

June 28 – July 1, 2010  
Siem Reap, Cambodia

**Political Economy Of Land Access And Control Over Natural And Land-Based  
Resources:  
A Means For Conflicts Prevention And Management?**

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*This paper has been prepared for presentation at the CAPRI Workshop on Collective Action, Property Rights, and Conflict in Natural Resources Management. The present version has not undergone review.*

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*Perennial and violent family, ethnic, tribal, national and regional conflicts are land-related, particularly the struggle for access to and control over land and its natural resources. Preventing and managing land-related conflicts requires securing land rights for all beyond property rights. The paper takes the view that access to and control over land-based resources for the majority will need the adoption of a 'continuum of land rights' approach that recognizing the variety of land access mechanisms and practices which are legitimate and enforceable. Further the approach takes into account the range of land rights are managed and administered by a web of interests with various power arrangements and governance structures. This paper takes the land governance perspective to land conflicts, particularly the governance of natural resources. We adopt the definition of the FAO/UN-Habitat publication (2009) which refers to the rules, processes and structures through which decisions are made about access to and use of land, the manner in which the decisions are implemented and enforced, and most importantly, the way that competing interests in land are managed. Using the land governance approach, the paper focuses on power and the political economy of property rights as well as land access, use and transfer. In doing so and looking specifically on conflicts over natural resources, the paper uses empirical evidence from a range of Sub-Sahara African countries to address questions such as: who has access, who does not? Whose rights are secure, whose are not? Who participates in decision making? How are conflicting interests resolved? How are agreements enforced? Who gets to use the land and who gets the revenue streams from its use? A particular attention is paid the gender dimension of conflict, again from a power and access perspective. The paper ultimately proposes that understanding and managing power relationship is critical for land conflicts preventions and resolution.*

*Keywords: Continuum of land rights, land access, humanitarian, gender, land management, political economy, land governance, and Sub-Saharan Africa.*

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## **1. INTRODUCTION**

Access to land and control over land-based resources, securing land rights beyond property rights for all are on the critical path of preventing and managing land-related conflicts. Often, perennial and violent family, ethnic, tribal, national and regional conflicts are land-related, particularly the struggle for access to and control over land and its natural resources (e.g. minerals, water, pasture, timber, diamonds, and oil). Without secure land rights, people are unable to play a full part in society, citizenship is restricted and exclusion grows. The more people are unable to conform to official norms and procedures, the more their status is undermined. Excluding large sections of the population from legally secure access to land generates alienation; it also discourages respect for the rule of law, which can surface in various forms of anti-social behavior, with a range of costs and problems involved.

This paper will focus on how socially acceptable tenure systems within a whole continuum of land rights approach can contribute to prevent and manage land-related conflicts. In so doing, the paper will address issues such as gender, equity, governance of land natural resources, conflicting tenure systems (e.g. customary versus statutory), and unclear tenure arrangements. The paper will acknowledge that in many societies, access to land and/or natural resources is seen as a crucial element of cultural identity and power

distribution. The paper will also touch on the social problems linked to inequitable and skewed land distribution and associated economic opportunities tend to lead to conflicts. The paper strives to make the point that securing land rights (not only property rights) will have a positive bearing on promoting social stability by reducing uncertainty and conflicts over land; mitigating the insecurity, reducing unemployment, displacements, poverty and social exclusion associated with non-documentable land users, landlessness and homelessness. Taking examples from Sub-Saharan African countries, the paper will also demonstrate that contested access to land and natural resources has also been a factor underlying armed and violent conflicts and territorial disputes in the region. Drawing evidence from other research, the paper will also argue that when women enjoy equal rights, conflicts are reduced and household living conditions are enhanced, thus contributing towards poverty reduction.

Reflecting on some Sub-Saharan Africa countries such as Sudan (Darfur), Uganda, Kenya, Democratic Republic of Congo and Burundi, the paper will demonstrate that addressing land rights and promoting equitable access to and use of land are the cornerstones for preventing (at least mitigate) land-related conflicts, political instability and disasters. Unresolved long-running land grievances that can arise when certain groups and individuals are alienated or excluded from land and their resources they consider to be rightfully theirs often lead to perpetual circle of humanitarian assistance. It will be argued that addressing the issue of access to land and control over land-based resources will go a long way in finding the lasting solutions to humanitarian and development response to land conflicts. Analyzing instances of conflicts, the paper will show that reconstruction efforts should not overlook issues of land access for refugees, returnees and displaced people. Rebuilding reliable land institutions and establishing legitimate and equitable land policies after violent conflicts are critical to avoid the perpetuation of conflicts (UN-Habitat, 2009). Conflicts over land rights between family members or different ethnic, social or generational groups can lead to communal violence, economic instability and war. Finally, to address the important issue of how to manage more effectively the complex issue of land and property conflicts, the paper will suggest that, where possible, land policies must guarantee secure land rights to competing interest groups in an equitable way. The paper will posit that successful conflicts prevention and management requires clarity on the roles and responsibility and adequate attention paid to the political economy (e.g. how power is distributed and contested) of land access and control over natural and land-based resources.

