

LAND AND CONFLICT

Executive Summary

Natural resources and conflict

Conflict arises when two or more groups believe their interests are incompatible. Conflict is not in itself a negative phenomenon. Non-violent conflict can be an essential component of social change and development, and is a necessary component of human interaction. Non-violent resolution of conflict is possible when individuals and groups have trust in their governing structures, society and institutions to manage incompatible interests.

Conflict becomes problematic when societal mechanisms and institutions for managing and resolving conflict break down, giving way to violence. Societies with weak institutions, fragile political systems and divisive social relations can be drawn into cycles of conflict and violence. Preventing this negative spiral and ensuring the peaceful resolution of disputes is a core interest of the international community. The challenge for UN, EU and other international actors is to promote positive social transformation, while mitigating the risks and potential impacts of violent and damaging conflict.

Environmental factors are rarely, if ever, the sole cause of violent conflict. However, the exploitation of natural resources and related environmental stresses can be implicated in all phases of the conflict cycle, from contributing to the outbreak and perpetuation of violence to undermining prospects for peace. This Guidance Note accordingly focuses on the role of natural resources in triggering, escalating or sustaining violent conflict. Its aim is to provide practical guidance on the role that the UN and EU can play in early warning and assessment, structural conflict prevention (long-term measures) and direct conflict prevention (short-term measures). It is meant to provide a combination of strategic advice and operational guidance, as well as to unite existing tools and guidance under a single framework.

Land and conflict

The role of land and natural resources in conflict is attracting increased international attention due to the changing nature of armed conflict and as a result of a variety of longer-term, global trends. This Guidance Note provides policy and programmatic guidance to UN and EU officials confronted with land related grievances and conflicts.

Land and natural resource issues are almost never the sole cause of conflict. Land conflicts commonly become violent when linked to wider processes of political exclusion, social discrimination, economic marginalization, and a perception that peaceful action is no longer a viable strategy for change.

Land issues readily lend themselves to conflict. Land is an important economic asset and source of livelihoods; it is also closely linked to community identity, history and culture. Communities, therefore, can readily mobilize around land issues, making land a central object of conflict.

Addressing land grievances and conflicts is fundamental to creating sustainable peace. International assistance should prioritize the early and sustained engagement in land issues as part of a broader conflict prevention strategy. Such early attention can reduce the human, economic, social, environmental costs of conflict.

Land, conflict and international assistance: a framework for analysis and action

Land conflicts tend to be dynamic: the relationship between land and conflict often changes over time. Violent conflict may co-exist with peace-making efforts and can even contribute to the creation of new grievances after a peace agreement.

Similarly, international support to manage land-related conflict must be flexible. In conflict contexts, for example, conflict management strategies should be complemented by negotiation, state-building and on-going conflict prevention strategies.

The Guidance Note presents a framework to understand the relationship between land, conflict and international action at different stages of conflict and includes broad strategies to guide international support at different stages of the conflict cycle:

Addressing land issues in the conflict cycle

- Even during periods of relative stability, latent **grievances** may exist, often related to access to land or insecurity of tenure. Even in the absence of open conflict, many statutory land institutions in developing countries are weak, often serving only the needs of the elite. The authority of traditional institutions, where they exist, may be weak or perceived to be self-serving; in many cases, informal institutions may emerge to meet the land needs of local populations. Fundamental reforms may be required. At this stage, however, there may be a reluctance to recognize and address the potential for latent land-related grievances to become violent. International experience shows that this can be a costly mistake.
- In periods of **insecurity**, land related disputes can turn increasingly violent and may result in some population displacement. Land grievances may be linked to broader security, livelihood, political and identity issues. At this stage, leadership, land institutions and the quality of land governance will have a significant impact on whether disputes are transformed into violent conflict. International assistance should focus on monitoring and rapidly addressing land-related conflicts within a broader strategy of conflict prevention.
- Situations of open **conflict** are characterized by large-scale population displacements. Abandoned land is occupied, sometimes out of necessity or in good faith, at other times as part of an orchestrated plan to change the ethnic composition of territory. Natural resources are often used to fund conflict, introducing new economic and political incentives that may change the rationale for conflict. State and customary institutions will further weaken or collapse. International support should focus on providing humanitarian assistance, and should also include efforts to monitor and protect housing, land and property rights within and overall strategy to regulate and manage land-related crises.
- Land issues may be included in **peace negotiations and agreements** and U.N. peace missions. Often, the focus of negotiators is on the broader issues of disarmament, elections and constitution-making. The implementation mechanisms related to land issues are often left rather vague. As a result, experience suggests, land-related clauses may go unimplemented. Where they are established, UN peace missions have tended to treat land issues unevenly, with many housing, land and property issues left unaddressed. This has often proved to be a mistake.

