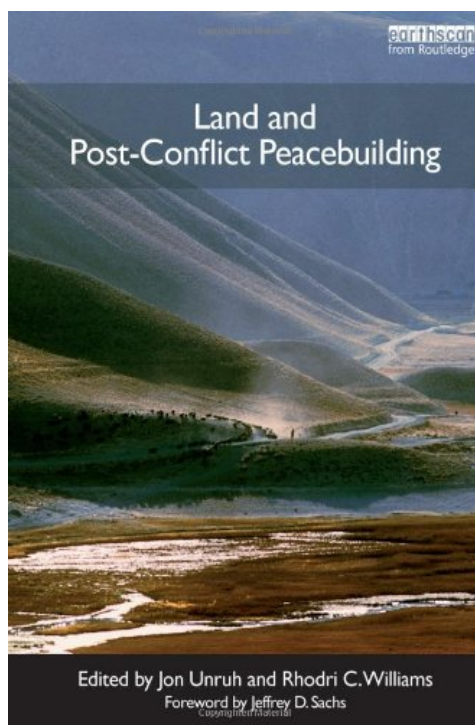This chapter first appeared in *Land and Post-Conflict Peacebuilding,* edited by J. Unruh and R. C. Williams. It is one of 6 edited books on Post-Conflict Peacebuilding and Natural Resource Management (for more information, see www.environmentalpeacebuilding.org). The full book can be ordered from Routledge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

Title wave: Land tenure and peacebuilding in Aceh
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In Aceh, Indonesia, activities meant to improve land tenure security may have supported or may have undermined peacebuilding during the post-conflict, post-tsunami period of 2005 to 2009. Recent studies of property and resources in post-conflict scenarios have focused on the quantifiable economic value of resources and on how that value affects the escalation and relapse of violent conflict (Collier and Hoeffler 2004; Collier, Hoeffler, and Rohner 2009). However, many resources have political, cultural, and social value that renders them into powerful symbols that may be connected to the escalation and continuance of violence (Aspinall 2007). Such symbolic resources are often identified as central problems in intractable conflicts—especially where land or territory constitutes a symbolic homeland (Kahler and Walter 2006).

In 2005, the people of Aceh began recovering from both a twenty-nine-year secessionist conflict and the devastation of the 2004 Indian Ocean tsunami. Property and tenure systems were severely damaged by the conflict and tsunami (Kecamatan Development Program 2007; World Bank 2008). Although property rights and tenure security were not among the central issues negotiated in the peace process or among issues identified as problematic for demobilization, disarmament, and reintegration (World Bank 2006a), they were major concerns for many of the people involved in post-disaster recovery (Fitzpatrick 2005).

Many international donors, international nongovernmental organizations (INGOs), and state actors perceived the lack of state-issued land titles in these lowland areas to be a reflection of tenure insecurity and a central obstacle to tsunami recovery and future political and economic development (World Bank 2006b). In response to perceived tenure insecurity, donors offered technical resources and a budget of US$28.5 million for a state-administered land registration program called the Reconstruction of Aceh Land Administration System (RALAS). Partly

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as a result of the early emphasis on post-disaster property issues, the existing narratives and examinations of property rights in Aceh emphasize post-disaster dynamics and judge the benefits and problems of RALAS in post-disaster terms (Harper 2006; Fitzpatrick 2008; Jalil et al. 2008; Deutsch 2009). There has been a failure to link post-disaster and post-conflict property issues (Burke and Afnan 2005).

This chapter examines some overlooked connections between property administration and violent conflict. Specifically, it examines how policy narratives concerning property and tenure security affected the design and success of the state-administered program for land registration and title issuance in Aceh. It argues that activities meant to improve land tenure security in Aceh came from politicized post-disaster narratives that marginalized post-conflict aspects of property administration. The resulting lack of consideration of post-conflict land- and property-administration issues may have not only limited RALAS's ability to issue titles and support tenure security but also undermined existing, secure tenure relations. The failure to frame tenure security as a post-conflict issue as well as a post-disaster one ultimately affected how tenure security was defined, how land tenure programs were designed to meet perceived challenges, and how these programs did or did not link to peacebuilding. The lessons learned in the case of Aceh pose broader questions about what difference the symbolic values of natural resources might make in post-conflict natural resource management, and specifically what difference a lack of attention to these symbolic values makes when land and property are linked to peacebuilding.

This chapter is not intended to support arguments for or against state-administered land titles, registration programs, and property systems. Ample debates over the merits and problems of transitions to state-administered property systems document how statutory land titles, land registration programs, and property systems can simultaneously emancipate some people and dispossess others (Scott 1998; de Soto 2000; Blomley 2003; Home and Lim 2004; Elyachar 2005; Otto 2009). These debates clearly indicate the lack of an efficient solution to property rights problems. They point to the need to move beyond ideological approaches to an investigation of the merits and problems of property systems in regard to specific situations, legal forms, and interests.

HISTORY OF THE CONFLICT

The Indonesian province of Aceh, also known as Nanggroe Aceh Darussalam, encompasses the northern tip of the island of Sumatra. From 1976 to 2005, this region was the site of a sporadic secessionist conflict between the Free Aceh Movement (Gerakan Aceh Merdeka, or GAM) and the government of Indonesia (GOI). Cyclical outbreaks of violence—combined with long-term intimidation, torture, and material dispossession of civilians—have claimed some 15,000 to 33,000 lives, paralyzed regional development, and polarized much of the population (Reid 2006; Schulze 2007).

Although the conflict in Aceh has sometimes been depicted as one based on one or more main cleavages, the violence is actually a result of a complex

mix of contextual opportunities and issues. These issues include ethnonational territorial claims, a desire for local political autonomy, disputes over local distribution of hydrocarbon and resource revenues, and even personal vendettas. Adding further complexity are the issues of Acehnese cultural identity, recognition of Islamic principles of governance, and grievances involving justice and reparations for conflict-related crimes. The issues and the conditions that escalated and supported violent resistance in Aceh have changed over time with the strategic agendas of changing participants (Reid 2006; McCarthy 2007; Schulze 2007; Drexler 2008). GAM demands for amnesty and a special reintegration fund for former combatants, for example, contributed to the failure of the 2003 peace negotiations. Working toward a sustainable peace in Aceh has required confronting the complex overlap of elite and grassroots grievances, with changing participants and conditions that encourage violent resistance, and it has meant acknowledging the special needs of parties involved in the violence.

Even though previous peace processes have treated the GAM and the GOI as monolithic representatives of the Acehnese people and the Indonesian state,

respectively, the diversity of grievances and the additional demands of the GAM and of the victims of violence are indicative of the internal fissures within and between the GAM, Acehnese civil society, the Indonesian military, and the GOI (Drexler 2008). These fissures, which often escape conflict analyses, contribute to failed peace negotiations and continue to pose obstacles to a sustainable peace. As Elizabeth F. Drexler notes, "Observations of the Aceh conflict over the last ten years show that oversimplified analyses of conflicts extend and even intensify violence" (Drexler 2008, 20).

Disregard of the internal complexities supports politicized narratives of group identities—narratives that have been used to undermine certain players and legitimize others in the conflict in Aceh. For example, while some narratives find the roots of the conflict and of the GAM in a nearly unbroken history of armed resistance to colonial Dutch, Japanese, and Indonesian forces since 1873, others identify the GAM as a criminal organization whose goals have little connection to this historical resistance (Reid 2006; Nessen 2006; Drexler 2008). But the conflict in Aceh is complex and cannot be reduced to a conflict based on any single issue between two monolithic parties. Analyses of the conflict and progress in peacebuilding must recognize that the actors involved in and the reasons for continued violence in Aceh have evolved during the twenty-nine-year conflict.

The signing of the Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement (Helsinki MOU) in Finland, in August 2005, marked the end of the most recent period of violence in Aceh, and it is the starting point for this chapter's discussion of land tenure security and peacebuilding.[1] The Helsinki MOU signing was inextricably linked with the 2004 Indian Ocean tsunami. Although the tsunami was only one of many factors leading to the end of violence, its massive destruction set the stage for the peace process by changing immediate political and military strategies and the region's economic, social, and ecological landscape (Le Billon and Waizenegger 2007; Gaillard, Clave, and Kelman 2008; Renner 2013).