First, the paper discusses the notion of continuum of land rights in the context of land conflicts. Second, the paper explains why securing land rights for all can contribute to land conflict management and prevention. Third, land and property right in the context of conflicts is explored and examples are provided. Fourth, a particular attention is turned to the gender dimension of land conflicts, with reference to power arrangements. Finally, the paper discusses why and how the political economy of land (conflict) should be accounted for while dealing with land conflicts.

## 2. CONTINUUM OF TENURE: CRITICAL FOR UNDERSTANDING AND MANAGING CONFLICTS?

When approaching land in the context of conflict situation, it is critical to bear the full extent and implication of what land means for all actors. Generally the notion of land refers to the earth's surface and its associated surface and underground (natural) resources such as water, forests and fisheries, minerals, oil, and natural gas. Land is also a physical object and an asset. Land is imbued with deep emotional, cultural and historical ties that make engagement in land issues an extremely sensitive issue – a matter of national, communal and personal interest that can leave outsiders with little scope for influence. In addition, land is critical to people's livelihoods, food security and shelter. Managing land conveys the notion of rights and responsibilities. In conflict situations, a broad definition of land is important for recognizing land's importance from the perspective of a variety of stakeholders and their respective 'stakes'. One of these key understandings is how tenure arrangements (co) exist and are managed in a specific context, while considering the role of various interest groups.

In many countries, multiple tenure systems may operate concurrently, producing a range of land rights or a continuum of tenure. The range can include 'formal' arrangements such individual titling, freehold and leasehold as well as 'informal practices, and customary rights of access or use of land and/or related natural resources. It also includes secondary rights, such as access to migration routes or pasture land. Customary and formal tenure systems often co-exist and will conflict where different people claim rights to the same land under each system. Customary systems are under strain due to factors such as demographic pressure; land scarcity and competition; growing urbanization; inter-group and wider civil conflicts; breakdowns in customary authority; and the conflicts that can arise under pluralistic legal systems.

Other tenure options include anti-eviction laws or temporary occupation permits. Some countries have strong 'squatter rights' or adverse possession legislation. These enable people to transform their occupancy rights into legally recognized land rights after a set period of time, usually after 5 and 20 years of uncontested, continuous occupation. A range of group rights also exists, including customary, community, cooperatives and, in some countries, condominium arrangements. Long-term leases and individual freehold tenure represent the most secure forms of tenure and often represents the main tenure types within the statutory system. The way in which the power of allocating and managing use and access to land and its resources may vary from one tenure type to the other. Understanding the range of tenure options is critical to a conflict-sensitive "Do no Harm" approach (UN-Habitat, 2009).

In many societies, access to land or natural resources is seen as a crucial element of cultural identity. Without secure land rights, people are unable to play a full part in society, citizenship is restricted and exclusion grows. The more people are unable to conform to official norms and procedures as sometimes enacted through land and property rights, the more their status is undermined. Excluding large sections of the population from legally secure access to land generates alienation; it also discourages respect for the rule of law, which can surface in various forms of anti-social behavior, with the costs and problems involved.

Social problems linked to inequitable distribution of land and associated economic opportunities tend to lead to demands for land reform. This could be more difficult when land and related natural resources are scarce and unmet demand is great. Where these are not met, social conflict or political violence and instability may ensue.

In Burundi for example, the largest obstacle to resolving land conflicts is that the country is small and overpopulated, so there is not much land available. Due to the law on "prescription"/adverse possession, those who fled in the 1970's cannot reclaim their land because they left it over 30 years before. A Commission on Land and other Property was created to help resolve land conflicts. Decisions are binding, but can be appealed in the courts. The government has committed itself to compensating the "old caseload" returnees who left over 30 years ago with some land elsewhere in cases where mediation cannot resolve the conflict between the original occupant and the subsequent occupier. In many cases, the alternative land is not as arable as the original land so the returnees are not satisfied. And, as mentioned above, there will simply not be enough land for everybody (UN-habitat, 2009).