- The immediate **post-conflict** period is often characterized by evictions, a surge in land-related conflicts as scores are settled and as loyalty is rewarded with irregular land allocations. Competition between land institutions, poor coordination among development partners, and a lack of accurate and timely land-related information create a confusing and unaided institutional environment. A comprehensive and systematic approach to land grievances and conflicts can contribute to broader objectives of economic growth, poverty reduction, rule of law and good governance.

A critical gap: systematic approach to land grievances and conflicts

While international understanding of the relationship between land and conflict is improving, a critical gap remains in implementing a systematic approach to land grievances and land conflicts.

A systematic approach includes three basic components: (i) understanding and addressing both immediate land-related conflicts as well as underlying grievances; (ii) developing and implementing a comprehensive institution- and capacity building strategy; (iii) monitoring, evaluating and learning from system results.

A systematic approach to land grievances and conflicts can contribute to the following results: enhanced attention to immediate disputes as well as the underlying structural causes of conflict; improved coordination amongst diverse actors engaged in dispute resolution – traditional leaders, local governments, courts, police and security forces, and national political leaders; increased likelihood that small disputes can be brought to a conclusion before they escalate to more serious conflicts; greater contribution to good governance, rule of law and the achievement of a wide range of social, economic and peace-building objectives.

Common land challenges and potential responses

The Guidance Note offers specific guidance to common land related challenges that often require urgent attention in conflict contexts.

- The need to provide **humanitarian assistance** often requires access to land for camps, livelihoods, roads, schools, clinics, etc. Without understanding the underlying land rights, humanitarian action may: risk compromising its principles of neutrality; undermine the effectiveness of response programmes; and, in the worst cases, exacerbate tensions and endanger the lives of communities or field personnel. Clarifying local land rights and livelihood strategies, developing a land inventory, and providing settlement planning support are some of the practical measures that can be taken to ensure land rights are protected.
- **Displacement** often results in land being abandoned and occupied by others. Unraveling the history of secondary occupation may require: the use of satellite information; the acceptance of alternative forms of evidence, including oral testimony; third-party dispute resolution support; information and legal aid programmes; etc.
- Access to land and security of tenure are critical to facilitating the **return of displaced populations**. Return should be undertaken based on the full range of durable

solutions: return to place of origin, local integration and relocation to a third location as and where appropriate. Support for return should also ensure that the needs of the 'receiving' community are also met.

- **Restitution** of land rights is internationally recognized as the preferred option to restoring land rights after conflict. In the case of historical land-related grievances or protracted conflicts involving multiple waves of displacement, great care must be taken to avoid legitimizing past injustices or creating new injustices. Recent practice suggests that restitution is most effectively applied in contexts in which there is sufficient land to accommodate increased demands; safety and security for populations; national coverage by a reliable land records systems, limited overlapping rights and claims, and sufficient technical and financial resources to address restitution issues comprehensively.
- There may be a need to undertake more fundamental **land reform** to address the structural causes of conflict, such as unequal access to land or land concentration. Whether 'market assisted' or 'government-led,' land reform requires sustained political consensus, financial commitment and measures to mitigate the risks associated with such reforms.
- Governments and development partners must **reconcile economic growth with security of tenure** priorities. Reviewing previous concessions, linking security of tenure to investment promotion, and wealth-sharing agreements are some practical measures to be considered.
- Securing land rights in **informal settlements** can be achieved through: anti-eviction declarations and laws; providing short-term lease rights without compromising the government's long-term development rights; mitigating the risk of gentrification through group tenures; and through various land-sharing and land readjustment programmes.
- Legal reforms to protect **women's land and property rights** must be complemented by other initiatives including: information and awareness campaigns; legal aid; monitoring and addressing disinheritance; and, promoting the joint-registering of land rights.
- The mobile livelihoods of **pastoralists** require access to territory, not individual parcels. Promoting 'open border' models of overlapping land rights, strengthening traditional dispute resolution mechanisms, and shared management of 'common resource pools' such as forests, grazing lands water points can all contribute to peaceful co-existence.
- **Policy, legal and institutional reforms** should be implemented in an incremental, conflict sensitive and coordinated approach. There may be a need to rescind discriminatory law, develop ad hoc policies and laws to address specific challenges – population returns, informal settlements, concessions, etc. – prior to more fundamental reforms such as the development of a comprehensive land policy or deciding on the future land administration system.

Strategies to support a systematic approach to land grievances and disputes

Several cross-cutting strategies can enhance development partner support for a systematic approach to land grievances and conflicts. These include: regular **assessments and conflict analysis** at different stages of conflict to understand the impact of conflict on land tenure and institutions; strengthening **coordination** – within government, among development partners, and between development partners and the government – to ensure coherent and sustained support to the land sector.