On the December 26, 2004, the Indian Ocean tsunami inundated the lowlands of Aceh, killing some 168,000 people and leaving 500,000 more homeless. In addition to the human death toll, it is estimated that some 300,000 land parcels, 250,000 homes, 15 percent of agricultural lands, over 2,000 schools, and 10,000 kilometers of roads were severely damaged or destroyed (Fitzpatrick 2005; Kenny, Fan, and Palmer 2006; Benny, Haroen, and Heryani 2006). Indonesian military operations from 2003 to 2004 had weakened the GAM, and unpublicized peace negotiations had begun at least as early as October 2004, but the tsunami allowed the GAM and the GOI to make public concessions on subjects that had been fundamental sticking points in the collapsed peace negotiations of 2003 (Schulze 2007). However, even though the tsunami allowed concessions and changed short-term opportunities for pursuing political and personal violence, many authors

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[1] For the complete text of the Helsinki MOU, see www.aceh-mm.org/download/english/ Helsinki%20MoU.pdf.

recognize that the resulting peacemaking process did not address all the grievances of different groups in Aceh (Le Billon and Waizenegger 2007; Drexler 2008; Gaillard, Clave, and Kelman 2008; Renner 2013).

LAND TENURE SECURITY IN ACEH

In many post-conflict scenarios, clarifying and securing property rights are important steps in addressing the roots of the conflict, conflict-related grievances, and post-conflict conditions that may lead to relapses of violence (Unruh 2003). Even where property disputes are not the primary driver of violent conflict, the destruction of property systems can result in post-conflict disputes over resources and a return to violence. Reestablishing property rights and land tenure security is fundamental for meeting immediate recovery needs, enabling dispute resolution, laying the foundation for sustainable livelihoods, and enabling investment and economic development (USAID 2005). However, in post-conflict scenarios, the state often lacks legitimacy and is faced with existing traditions and informal systems that can undermine state territorial authority. Where the state itself is unreliable and is known for using its legal system to dispossess and undermine local claims to property, the problems with making the statutory legal system locally legitimate are numerous.

In Aceh, as in many post-conflict situations, the importance of disputes over property rights as a condition for the escalation and duration of violent conflict has changed over time. Although individual and communal property rights were not central to the escalation of violent conflict in 1976, the disruption over time of informal and formal property systems by violence, human rights abuses, and hydrocarbon resource exploitation have led to property rights grievances against the government (Fitzpatrick 2008).

Aside from the effects of the violent conflict on property rights, there are several problems with applying the Indonesian legal framework for property rights in Aceh. For example, the legal framework regarding communal property rights is unclear (Lindsey 2008). This lack of clarity means that application of the statutory system can create tenure insecurity and that elites or state officials can manipulate claims through the legal system or other means (Peluso 2005; McCarthy 2006). Indeed, the National Land Agency (Badan Pertanahan Nasional, or BPN) is locally perceived to be one of the most corrupt agencies in the country, and Indonesia has low overall performance in governance as measured by indicators such as Transparency International's Corruption Perceptions Index.[2]

The weak legal framework and resulting tenure insecurity are especially problematic for the post-conflict legal landscape of Aceh, where the Indonesian state's legitimacy as a sovereign power is still questioned by some former combatants. Indeed, as of 2008, the political, economic, ecological, and sociocultural

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[2] For 2011, Indonesia was ranked 100th out of 183 (Transparency International 2011).

value of land remained points of contention as changing regional laws, fees, taxes, and state claims transformed local ownership and locally acceptable understandings of property and tenure security (Fitzpatrick 2008). Underlying these challenges with implementation of the statutory legal framework is the fact that Aceh is a legally pluralistic community where property claims are often subject to contradictory legal traditions (Bowen 2003).

Land tenure security and legal pluralism

Residents of Aceh draw from multiple legal and normative traditions in their daily interactions. Many authors and Acehnese residents identify three working sets of laws or normative traditions that define tenure security and govern the use and ownership of property: *adat* (informal or customary institutions), statutory law (formal institutions), and Islamic jurisprudence and Islamic courts (Bowen 2003; Harper 2006). These three designations are also used to label practices for political purposes.

A number of other normative traditions should also be considered either directly relevant to property or at least important for defining the practices of the three main traditions in regard to property. For example, the informal property transactions that occur in peri-urban and urban areas do not neatly fit into one of the three major traditions. Also, in post-disaster Aceh international and local NGOs influenced property rights through such activities as community mapping, building narratives about property rights, intervening in property disputes, and adding discourses of natural or human rights to property debates. Proponents of one tradition tend to point to limitations and abuses in other traditions in order to justify changes that they feel are appropriate or that benefit themselves. Supporters of statutory titling contrasted what they considered the vagaries and inequities of customary laws (adat) with the supposed economic benefits of title, the state's ability to avoid and adjudicate violent disputes, and the protection that statutory law provides for the environment and for the rights of women, children, and members of minority groups.

But these three traditions are not autonomous, opposing, and constitutive of specific rights claims. There are many ways that the three traditions are interlinked, mutually constituted, and composed of overlapping practices. For example, adat is closely associated with Islamic jurisprudence in Aceh, and over time local communities have invested differing weight in flexible, equitable practices versus dogmatic religious principles (Bowen 2003). It is true, however, that the different traditions are associated with unique governance styles, economic relations, and cultural places, and parties sometimes use the traditions as political labels to differentiate and categorize hybrid legal practices and hybrid legal spaces in order to make potent political rights claims.

Statutory land law in Indonesia is based on the Basic Agrarian Law of 1960 (Law No. 5/1960), which lays out the basic rights to landownership and the legal processes for acquisition, management, and transfer of land, and for land dispute

resolution. Rights to land include private ownership rights (*hak milik*, which is similar to landownership as recognized by freehold title), building rights (*hak guna bangunan*), rights of commercial exploitation (*hak guna usaha*), rights of use (*hak pakai*), rental rights (*hak sewa*), and communal land rights (*hak ulayat*, which recognize customary land and resource tenure). Statutory laws link to or recognize the authority of adat and Islamic jurisprudence in several different ways and at different scales of governance. The Indonesian state uses terms that derive from broader Islamic tenures. For example, the term *hak milik* comes from the Islamic term *mulk/milk* and describes "private full ownership" (Sait and Lim 2006, 12).

In Aceh, Islamic jurisprudence has long been intimately linked to adat and plays an important role in local decision-making processes (*musyawarah*) at the *gampong* (village) and *mukim* (aggregate of villages) levels. Islamic jurisprudence has commonly been considered an avenue for handling inheritance cases, and new regional laws (*qanun*[3]) and national laws have given Islamic jurisprudence larger governance capacities and a more formal role in decisions over land use, investments, the property rights of women and members of minority groups, and the use of land as financial collateral (Bowen 2003; Harper 2006). For example, through National Law No. 48/2007, Islamic courts (*mahkamah syar'iyah*) are given the authority to decide rightful heirs and guardians in inheritance cases, and the Islamic treasury (Baitu Mal Aceh) is given equal authority with the public trust (Balai Harta Peninggalan) to manage post-tsunami property where no legal heir has been identified. This incorporation and formalization of Islamic courts and jurisprudence into the different scales of government reflect and repeat some of the historical missteps and legal vagueness that occurred during previous attempts to regularize or register property and to formalize the diverse, informal traditions known as adat.

Adat practices are officially recognized in state law; however, this recognition can take many different forms in practice (Morse and Woodman 1988). This recognition might vary based on whether the state confers governance power on adat institutions or acknowledges such power, whether adat has sole or shared authority, or whether adat sanctions are rendered impotent or left intact. Additional dimensions that may make the recognition varied are whether adat has authority equal to that of the state and whether the power to appoint or change the composition of adat leadership requires state approval. The recognition of adat governance structures has been crucial to the decentralization of government in Indonesia and to the meeting of some identity claims in Aceh, but there has been a simultaneous drive to reorganize adat institutions so they fit seamlessly into the state. For example, the formalization of the gampong (village) and mukim (aggregate of villages) has

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[3] *Qanun* refers to regional regulations as passed by the Regional House of Representatives (Dewan Perwakilan Rakyat Daerah) in Aceh. The capacity to create qanun was first granted by Law No. 18/2001 (Special Autonomy for the Province of Aceh as the Province of Nanggroe Aceh Darussalam) and was reaffirmed by Law No. 11/2006 (the Law on the Governing of Aceh).

implications for the adjudication of property disputes. When communities are faced with formal, statutory title and legal concepts like hak milik, these communities lose the authority and power to enforce traditional punitive sanctions that may alienate property rights from individual owners or expel owners from the community.