It has become clear that, in conflict situation, socially accepted tenure arrangements and practices seem to prevail over statutory systems. This can be exemplified internal conflicts where historical grievances can lead to large scale internally displaced people.

After the post election crisis of December 2007 in Kenya, ethnic conflicts and the resulting internal displacement have caused a lasting alteration of land occupancy and ownership patterns, leaving many displaced persons – despite having land titles back home – virtually destitute. Tribal motives have also played a critical role in ‘overruling’ citizens land rights in another ‘foreign’ tribal community. However, it is clear that competition over land has been a critical cause of violence or the root cause of conflicts that have always created ethnic clashes and land deprivation in rural areas and the subsequent migration in cities and towns as well as IDPs camps. Violence has also triggered new competition over land as well as massive population movements and forcible displacements especially in the Rift Valley in Kenya. The return of IDPs (with formal or official property rights over ‘their’ land) has been largely unresolved for a range of reasons, with a significant dose of politically charged context in the country. One of the key points here is that the power and rights for land allocation (by the State) has been contested and undermined and overruled by local communities with historical grievances. Moreover, the way in which land access to land is administered affects the choice to return and prospects or recovery. That is, centrally administered system of land access and the associated abuse of the system (e.g. irregular land grabbing of public land) had been one of the unresolved grievances for which the post-election violence provided the appropriate space to ‘reclaim’ and air. Land, conflicts and politics have continued to remain a major dilemma for Kenya. Political interests have been in the fore-front of re-curing land clashes always manifested in tribal/ethnic oriented conflicts thus hampering long term reintegration and economic development.

Contested access to land and natural resources has also been a factor underlying armed and violent conflicts and territorial disputes in the region. In many fragile States in Sub-Saharan Africa, skewed access and inequitable distribution of natural resources have been used by ‘rebel groups’ for territorial disputes and power challenges. This has been the case in the Delta region of Nigeria with various groups maintaining conflicts on the basis of oil distribution. The small island of Bakasi has long been contested between Cameroon and Nigeria, partly fuelled by its potential oil and fishery reserves. In Angola and Liberia, diamonds were one of the sources and engines (‘blood diamonds’) for decades of civil war. The resource rich county of Democratic Republic of Congo has been ‘cursed’ by its vast mineral and other natural resources, which have entertained various armed struggles and conflicts in the country.

These cases go to demonstrate that poorly governed natural resources can lead and fuel land conflicts. The inequity amongst various interest groups (including customary land holders) could be used by (opportunistic) interest groups including political elites to perpetuate conflicts. Understanding where and who have the power and control over land and its resources is therefore critical. Similarly, gaining clarity around various power centers and their motives and engaging various interest parties in the management of land and their resources could reduce the incidence of conflicts.

### **3. WHY AND HOW SECURING LAND RIGHTS FOR ALL CAN REDUCE CONFLICTS**

Securing land rights for all can go a long way to promote social stability because rights are clarified and systems are in place to protect a range of rights. More importantly, clarifying and safeguarding land rights of the majority reduces uncertainty and conflicts over land; they also mitigate the insecurity, unemployment, poverty and social exclusion associated with landlessness and homelessness. Contested access to land and natural resources has also been a factor underlying armed conflicts and territorial disputes. This is even more important where livelihoods are closely tied to land and their natural resources.

For people living in Sub-Saharan African countries, access to land or natural resources is seen as a crucial element of cultural identity. Secure land rights for all, not only for a few will ensure that each member of the society plays in part in society and use land for the desired purpose. The more people are unable to conform to official or formal norms and procedures, the more their status is undermined. Excluding large sections of the population from legally secure access to land generates alienation; it also discourages respect for the rule of law, which can surface in various forms of anti-social behavior, with the costs and problems involved. In Africa in particular, social problems linked to inequitable distribution of land and associated economic opportunities tend to lead to demands for land reform. Where these are not met, social conflict or political violence and instability may ensue. (UN-Habitat, 2008). There are several examples to illustrate how securing land rights for all is needed for conflict management and prevention.

In South Sudan it is difficult to establish to whom land belongs to before it can be cleared from mines. Due to the lack of clarity on who has what rights, land may be cleared that does not belong to the resident family

and this will encourage them to settle there permanently. IDPs and refugees often have been away from the land for a very long time due to the conflict or other factors, and when they return, other families have resettled and may have been living there for up to 20 years. Who does the land belong to now? In addition, the government has taken the liberty of declaring particular areas of land as ‘theirs’ so families simply have to move. In the area of Kajo Keji in South Sudan many IDPs resettled for many years. After the Peace deal was signed in 2005, many refugees came back from Uganda, and conflicts arose due to the land ownership (UN-Habitat, 2009).

