Title through possession or position? Respect for housing, land, and property rights in Cambodia. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

World Bank. 2009. *Uganda: Post-conflict land policy and administration options—The case of northern Uganda*. Report No. 46110-UG. Washington, D.C. https://openknowledge.worldbank.org/handle/10986/3071.