One of the most important ways in which statutory laws interact with adat is in the recognition of communal property rights (hak ulayat). Statutory law recognizes communities' ability to allocate land, approve transfers, control use, and adjudicate land disputes (Harper 2006). But there are several problems with the clarity, implementation, and breadth of application of statutory laws regarding community property (Lindsey 2008). For example, communal lands are often subject not to the Basic Agrarian Law but to forestry laws, natural resource policy, and several bureaucratic layers inaccessible to locals. Searching for applicable laws regarding communal forests and forest-resource access in Aceh requires acknowledging the temporal sequence and ambiguities between the Basic Agrarian Law and laws on forestry, regional autonomy, and special autonomy for Aceh. In short, the relative simplicity of the Basic Agrarian Law framework overlooks how land is connected to resources, and it therefore contributes to disputes surrounding forests and communal resources (Eye on Aceh 2009).

Disputes with the government over communal resources were not part of the peace process, but they have been sources of local grievance in Aceh. Because there is no concept of adverse possession within Indonesian law, in some cases the state has failed to recognize communities' claims to land on which they have lived and paid taxes for more than forty years (Fitzpatrick 2008). In interviews with rural households in the Aceh Jaya region in 2007, these legal ambiguities were cited as a disincentive to the adoption of statutory law and as one of the reasons that titles have not successfully supplanted adat practices and the use of sale documents as deeds. That said, adat practices are sometimes defined by the state, so they should not be glorified as antecedent, customary practices that oppose the state (Li 2001; Burns 2004). Indeed, adat practices may incorporate statutory law; may consider the reaction of statutory law before local decisions are made concerning natural resources; or, in the case of "countermapping" and "weapons of the weak," may be reshaped by their resistance to the state (Peluso 2005; Bowen 2003).

The informal practices known as adat have resilience in Aceh because they are flexible, local creations that draw from but are independent of statutory law and Islamic jurisprudence. The fundamental point of agreement in all adat practices is the emphasis on local, flexible management and consensual mediations that can consider a multitude of factors outside the range of formal courts and freehold title rights. These practices vary over space and time, and by practitioner. Despite this diversity, adat commonly provides rights related to communal land (hak ulayat); customary ownership (*hak milik adat*); and use, including agricultural usage (*useuha*), rental usage (*sewa*/*kontrak*), sharecropping (*bagi hasil*/*mawaih*), pledge/pawn usage (*gadai*/*gala*), and cultivation (*numpang tanam*) (Harper 2006).

Although paper documents are not always used in adat processes, statutory titles or deeds (*akte jual beli*) can be important components of transactions and can support claims or formalize divisions in disputes. The broad, qualitative differences between statutory and adat practices in regard to process and definition of rights can be summarized as the social embeddedness of adat. Adat can work without or around formal titles and deeds, lower costs of tenure-security maintenance, and include particular rules concerning preemption and the transfer and sale of land. For example, land held under hak milik adat (typically rural and sometimes peri-urban land) may only be sold if first offered to neighbors and if third parties' ongoing right of access will be respected, may not be sold to outsiders, and may be appropriated by the community or community leader (*keucik*) as a community good (Fitzpatrick 2005; Harper 2006). These limits are not very different from statutory covenants, easements, and takings but are sometimes embedded in the unwritten traditions of a community and make little sense to statutory understandings of private property (Peluso 2005). Adat practices offer strong, flexible, and equitable tenure security for local needs, but without state recognition, adat tenure is usually insufficient as collateral for bank loans or as protection from state claims.

Land registration and the Torrens title system

Statutory titles often provide benefits in terms of tenure security against foreign claims and increased ability to alienate (that is, transfer) property. Moreover, in a capitalist land market, a well-maintained, accountable, and transparent title system that guarantees an indefeasible title can reduce time and costs normally associated with deeds systems. Because of these benefits, the main form of property administration currently endorsed in many development projects follows Hernando de Soto's claim that registration of property in state-administered title systems is fundamental to political and economic advancement (de Soto 2000).

The recommendation of de Soto is to implement some variation of the Torrens title system in order to register property. Developed in Australia, the Torrens system organizes the central management of titles and focuses on the state cadastre as the primary legal instrument for tenure security. But such a system is not costless, politically neutral, free of faults, or the only option for states that need to intervene in order to reinforce or guarantee tenure security. The process of creating geographically complete and accurate property-administration systems sometimes dispossesses politically marginal communities and forces new costs (such as taxes, transfer fees, and registration fees) onto poor communities that use informal practices (Home and Lim 2004). Such a system also requires that the state have the capacity and legitimacy to enforce the registration of property and property transactions. Furthermore, the economic and social costs of converting informal systems into state-administered title systems are often quite high and tend to disregard systems that are better able to interact with informal practices, such as those that emphasize deeds or that incorporate social-tenure models.

Although some urban areas, peri-urban areas, and market-oriented rural communities may benefit from state registration in Torrens title systems, state titles can be inappropriate in rural and post-conflict areas that do not meet many assumptions regarding state legitimacy, land markets, or cost-benefits (Green 2008; Otto 2009). Moreover, some authors and activists argue that state-led registration and titling processes are synonymous with the dispossession of local property rights and the reorganization of social, cultural, and political relations (Scott 1998; Elyachar 2005; Moore 2005; Fauzi 2009). Indeed, the costs of maintaining centralized title systems that accurately reflect transactions, the absence of anticipated benefits among local populations, and the politicization of registration processes have historically undermined formal property systems (Smith 2003; Sowerwine 2004). Likewise, where everyday interactions deviate over time from centralized title systems, variations of the Torrens title system are unable to adequately mirror what is actually occurring with property transfers and ownership at the ground level. These concerns cast serious moral doubts on the utility and efficacy of allocating money to build centralized title systems immediately after conflicts when alternative deeds systems or informal networks can support tenure security.

Land tenure security after the tsunami and secessionist conflict

The extent to which property and formal or informal tenure systems were damaged by the tsunami and conflict is largely a geographic question. Tsunami effects were limited to lowland areas, whereas conflict intensity and effects were clustered in both areas that were and areas that were not affected by the tsunami (Kecamatan Development Program 2007). The wide array of tsunami- and conflict-related problems confronting land tenure security in Aceh included the destruction of the BPN (National Land Agency) offices, the death of several BPN staff, the destruction of field markers and boundary lines, promises of land for reintegration of former combatants, and disputed claims against the Indonesian state. In addition, there have been gender rights and inheritance issues resulting from deaths, tsunami- and conflict-refugee movement and resettlement, as well as inconsistencies between intact local practices and statutory law. Further problems included compensation for irrecoverably damaged land and property, the nebulous status of renters and squatters, and informal agreements regarding property use and ownership (Fitzpatrick 2005). Complicating these matters were the region's legal pluralism and the fact that land and property rights were potent political symbols that were especially problematic where the state's territorial control and right to tax were still disputed.

The legitimacy and the capacity of Indonesian state institutions was limited in the region, and informal institutions were the predominant basis of tenure security and property management. Of the 300,000 parcels affected by the tsunami, only 25 percent had titles issued by the state (Fitzpatrick 2005; Benny, Haroen, and Heryani 2006). Statutory law was most prevalent in the lowland cities, where the tsunami was most devastating. By killing several BPN officials and destroying existing titles, state registration offices, and field markers for plot identification,

the tsunami threw the cadastral system into chaos (Benny, Haroen, and Heryani 2006). Some 80 percent of the damaged titles have been recovered by work at the Japan International Cooperation Agency, but these documents' lack of fidelity to activities on the ground may contradict community maps of claims and cause additional problems for tenure security. Lowland informal institutions were more resilient than the BPN-administered cadastre, but they suffered greatly from the loss of traditional property markers, of human knowledge surrounding use rights and informal arrangements, and of the overload of inheritance cases.