In instances where no property rights exist (*res nullius*) or where such rights are not respected or enforced (leading to *de facto* open access), excessive resource extraction may take place. Such problems are more likely to occur in country-rich natural resources with weak governance and power struggle in relatively low population density (or larger country) areas where common property is still the dominant property regime and are important reasons for rapid deforestation, excessive and chaotic natural resources extraction, and loss of biodiversity. This has been the case in the Democratic Republic of Congo, Sudan, Angola, Sierra Leone and Liberia. Alternative mechanisms may be needed to control rapid deforestation and over-exploitation of other natural resources such as diamond, gold and. Such mechanism may include

Addressing land rights and promoting equitable access to and use of land is the cornerstone for preventing and reducing humanitarian response and preventing conflicts and disasters. The same is true for finding the lasting solutions to humanitarian and development response to disasters or civil conflicts. When analyzing instances of conflicts and humanitarian responses, reconstruction efforts should not overlook issues of land access for refugees, returnees and displaced people.

In Somalia for example, one of the main challenges is ensuring security of tenure in a lawless context. Additionally displaced population will need the security of tenure to resettle (at least temporarily) in the context of overlapping and dysfunctional land administration systems (secular, Islamic, and customary (UN-Habitat, 2009). To address such a challenge, UN-Habitat resorted to the issuing letters of allotment signed by the representatives of the different systems: Ministry of Interior, Mayor, Sharia Court representative, and clan elders. A substantial media campaign was carried out to create awareness in the community about the ownership of the shelters, and discourage possible looting by authorities or powerful groups to the detriment of the beneficiaries. Over a year after the project completion, the beneficiaries are still enjoying their rights. One of the key successes in this programme is the recognition of the range of rights and various political power centers. Engaging a range of (not only one) of relevant and respected authorities was critical to satisfy all the competing interest and address competing powers.

Property rights and land resources-related conflicts can be recurrent, especially in the context of poor governance and weak land administration. It is therefore critical that rebuilding reliable land institutions and establishing legitimate and equitable land policies after violent conflicts can limit the perpetuation of conflicts. This is even more important when conflicts over land rights between different ethnic, social or generational groups can lead to communal violence, economic instability and war. Addressing conflicts using a system approach can significantly reduce property and land related conflicts. Using the governance framework could also help.

For example, and where and when possible, the rule of law and good governance in natural resources tenure should be promoted with the main purpose to reduce abuse of power and corruption. Other methods that can be used to rebuild society and trust within the communities include psychotherapeutic methods for active trauma counseling and reappraisal of historical injustice. Further elements are functioning, regulative and constitutional institutions of locally adopted land-markets, a transparent capital market and a coordinated system of arbitration boards and jurisdiction.

Another important point for consideration is that post-conflict settings frequently involve overlapping sets of land claims. Reconstruction and reconciliation require the disentangling and negotiated settlement of these claims. Establishment of legitimate institutions governing access to land for re-settlement of migrants and refugees is very important, as is the issue of restitution to ‘original’ or legitimate owners. If these are unmet, solving the IDPs issues can be challenging, leading to a vicious circle of humanitarian assistance, yet leaving in camps are not enviable.

In Sudan for example, an estimated six million of Sudan’s citizens have been forced from their homes as a direct or indirect result of fighting during the last few decades. This makes Sudan one of the world’s worst affected countries by internal displacement. Approximately half of all the IDPs from southern Sudan are living in and around Khartoum in camps and squatter areas. Most have been there for over 20 years.

Conditions are squalid, and often unfit for human habitation. The vast majority of houses are fabricated from mud brick, straw and a variety of materials salvaged from garbage. The majority do not have the required identity card to apply for a plot of land (UN-Habitat, 2009).

In the context of global economy and growing land market, it is important to also consider the impact of property and land rights on land resources utilization and their welfare effects are distributed through market and non-market mechanisms. Similarly, land market development for natural resources can effectively contribute as inputs in production and as essential elements of livelihoods and safety nets for current and future generations. However, the low degree of land market development in the region requires the support of non-market institutions and regulations where markets do not work properly. This brings to fore the issue of land equity and equal rights to access which is often lacking in many Sub-Saharan countries.