In the highlands and in some separatist areas, the tsunami had a limited impact. In these areas, formal institutions were largely superficial. Local resistance to statutory law and a lack of implementation capacity meant that statutory laws never supplanted local traditions in rural and conflict-prone areas. Likewise, in urban areas informal (but not always adat) arrangements regarding renters, squatters, and use rights tended over time to undermine the state cadastre's ability to reflect reality. There were many reasons why the state-administered cadastre was unable to make a permanent foothold in Aceh before the tsunami, including the history of colonial legal structures, economic costs of title registration and title maintenance, incompatibly of local customs and national legal systems, and corruption on the part of government officials. Lack of implementation capacity, lack of land markets, the GAM's territorial authority in some areas, and a general resistance to state institutions also impeded the cadastre.

Land tenure security was thought to be important for disaster recovery because it allowed agencies to establish camps and negotiate relocation of refugees, provide basic services, and identify and compensate owners of destroyed property. Furthermore, agencies were able to protect orphans' and widows' property rights, begin reconstructing houses, and mediate land-related disputes (BRR 2005; Fitzpatrick 2005). Encouraging land tenure security was also thought to support peacebuilding. It was argued that it provided the ability to give immediate access to basic and essential services, mediate conflict-related land disputes, resolve land-related grievances, provide land for reintegration of former combatants, and promote long-term goals of good governance and economic development equitable for women as well as men (Harper 2006).

Land tenure security in post-conflict Aceh appeared to be greater than in other post-conflict regions because there were intact village-level customary institutions for land management and because there were no significant secondary occupations of houses, and therefore fewer resettlement issues; no layered history of displacement and dispossession, and therefore fewer competing claims between local groups; and no significant commercial tourism developments on the coasts, and therefore fewer competing claims between commercial and local groups (Fitzpatrick 2005). Because they assumed that conflict-related land issues were minor, policy makers appeared to concentrate almost exclusively on post-disaster issues rather than post-conflict dynamics. The concepts and process were geared toward urban and post-tsunami recovery by a number of factors, including the development focus on urban areas with little international commercial investment, and the lack

of immediate land disputes between communities and households, of conflict-related resettlement problems, and of understanding of the problems of the Indonesian legal framework regarding land and resource access. In fact, understanding how policy makers defined land tenure security is central to understanding how they pursued regional property administration and how this affected disaster recovery, post-conflict stabilization and transition, and long-term development.

Despite the widespread use of adat and the post-conflict resonance of the cultural and political representation of land in separatist struggle, the main emphasis of international donors and national agencies was on expanding the state-administered cadastre. Even before the Helsinki MOU was ratified in August 2005, international donors, INGOs, local activists, BPN, and the National Development Planning Agency (Badan Perencanaan dan Pembangunan Nasional, or BAPPENAS) identified land tenure security as a priority for post-disaster recovery, post-conflict reconstruction, and future regional development (Fitzpatrick 2005; Kenny, Fan, and Palmer 2006; Lindsey and Phillips 2005). In April 2005, the BAPPENAS Master Plan for Rehabilitation and Reconstruction in Aceh and Nias made specific mention of restoring titles and expanding the national land cadastre (BAPPENAS 2005). The BPN-administered land registration project called RALAS became the primary tenure-security program in the region. The goal of RALAS was to facilitate fair processes for land registration, improve state capacity to manage the cadastre, and digitize the cadastre and land register. Mandated to run from August 2005 to August 2008, RALAS was initially financed by a grant of US$28.5 million through the Multi-Donor Trust Fund for Aceh and North Sumatra. RALAS also received technical support from several other donors and INGOs.

As evidenced by early publications and public statements by officials, explicitly underlying the entire project were de Soto's assumptions that freehold title guaranteed by the state was the most secure form of land tenure security, allowed the state to protect individual property rights, gave license to reconstruct buildings, and liberated the "dead capital" of the poor as financial collateral. Additional assumptions have been that freehold title enabled more equitable treatment of women and orphans and permitted the state to mediate conflicting claims and disputes over lands (BRR 2005). However, for critics on the ground, the project's goal of registering 600,000 parcels seemed unrealistic and appeared to be an opportunistic effort to increase state control over lands and to generate new tax revenues.[4] Regardless of the underlying motives, RALAS took laudable steps to lower economic barriers to registration (for example, the Ministry of Finance waived taxes and fees), to incorporate adat through legislative reform, and to implement participatory methods for the delineation of property and adjudication of land claims (Benny, Haroen, and Heryani 2006; Kenny, Fan, and Palmer 2006).

Over time, however, problems surfaced, and the initiative met with limited success. Community-driven adjudication and mapping performed by NGOs and

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[4]   UN-HABITAT personnel, personal communication, Calang, Indonesia, June 11, 2006.

INGOs were not recognized by the BPN as valid for issuing titles; the early consultative communications between NGOs and the BPN ended; state claims over lands in Aceh Jaya and Aceh Besar dispossessed residents; activists from the Aceh Legal Foundation were arrested for assisting villages with claims from the conflict period that identified government dispossession or underpayment for land; and some neighborhoods were partially mapped and registered by the BPN, only to be left without titles (Fitzpatrick 2008; Deutsch 2009). By September 2009, fewer than 120,000 of the intended 600,000 land titles had been issued, with the majority being concentrated in urban areas (Deutsch 2009). Nearly 50 percent of the recipients of title certificates who were interviewed in a large-scale project assessment of RALAS did not feel that the certificate had improved their tenure security (Deutsch 2009).

Likewise, 50 percent of these respondents also recognized that the community demarcation and adjudication activities had not been fair, especially with regard to women's rights, due to the internal power dynamics that dominated such sessions. Not only did RALAS fail to resolve many of the lingering disputes over property, several disputes were caused by errors of land measurement or inadequate recording of ownership information on the titles. There were other issues regarding the government's role in land management, the clarification of land-transmission details, the mistreatment of women's claims to property rights even after issue of the title certificates, and the prospect of future transfer costs and taxes that remained unclear to a large portion of the residents of Aceh (Fitzpatrick 2008; Jalil et al. 2008; Deutsch 2009).

PEACEBUILDING IN ACEH

To what extent has peacebuilding been successful in Aceh? As of late 2011, Aceh appeared to be exiting the post-conflict transition phase and moving toward a consolidation of peace. But even as several grievances and conditions contributing to armed violence have been attended to, some roots of the conflict remain unaddressed. Though it is tempting to look at the current lack of armed violence in Aceh and proclaim peacebuilding success, several measures of peacebuilding progress suggest considering more and broader criteria (Paris 2004; Barnett et al. 2007). Indeed, Damien Kingsbury notes that although armed violence has decreased as a result of the Helsinki MOU and demobilization, disarmament, and reintegration, a commitment to the letter and the spirit of the peace agreement may still not guarantee a sustainable peace in Aceh (Kingsbury 2006). Broad changes in underlying social, political, and economic relations have been and remain necessary for a sustainable peace.

Keeping these changes in mind, this chapter adopts the United Nations Environment Programme's definition of peacebuilding—a definition consistent with peacebuilding approaches that move beyond peacemaking and peacekeeping to focus on transformation of the range of conditions that may lead to violence:

> Peacebuilding comprises the identification and support of measures needed for transformation toward more sustainable, peaceful relationships and structures of governance, in order to avoid a relapse into conflict. The four dimensions of peacebuilding are: socio-economic development, good governance, reform of justice and security institutions, and the culture of justice, truth and reconciliation (UNEP 2009, 7).

A number of organizations have been involved with peacebuilding in Aceh. The peacemaking process and resulting Helsinki MOU required the establishment of the Aceh Monitoring Mission (AMM) to monitor peacekeeping activities. The AMM and the related Commission on Security Arrangements began in September 2005 and ended in December 2006. At that time, the Communication and Coordination Forum for Peace in Aceh and the Commission on the Sustainability of Peace in Aceh took up where the AMM left off. The AMM improved the security situation, but reforms involving the political process and socioeconomic development were being handled by other INGOs and official agencies, such as BAPPENAS, the United Nations Development Programme's Emergency Response and Transitional Recovery Programme, and the International Organization for Migration.

Immediately after the peace deal was concluded, the International Organization for Migration and the World Bank provided support for "socializing the peace" through the Socialization Team, and in February 2006, the government formally established the Aceh Reintegration Board (Badan Reintegrasi-Damai Aceh, or BRA). The Socialization Team played a role in reintegrating some 2,000 former combatants and 400 former prisoners, and the BRA was responsible for economic and social assistance to conflict victims, aid to former combatants and political prisoners, reconstruction help for those who lost property, and compensation for victims and their families. In areas where the tsunami had a heavy impact, the duties of the BRA and the Rehabilitation and Reconstruction Agency (Badan Rehabilitasi dan Rekonstruksi, or BRR) sometimes overlapped. However, because the BRR was focused primarily on infrastructure and on the economic, psychological, and social dimensions of disaster recovery and reconstruction, it did not explicitly examine post-conflict issues or work with conflict victims.

In Aceh, peacebuilding is an ongoing process, with successes achieved over time. Demobilization, disarmament, and reintegration of former combatants, integration of GAM representatives into political parties, local elections in 2006, as well as the implementation of local autonomy with regard to Islamic governance and recognition of Acehnese culture by way of the installation of a ceremonial head of state (*Wali Nanggroe*) are all clear peacebuilding successes. Other achievements include the adoption of an official Acehnese flag and hymn, redistribution of hydrocarbon profits through direct payments and a shared fund, and general implementation of livelihood projects and infrastructure development. All of these successes have attendant problems, but there is general agreement on their positive results.

On the other hand, peacebuilding has been unsuccessful in establishing a Truth and Reconciliation Commission, supporting the Aceh Human Rights Council, equitably distributing reintegration funds, resolving seventeen problematic points

of the Law on the Governing of Aceh, supporting the local government's delivery of basic services, and constructing a long-term peacebuilding plan that includes civil society. Not yet resolved are subprovincial demands to break free from Aceh Province and internal frictions among GAM members who continue to insist on a separatist state. Indeed, former combatants and the Aceh Transitional Committee (Komite Peralihan Aceh) are linked to violent criminal acts, kidnapping, and political intimidation in the region (Center for Domestic Preparedness 2009).

Connections between land tenure security and peacebuilding

Did activities meant to strengthen land tenure security support, create opportunities for, or hinder the success of peacebuilding in Aceh? Land and property rights were mentioned in the 2005 Helsinki MOU, the 2006 Law on the Governing of Aceh, and many post-disaster needs assessments. The effects of the tsunami and conflict on property and land tenure security were qualitatively different and geographically varied. Despite recognition of the geographic variation of local needs and the mention of land and property rights in the peace process, land-tenure security has been addressed primarily through the post-disaster-oriented RALAS project. This section outlines the ways in which land and property rights were addressed in the peace process. It then summarizes the design and implementation of the RALAS project and examines how RALAS and other land-security activities affected peacebuilding.

Land tenure security in the peace process

Article 3.2 of the Helsinki MOU outlines several general activities with regard to land and post-conflict peacebuilding and requires the following:

> 3.2.3: GoI and the authorities of Aceh will take measures to assist persons who have participated in GAM activities to facilitate their reintegration into the civil society. These measures include economic facilitation to former combatants, pardoned political prisoners and affected civilians. A Reintegration Fund under the administration of the authorities of Aceh will be established.

> 3.2.4: GoI will allocate funds for the rehabilitation of public and private property destroyed or damaged as a consequence of the conflict to be administered by the authorities of Aceh.

> 3.2.5: GoI will allocate suitable farming land as well as funds to the authorities of Aceh for the purpose of facilitating the reintegration to society of the former combatants and the compensation for political prisoners and affected civilians. The authorities of Aceh will use the land and funds as follows: a) All former combatants will receive an allocation of suitable farming land, employment or, in the case of incapacity to work, adequate social security from the authorities

of Aceh. b) All pardoned political prisoners will receive an allocation of suitable farming land, employment or, in the case of incapacity to work, adequate social security from the authorities of Aceh. c) All civilians who have suffered a demonstrable loss due to the conflict will receive an allocation of suitable farming land, employment or, in the case of incapacity to work, adequate social security from the authorities of Aceh.

The Law on the Governing of Aceh, passed in 2006, was meant to provide legal follow-through related to the guidelines set out in the Helsinki MOU.[5] Although there are still unresolved complaints about deviations between the Helsinki MOU and the Law on the Governing of Aceh, the latter is currently the main legal foundation for confronting the origins and conditions of conflict in Aceh. Its most relevant sections for land tenure security are several articles from chapters 29 and 39:

XXIX, 213: (1) Every Indonesian citizen who is present in Aceh has right over land in accordance with the stipulation of law. (2) Aceh Government and/or District/city are authorized to regulate and manage the allotment, utilization and legal relationship in relation to the right over land by acknowledging, honoring and protecting the existing rights including the indigenous rights in accordance with the nationally prevailing norms, standards and procedures. (3) Right over land as meant in clause (2) covers the authorities of Aceh Government, District/City to grant right to build and right of exploitation in accordance with the prevailing norms, standards and procedures. (4) Aceh Government and/or District/City are obliged to conduct legal protection towards wakaf lands, religious assets and other sacred needs. (5) Further stipulation regarding the procedure for granting rights over land as meant in clause (1), clause (2) and clause (3) is regulated with Qanun which heeds the stipulation of law.

XXIX, 214: (1) Aceh Government is authorized to grant the right to build and right of exploitation for domestic capital investment and foreign capital investment in accordance with the prevailing norms, standards and procedures. (2) Further stipulation regarding the procedure for the granting of license as meant in clause (1) is regulated with Aceh Qanun.

. . .

XXXIX, 253: The Regional Office of National Land Agency in Aceh Provincial Region and the Office of District/City National Land Agency become Aceh and District/City Regional apparatus at the latest in the beginning of the Budget Year of 2008. (2) Further stipulation regarding the implementation of those meant in clause (1) is regulated by Presidential Regulation.

The Helsinki MOU clearly outlines the government's role in provisioning and replacing property. On the other hand, the Law on the Governing of Aceh

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5   For the complete text of the Law on the Governing of Aceh, see www.aceh-eye.org/ data_files/english_format/indonesia_government/indogovt_decrees/indogovt_decrees _2006_08_01_11.pdf.

is more oriented toward outlining assignment to the Acehnese regional government of responsibility for respecting and protecting property rights. But according to a 2006 World Bank study on GAM reintegration needs, many of the GAM never left their communities, so land for reintegration was a moot point; 55.5 percent of the GAM had access to land, and most of the GAM combatants who were interested in farming were part of this group; most land access was facilitated through family holdings (63.8 percent), individual holdings (24.4 percent), or communal lands (7.4 percent); and land was only an issue for GAM returnees where it was also a disaster or conflict issue for receiving communities (World Bank 2006a). Because the provisions mentioned here apply specifically to former GAM combatant reintegration and because many of the combatants did not need land as part of reintegration aid, the ways in which land and the violent conflict were linked were sometimes ignored or deemphasized.

Reconstruction of Aceh Land Administration System (RALAS) in the peace process

Despite the previous references to land in the peace process, the main vehicle for implementing land tenure security was the disaster-focused RALAS project. RALAS rebuilt land administration offices, offered technical training, digitized cadastres and land records, and restored and expanded the land titles administered by the BPN. In addition, several other agencies were involved in advocating for and supporting property rights and community mapping. Some of the work outside RALAS included the extensive property rights studies performed by or on behalf of Oxfam and the International Development Law Organization, Fauna and Flora International's efforts in community mapping, and United Nations Human Settlements Programme (UN-HABITAT) materials developed to inform the population of their rights and the steps needed to register property. UN-HABITAT materials included a number of educational tools and forms that could serve as temporary statements of property ownership. Although these forms were distributed and occasionally filled out, they had no legal weight as evidence.

Land negotiations with resident communities were undertaken by BPN representatives and NGO and INGO staff to allow entire communities of tsunami refugees to relocate to land far from the coast. Legal assistance increased as mobile Islamic courts deployed primarily to tsunami-affected regions to assist communities that were puzzling through complicated inheritance and guardianship issues.

Human rights activists from the Aceh Legal Aid Institute (LBH-Aceh) played a significant role in distributing property rights materials and assisting victims of land expropriations that occurred during the conflict. LBH-Aceh alleged that during the conflict communities in East Aceh had been forced to sell their land at low prices to the plantation company PT Bumi Flora or, if they resisted the land purchase, be declared part of the separatist movement. These allegations led to the retaliatory July 2007 arrest of eight LBH-Aceh activists and to their August 2008 conviction on charges of "orally or in writing committing a violent

act against the government" and "disseminating hate against the government."[6] This prosecution suggests that property expropriation may be much more prevalent than currently known, but that cases are rarely reported due to the political dynamics in the region.