To help prevent skewed land access and distribution, where possible, land policies must guarantee and secure land rights to competing interest groups in an equitable way (FAO, 2004). Land reforms could be an opportunity to redress the long-running grievances that can arise when certain groups are alienated or excluded from land they consider to be rightfully theirs.

In Kenya for instance, land was at the centre of the violence that followed the 2007 election that resulted into more than 1,000 deaths and over 350,000 internally displaced. Customary land owners argued that the land remains their communal property, and politicians reportedly incite violence around the land issue. Successive governments have been accused of failing to adequately compensate and resettle the victims of violence, and prosecute those involved in violence. In addition to election violence, the formation of armed militia, such as the Sabaot Lands Defense Force in Western Kenya, are associated with ethnic land disputes. Land was considered one of the key reform agenda to be addressed before the next general election to avoid more bloodshed. Through that process, the parliament adopted the policy in 2009. The land policy is considered as the needed instrument to implement the land tenure reforms that will address the colonial legacy, embark on the decentralized and transparent land administration. Land is now anchored in the current draft Kenyan constitution that will be decided in a referendum in August 2010.

#### **4. TENURE SECURITY BEYOND PROPERTY RIGHTS IN CONFLICT SITUATIONS**

This section discussed why and how broadening the scope of property rights could be a useful way to address land conflicts. In fact, lack of clearly specified and secure property rights may represent an important constraint to more sustainable and intensive management of agricultural lands. In many countries in the Sub-Saharan region, tenure insecurity is undermining incentives to conserve and invest on land to enhance its productivity. Land titling has been seen as the way to obtain private and secure property rights. However, land titling programs have more often than not failed to achieve this in developing countries. High costs, limited administrative capacity and corruption have caused land titling programs to favor the wealthy at the expense of the poor in many cases (Payne et al. 2009). In post-conflict situation, it is important to identify alternative low-cost and pro-poor land tools that can overcome the problems of traditional land titling, building on a continuum of land rights perspective.

The property rights (i.e. formal) have been promoted as superior to other (legitimate) forms of tenure arrangements. Each tenure arrangement often needs appropriate governance structures to enforce land rights and responsibilities. The functions of these governance structures include supervision, sanctioning in case of non-compliance, and provision of forums for resolving disputes over property rights. Preference should be given to institutions that provide the most legitimacy. The legitimacy can range from legal, customary to religious mechanisms. Where rule of law prevails, courts, police and land tribunals can be used. In other instances, village chiefs could be more effective in areas where customary arrangements are dominant (CAPRI, 2007).

It is important to note that, customary tenure systems may provide tenure security in many places but may also be associated with tenure insecurity if they are not recognized by the formal tenure system and if land pressures contribute to tougher competition over scarce land resources (Payne et al. 2009). Local power structures (political economy) matter in terms of how the land resources are distributed and the degree of

tenure security for land users. Traditional and religious leaders can play a critical role in managing conflicts and property claims. These leaders can be called upon to play an active part in healing, reconciliation and trust building as well as reducing future and potential tensions and conflicts.

Government interventions through past and recent land reforms and land policies may have had ambiguous effects on tenure security with consequences for conflicts over land. Unclear legal frameworks and lack of meaningful engagement with local communities and groups may lead to tenure insecurity, recurrent conflicts and tensions.

In Darfur for example, there are long-standing but worsening tensions over access to pasture, water and transit routes which causes conflict between nomadic and settled populations. A major point of contention in peace talks in Darfur is that the IDPs settling on private properties land have become entrenched and there is no clear land allocation system where competing claims may be presented. Destroyed villages have been occupied by others meaning that it is difficult to rebuild until it is clear who actually has the right to occupy that area. Mines are present in many areas. Large-scale development projects (e.g. dams) often go ahead without all the necessary consultations, environmental impact assessments or compensation to residents for loss of land, property etc. A flood response & prevention project needed to relocate about 200 families – the land for this was allocated by the (very active and committed) local Commissioner. Without his involvement in the work from the beginning it would have been much more difficult to achieve this. Over time in many cases the land owners realized that the IDPs are not going home so they have written off the land, or they charge the IDPs rent in order to gain some income from it (UN-Habitat, 2009).