The RALAS framework adapted official protocols for registering real property to the situation in Aceh. It experimented with community-driven adjudication (CDA), community mapping, and lowering registration costs to facilitate and legitimize the registration process. Registration occurred in several stages: location determination (village selection by the BPN and the BRR), community agreement, measuring and mapping (BPN validation), announcement, filing of rights and issuing of title certificates, and title certificate presentation. Community participation was largely limited to the stage called *community agreement*, wherein members of the community came to agreement regarding the demarcation of the parcel boundaries and recognition of parcel ownership (BPN 2005). The process empowered NGOs and INGOs as community-agreement facilitators, outlined specific types of complaints, and designated the parties to whom complaints should be addressed. In villages that were not selected by the BPN, other programs, such as the "district development program, Program for the Elimination of Urban Poverty, Local Government Innovation Foundation program or UNDP [United Nations Development Programme] or any other BRR endorsed programs" could implement the community-agreement phase (BPN 2005, 7).

Once delineation of property, ownership status, and a sketch of the parcels were agreed upon by the community and its facilitators, the BPN validated the community's work by checking the juridical and physical evidence on boundaries, ownership, and land types. In principle these participatory processes were meant to legitimize and expedite registration, but BPN staff would sometimes repeat mapping exercises because of inconsistencies between the participatory processes and the BPN's internal regulations or inconsistencies between the BPN's existing land register, the 80 percent of damaged titles returned to Aceh, and participatory mapping results (Fairall 2008; Deutsch 2009). Results of the BPN validation were publicly announced for thirty days, during which objections to any of the data could be presented. After this period, the title certificates were to be registered and issued by the BPN office and then presented through the adjudication committee to land owners.

All titles were registered in and issued from Jakarta. Unfortunately, the reliance on Jakarta to issue the titles caused delays in title distribution and sometimes resulted in changes to the boundaries outlined in participatory mapping (Fairall 2008). All titles registered through this processes were integrated into an electronic land information system to avoid future loss and to facilitate government management. The project also took steps to establish and protect women's and children's rights regarding inheritance, custodianship, and ownership of land. It did so by requiring

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[6] Indonesian Penal Code, arts. 160 and 161.

women's participation in community adjudication and by outlining clear standards for custodianship and joint titling. In December 2008 all land administration duties were transferred from Jakarta to the Acehnese regional government.

RALAS certainly had positive effects, including the training of nearly 700 NGO facilitators and 500 BPN staff in CDA mapping methods, the establishment of new land offices, the clarification of property rights in urban areas, and the introduction of a digital cadastre (Deutsch 2009). But there were several criticisms of the RALAS process. These criticisms revolved mainly around choices in the targeting of communities, the exclusion of certain community segments, the irrelevance of the registration process to the cultural milieu, the ambiguity of the Indonesian legal framework concerning traditional and informal land and forest tenure, and the bureaucracy and corruption of the BPN. These criticisms can be generalized to land registration in the rest of Indonesia, but in Aceh there were additional conflict-related problems that undermined the process. The BPN was also responsible for implementing similar cadastral programs throughout Indonesia in its Land Management and Policy Development Project, but RALAS was unique to Aceh. Comparison of RALAS in Aceh to the Land Management and Policy Development Project throughout Indonesia shows that RALAS was much less effective than could be expected (Fairall 2008). World Bank staff and an Australian consultant attribute the differing results to a "mix of poor leadership, corruption and mistrust of the process by local land owners. Aceh has been in almost perpetual rebellion against Jakarta since colonial times, so this is not surprising" (Fairall 2008).

Although official recognition of the limited success of RALAS usually identifies bureaucratic bottlenecks and limited capacity on the ground as the main hurdles, there were clearly a number of other cultural, economic, and political disincentives to titling, which have been identified in this chapter. It seems that the policy makers focused on post-disaster issues because there was a lack of intra-communal disputes, state institutions, and immediate conflict-related problems with post-conflict resettlement. In terms of the symbolic value of land and trust in national government, the post-conflict land problems in Aceh were similar to land registration hurdles in many other post-conflict countries. If taken into consideration, these problems may have altered the way in which land registration was performed and land tenure security conceived in Aceh. Indeed, the assumption that instituting a state-administered land cadastre in a separatist region simply requires community participation and lowering of economic disincentives is naive at best and ideological at worst: naive in that many of the aid agencies and international consultants framed property rights as a post-disaster issue due to their lack of experience in post-conflict situations, and ideological in that this assumption is the result of overextending de Soto's ideas regarding formalization of property rights to rural and post-conflict scenarios. While de Soto's theory was used to justify RALAS, his theory was developed for peri-urban and urban communities (not rural land) and has been widely criticized for its failure to recognize specific political, geographic, cultural, and social dynamics regarding property rights. Despite

the fact that RALAS identified ways for the community to participate in and to lower cost disincentives for land registration, the working concept of land tenure security and the goal of land registration themselves need to be reevaluated.

The RALAS emphasis on state land registration for tenure security is understandable from the standpoint of disaster recovery and international financial investment, but it ignores the post-conflict situation, strong existing tenure systems, local perceptions regarding the legitimacy of the Indonesian state, and contradictions in the national legal framework that weaken recognition of customary resource practices in a context of legal pluralism. Without a better grasp of the disincentives to land registration and the specific needs of different geographic areas, the RALAS program was bound to be only partially successful in its aims to increase tenure security through registration.

Despite all this, RALAS was necessary for increasing tenure security in some urban and tsunami-affected areas. Likewise, whether or not RALAS succeeded in increasing tenure security and issuing titles, the RALAS process and activities regarding property administration may have affected peacebuilding. Land tenure security was often mentioned as the foundation of the post-conflict society in Aceh, but the ways that property registration affected land tenure security and peacebuilding remain an open question. Did formal land registration provide tenure security? Did the process assist or hinder the restoration of basic needs and essential services, economic development and sustainable livelihoods, reconciliation, good governance, the reintegration of combatants, or the return and resettlement of refugees?

Basic needs and essential services

Although GAM reintegration did not require formal land-registration processes, the reconstruction of houses for many of the 500,000 tsunami refugees depended on RALAS. The tsunami affected urban areas where land markets existed and where informal practices and agreements were not as clear to survivors as the adat practices were in rural areas. Likewise, international organizations were not equipped to deal with local tenure systems. INGOs and donor agencies often required clear title in order to build new homes on land parcels. The emphasis of UN-HABITAT and others on providing some sort of temporary evidence of possession—even if not legally binding—assisted with the process of providing housing.

RALAS was not oriented toward rebuilding conflict-damaged property, and the BRA may have caused more problems than it resolved with its conflict-damage and victim-compensation schemes, but we need to consider what might have happened to the peace process if formalization of landholdings had not been performed in urban and tsunami-affected areas. Would the peace process have progressed if RALAS did not exist? Although there were problems—including riots in 2005 and 2006 directed at the BPN and the BRR for not moving fast enough to provide shelter and title—RALAS work paved the way for tsunami-refugee shelter and, one could argue, helped prevent a relapse of violent conflict.

Evidence indicates that formalizing property rights was central to improving access to shelter and played a role in equitable distribution of aid. Claims backed by formal title allowed compensation for statutorily recognized property owners that often exceeded that paid to renters and others lacking formal titles. Also, the allocation of emergency housing and the rate at which neighborhoods could be rebuilt were contingent on the ability of groups to either prove their property claims with formal title or implement the RALAS titling procedures. In these ways, formalization of property rights helped prevent serious political backlash that could have derailed peacebuilding.

Economic development and sustainable livelihoods

In Aceh the RALAS project and formal property rights were explicitly linked to the ability to invest in land and to mortgage land to gain access to financial resources. Indeed, the BRR, politicians, and international organizations cited de Soto's problematic theory of land registration for empowering the poor as one of the main justifications for the RALAS project (BRR 2005). But despite anecdotal evidence of businesspeople in Banda Aceh and other urban areas mortgaging their land, most of the people in Aceh have alternative means to access temporary financial assistance—through social networks or arrangements involving, for example, cooperatives, forward sales of crop harvests, or mortgages on vehicles.

These arrangements are typically preferable for most of the poor and rural areas where communities do not want to risk the main source of their livelihoods or well-being (their land or homes) and cannot extract land that is embedded in social relations and obligations. Several bank representatives have expressed hesitation at taking land as collateral even if it is formally titled because the social relations and legal framework surrounding the land may limit its use and because it is difficult to value rural lands where there is no developed market. Robert Deutsch reported that "within the study sample, only about 2.5% of respondents reported accessing credit from commercial banks prior to receiving RALAS land titles, while nearly 7% took bank loans after the receipt of titles" (Deutsch 2009, 43). However, he notes, the small sample size does not account for such factors as a possible increase in investment and the lowering of collateral standards in the region due to the end of the conflict; nor did the study focus on areas where land markets already existed. There are plenty of examples of how formal registration has allowed investment in urban areas, but there is no clear evidence that livelihoods required formal land title or that the process of registering land has allowed the poor to access more resources or has encouraged international investment to the benefit of the peacebuilding process.

Reintegration of combatants and return and resettlement of refugees

Reintegration of GAM combatants was able to take place independently of the efforts to formally register land titles (World Bank 2006a). Most of the GAM

accessed land through its communal adat networks and did not need to be relocated onto land with formal title in order to gain tenure security. Where formal title could help was in payment for property damage inflicted during the twenty-nine-year conflict and in resolution of land disputes between communities and government agencies. Communities that were forced to move or sell their land under threat during the conflict are refugees or have experienced violation of their property rights. When groups such as LBH-Aceh have supported communities with claims against the government, the allegations led to activists being severely punished. Publicized disputes with several communities over government-claimed land, local acknowledgment that lands had been taken but an absence of a climate deemed appropriate for pursuing these claims, the punishment of LBH-Aceh, and the ongoing political and personal violence in the region indicate that a minefield of conflict-related property claims still needs to be addressed.

Reconciliation

At a minimum, reconciliation with the government should address the different experiences of former GAM combatants versus those of local communities. Did the RALAS land titling process bring the GAM and the GOI into a cooperative relationship? Did it provide an avenue for resolution of local grievances with the government? The answer to the first question is outlined in the tax structure and the Law on the Governing of Aceh: land registration was a cooperative governance project, and it will establish a source of revenue to be shared between the GOI and the Aceh Party (formerly the GAM), which now runs local politics.

The community-driven adjudication process—where it was desired by the community and was successfully implemented—certainly built confidence in the capacity of the GOI to undertake projects with the locals' well-being in mind. Cynicism regarding the real reasons for land titling and the utility of the land titling process could be overcome where the community-driven process was meticulously followed and where local power dynamics were amenable to it. However, due to problems with implementation and local disincentives to registration, this process often failed to provide reconciliation between local communities and the government.

GOOD GOVERNANCE

By emphasizing participation, transparency, accountability, and monitoring, the land titling project in Aceh promoted positive principles of good governance. Moreover, it built capacities within communities to interact with the government, created digital systems (land cadastres and evidence) that were less susceptible than earlier recordkeeping systems to corruption, decentralized powers by transferring some of them to local political authorities, and provided alternative avenues for dispute resolution through BPN-appointed facilitators. What RALAS and the regional focus on property administration could not do was change the substantive

content of the rule of law by clarifying the ambiguous national legal framework regarding communal tenure and transitions of legal rights between adat and statutory systems. But promotion of local capacity and principles of good governance helped the peace process by encouraging responsible governance.

LESSONS LEARNED

The implementation of the RALAS land titling project in Aceh presents us with many lessons about post-conflict development and property administration. The RALAS project indirectly supported peacebuilding by supporting the meeting of basic needs and the delivery of essential services such as shelter, and by providing opportunities for reconciliation and good governance. But there was little real connection between land titling, on the one hand, and economic development, sustainable livelihoods, reintegration of combatants, or resettlement of conflict refugees, on the other. Ultimately, the project missed several opportunities to support peacebuilding and was itself limited by its lack of consideration of the conflict's effects on political, social, and economic relations surrounding land. Unique aspects of the Aceh conflict led experts to detach land titling from problems of violent conflict and to associate it more with tsunami refugees and tsunami damage. The success of the land titling project depended on the legitimacy of state institutions, adequate legal frameworks, understanding of local power dynamics, and accurate identification of incentives and disincentives to registration.

A number of lessons from Aceh might be generalized to other post-conflict situations. For example, in complex political emergencies, development programs should be wary of categorizing programs as post-disaster while conflict dynamics are still relevant. Specifically, it should never be assumed that land is free of cultural and political value or that all disputes between individuals or between individuals and institutions are openly presented in post-conflict scenarios.

Also, transparency, accountability, community participation, and monitoring can promote confidence in the process of adjudication and demarcation of property. Legal and financial accountability within the government hierarchy should be clearly established at the earliest possible date in order to prevent bureaucratic tension or hesitations in implementation. Likewise, the establishment of an independent monitoring institution and of requirements for regular disclosure can be more efficient and effective than reliance on existing institutions to self-police or monitor other institutions.

Furthermore, integrating INGOs and NGOs into government extension regarding property or the provision of essential services requires a clear legal framework. Time-limited and renewable laws can be issued by executive order to allow an immediate legal framework for such activities. The allocation of financial resources for land registration should be goal-oriented instead of time-oriented; there should be no expiring budgets that must be immediately used. There must also be clarification of the legal status of informal practices regarding property rights before property-registration programs are undertaken.

Where informal or deeds-based systems are functioning, it is not necessary to immediately convert all land to a state-administered, centralized title system. Titling should be locally evaluated instead of broadly applied.

Finally, the use of social tenure domain models or simple registers that do not specify legal boundaries of property but allow institutions to build records of community locations may be better suited to financial limits and community needs in post-conflict transitions. Community participation in land demarcation and adjudication should be preceded by community-led assessment of needs and should identify methods of integrating women and members of minority groups into public forums that are more effective than simply mixing them with men and members of dominant groups.

In summary, a lack of consideration of conflict dynamics can lead to in-appropriate timing and location of and methods for implementing land tenure security programs for peacebuilding. Although there were approaches that could have strengthened tenure security in Aceh while respecting the dynamics of communal property and factors surrounding violent conflict, alternatives to RALAS were never explored (Baranyi and Weitzner 2006). For example, an approach that did not focus on individual titles but that provided communities with communal title and with clear guidelines for internal dispute resolution and interaction with investors or aid agencies could have been less costly and more capable of meeting the demands of INGOs and NGOs, and could have allowed individual tenure security to remain flexible. Such an approach would also have had drawbacks, but it would have been more in line with a gradual, less confrontational strategy of land titling, and it would have been sensitive to post-conflict relations among individuals, communities, and the state.

REFERENCES

Aspinall, E. 2007. The construction of grievance: Natural resources and identity in a separatist conflict. *Journal of Conflict Resolution* 51 (6): 950–972.

BAPPENAS (Badan Perencanaan dan Pembangunan Nasional). 2005. *Master plan for the rehabilitation and reconstruction of the regions and communities of the Province of Nanggroe Aceh Darussalam and the Islands of Nias, Province of North Sumatra.* Jakarta.

Baranyi, S., and V. Weitzner. 2006. *Transforming land-related conflict: Policy, practice and possibilities.* Ottawa: International Land Coalition and the North-South Institute.

Barnett, M., H. Kim, M. O'Donnell, and L. Sitea. 2007. Peacebuilding: What is in a name? *Global Governance* 13 (1): 35–58.

Benny, H. Z. A., T. S. Haroen, and E. Heryani. 2006. Post-tsunami land parcel reconstruction in Aceh: Aspects, status and problems. Paper presented at XXIII FIG Congress, Munich, Germany, October 8–13.

Blomley, N. 2003. Law, property, and the geography of violence: The frontier, the survey, and the grid. *Annals of the Association of American Geographers* 93 (1): 121–141.

Bowen, J. R. 2003. *Islam, law, and equality in Indonesia: An anthropology of public reasoning.* Cambridge, UK: Cambridge University Press.

BPN (Badan Pertanahan Nasional). 2005. *Manual of land registration in the affected tsunami areas at Nanggroe Aceh Darussalam and Sumatra Utara: Reconstruction of Aceh Land Administration System (RALAS)*. Jakarta.

BRR (Badan Rehabilitasi dan Rekonstruksi). 2005. Aceh and Nias one year after the tsunami. In *One year report*, Executing Agency of the Rehabilitation and Reconstruction Agency for Aceh and Nias. Banda Aceh: Rehabilitation and Reconstruction Agency for Aceh and Nias.

Burke, A., and Afnan. 2005. Reconstruction in a conflict environment: Views from civil society, donors, and NGOs. In *Indonesian social development,* ed. P. Barron and L. Ashari. Jakarta: Department for International Development.

Burns, P. 2004. *The Leiden legacy: Concepts of law in Indonesia.* Leiden, Netherlands: Koninklyk Instituut Voor Taal Land.

Center for Domestic Preparedness. 2009. Aceh conflict monitoring update for December 2008–February 2009. In *Aceh conflict monitoring update*. Jakarta: World Bank.

Collier, P., and A. Hoeffler. 2004. Greed and grievance in civil war. *Oxford Economic Papers* 56 (4): 563–595.

Collier, P., A. Hoeffler, and D. Rohner. 2009. Beyond greed and grievance: Feasibility and civil war. *Oxford Economic Papers* 61 (1): 1–27.

de Soto, H. 2000. *The mystery of capital: Why capitalism triumphs in the West and fails everywhere else*. New York: Basic Books.

Deutsch, R. 2009. Indonesia Reconstruction of Aceh Land Administration System (RALAS) project: Project implementation and beneficiary assessment, 2008. Banda Aceh: Multi-Donor Trust Fund, World Bank.

Drexler, E. F. 2008. *Aceh, Indonesia: Securing the insecure state*. Philadelphia: University of Pennsylvania Press.

Elyachar, J. 2005. *Markets of dispossession: NGOs, economic development, and the state in Cairo*. Durham, NC: Duke University Press.

Eye on Aceh. 2009. *Challenges of forest governance in Aceh.* Banda Aceh.

Fairall, J. 2008. The aftermath. *ASM Magazine*, April 8.

Fauzi, N. 2009. Land titles do not equal agrarian reform. *Inside Indonesia* 98.

Fitzpatrick, D. 2005. *Restoring and confirming rights to land in tsunami-affected Aceh.* Oxfam / United Nations Development Programme. http://atdr.tdmrc.org:8084/jspui/bitstream/123456789/9479/1/20050714_Rights_Land_Tsunami_Aceh.pdf.

———. 2008. Women's rights to land and housing in tsunami-affected Aceh, Indonesia. Asia Research Institute Working Paper No. 3, ed. A. Reid, B. Nowak, P. Daly, and M. Feener. Singapore: Asia Research Institute / Oxfam International.

Gaillard, J.-C., E. Clave, and I. Kelman. 2008. Wave of peace? Tsunami disaster diplomacy in Aceh, Indonesia. *Geoforum* 39 (1): 511.

Green, A. 2008. Land title questions in Aceh. Paper presented at American Association of Geographers Annual Conference, Boston, April.

Harper, E. 2006. *Guardianship, inheritance and land law in post-tsunami Aceh*. Rome: International Development Law Organization.

Home, R. K., and H. Lim. 2004. *Demystifying the mystery of capital: Land tenure and poverty in Africa and the Caribbean*. London: Glasshouse Press.

Jalil, A., D. Silalahi, G. J. Aditjondro, S. K. Tarigan, Jufriadi, and Darmawan. 2008. The World Bank–financed Reconstruction of Aceh Land Administration System (RALAS). Medan, Indonesia: International NGO Forum on Indonesian Development. www.scribd.com/doc/24157433/working-paper-Penelitian-tentang-RALS-di-Aceh.

Kahler, M., and B. F. Walter. 2006. *Territoriality and conflict in an era of globalization*. Cambridge, UK: Cambridge University Press.

Kecamatan Development Program. 2007. *2006 village survey in Aceh: An assessment of village infrastructure and social conditions*. Jakarta: Ministry of Home Affairs Community Development Office.

Kenny, S., L. Fan, and R. Palmer. 2006. The tsunami two years on: Land rights in Aceh. Briefing note. London: Oxfam International.

Kingsbury, D. 2006. *Peace in Aceh: A personal account of the Helsinki peace process*. Jakarta: Equinox.

Le Billon, P., and A. Waizenegger. 2007. Peace in the wake of disaster? Secessionist conflicts and the 2004 Indian Ocean tsunami. *Transactions of the Institute of British Geographers* 32 (3): 411–427.

Li, T. M. 2001. Masyarakat adat, difference, and the limits of recognition in Indonesia's forest zone. *Modern Asian Studies* 35:645–676.

Lindsey, T., ed. 2008. *Indonesia, law and society*. 2nd ed. Leichhardt, NSW, Australia: Federation Press.

Lindsey, T., and R. Phillips. 2005. Inheritance, guardianship, and women's legal rights in post-tsunami Aceh: The interaction of Syariah, adat and secular laws. Report to International Development Law Organization. December.

McCarthy, J. F. 2006. *The fourth circle: A political ecology of Sumatra's rainforest frontier*. Stanford, CA: Stanford University Press.

———. 2007. The demonstration effect: Natural resources, ethnonationalism and the Aceh conflict. *Singapore Journal of Tropical Geography* 28 (3): 314–333.

Moore, D. S. 2005. *Suffering for territory: Race, place, and power in Zimbabwe*. Durham, NC: Duke University Press.

Morse, B. W., and G. R. Woodman. 1988. *Indigenous law and the state*. Dordrecht, Netherlands: Foris.

Nessen, W. 2006. Sentiments made visible: The rise and reason of Aceh's national liberation movement. In *Verandah of violence: The background to the Aceh problem*, ed. A. Reid. Singapore: Singapore University Press.

Otto, J. M. 2009. Rule of law promotion, land tenure and poverty alleviation: Questioning the assumptions of Hernando de Soto. *Hague Journal on the Rule of Law* 1 (1): 173–194.

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

Peluso, N. 2005. Seeing property in land use: Local territorializations in West Kalimantan, Indonesia. *Geografisk Tidsskrift* 105 (1): 1–15.

Reid, A. 2006. *Verandah of violence: The background to the Aceh problem*. Singapore: Singapore University Press.

Renner, M. 2013. Post-tsunami Aceh: Successful peacemaking, uncertain peacebuilding. In *Livelihoods, natural resources, and post-conflict peacebuilding*, ed. H. Young and L. Goldman. London: Earthscan.

Sait, S., and H. Lim. 2006. *Land, law and Islam: Property and human rights in the Muslim world*. London: Zed Books.

Schulze, K. 2007. GAM: Indonesia, GAM, and the Acehnese population in a zero-sum trap. In *Terror, insurgency, and the state: Ending protracted conflicts*, ed. M. Heiberg, B. O'Leary, and J. Tirman. Philadelphia: University of Pennsylvania Press.

Scott, J. C. 1998. *Seeing like a state: How certain schemes to improve the human condition have failed*. New Haven, CT: Yale University Press.

Smith, R. E. 2003. Land tenure reform in Africa: A shift to the defensive. *Progress in Development Studies* 3 (3): 210–222.

Sowerwine, J. 2004. Territorialisation and the politics of highland landscapes in Vietnam: Negotiating property relations in policy, meaning and practice. *Conservation and Society* 2 (1): 97–136.

Transparency International. 2011. Corruption perceptions index 2011. Berlin, Germany. http://cpi.transparency.org/cpi2011/results/.

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.

Unruh, J. D. 2003. Land tenure and legal pluralism in the peace process. *Peace and Change* 28 (3): 352–377.

USAID (United States Agency for International Development). 2005. *Land and violent conflict: A toolkit for programming*. Washington, D.C.

World Bank. 2006a. GAM reintegration needs assessment: Enhancing peace through community-level development programming. Washington, D.C.

———. 2006b. Indonesia: Reconstruction of Aceh Land Administration System (RALAS). Washington, D.C.

———. 2008. Aceh poverty assessment 2008: The impact of the conflict, the tsunami, and reconstruction on poverty in Aceh. Jakarta.