Further, in Eastern Democratic Republic of Congo, land issues are at the heart of much of the violence in the Kivu. After conflict and insecurity, access to land is the main obstacle to return for refugees and Internally Displaced Persons (IDPs). Ownership of the rich Kivu soil, pastures and underground resources is also a subject of dispute between various ethnic groups and has led to interferences by neighboring countries. Sale under duress or land and cattle confiscation are common features of the current conflict while occupation of land and vacated houses by villagers, IDPs or armed groups has also led to complex land disputes upon the return of refugees and IDPs. The 1973 Land law is not commonly known to land users and holders. Therefore a large majority of land transactions or disputes are settled through customary law has also created confusion for some stakeholders. The issuing of large land concessions without the adequate consultations with communities is leading to forced evictions and tension between the new owners and the local communities, some of which date back to the 1970s.(UN-Habitat, 2009).

Development of appropriate institutions at national and local levels is crucial for implementation of national policies and local actions in response to the various environmental problems. Capacity-building will be crucial in order to strengthen organizational structures for implementation of institutional innovations. Devolution of power and responsibilities to local institutions will also need to be accompanied with sufficient funding for implementation. Equally important will be the development of mechanisms to mobilize funds for such action in particularly poor and vulnerable countries.

## **5. GENDER AND ACCESS TO LAND AND PROPERTY RIGHTS**

Women are one among the groups that have fewer and weaker rights to property and land because of biases of formal laws, of customs and of divisions of labor in society. In conflicts, women form a high proportion of the people who have no access to, or are displaced from, their land and homes. Conflicts also result in large numbers of women-headed households. The rules of land tenure reflect the structure of power and beliefs in society. When women are denied equal tenure rights with the same degree of security as enjoyed by men, then society as a whole and children in particular, suffer. When women enjoy equal rights, conflicts are reduced; household living conditions are enhanced, thus contributing to poverty reduction.

Equal property rights for women and men are fundamental to social and economic gender equality. Yet, they are far from being effective. Women often face discrimination in formal, informal and customary systems of land tenure. For instance, they gain access to land generally through male relatives and exercise only

subordinate rights. In conflict situation women are more vulnerable to breakdowns in relationships, divorce and to the changing priorities of male land owners.

The conflict in Northern Uganda is Africa's longest-running civil war which, at one point, had displaced 90 percent of its population from their homes. Although the conflict still has not formally ended, people have gradually been returning to their properties in recent years. Traditionally, the people of Northern Uganda live in small villages or homesteads of a handful of houses. Nearly all cultivated land is privately owned, but it is held under customary tenure. People own land simply because they have always lived on it and because they have always been regarded by everyone else as the 'owners' of their land. They have no official papers proving that they own the land and giving them rights over it. The question of 'ownership' also needs to be seen in its particular cultural context, in which 'stewardship' might be a more accurate term. Women do not usually 'own' land under customary law, but often have explicit rights to use it and a woman-headed household has the right to decide to whom the 'ownership' of her land should pass.

Ensuring secure land rights for women makes economic sense and is important for poverty reduction. This is because of women's roles as food producers in rural and peri-urban areas, their responsibilities for feeding family members and their broader roles in household management. These are all critical needs in time of crisis. Female-headed households – a significant proportion of the poor – can benefit enormously from the security, status and income-earning opportunities which secure rights to even a small plot of land can provide. There is a strong positive association between women's land rights and poverty reduction; this is because women's control over land assets enhances household welfare, women's cash incomes and spending on food, children's health and education.

In the Nakuru District of Kenya, thousands of families have been internally displaced as a result of land conflicts within the past ten years. The families settling in urban areas contributed to additional land conflicts there. These households, often headed by de facto women, also had to find new sources of income, though they mainly depend on farming which was impossible to be continued in the new (peri-urban) settings due to the lack of property rights as well as the size of plots. Being displaced from their land has caused these women a lot of social problems associated with family disintegration and access to source of livelihoods. Land is therefore of great importance to family welfare and the women value it, not for the wealth accumulation, but as a social commodity. Therefore, despite being more innovative and capable than most men in dealing with the post-conflict situation (many men simply becoming alcoholics), women feel more vulnerable in case of land conflicts as they are less socially or financially independent than they have been before (GTZ, 2008).

The lesson here is that when women are denied equal tenure rights with the same degree of security as enjoyed by men, then society as a whole and children in particular, suffer. When women enjoy equal rights, conflicts are reduced, environments are improved and household living conditions are enhanced. Gender discrimination in land rights is culturally engrained. It is important to develop stronger legislation for gender equity, along with collective action for effective women's rights to hold legal and documented claims, to spousal co-ownership rights, and to legal protection for customary and informal claims to land.

The Ethiopian government is embarked in an ambitious self-sponsored land certification program. It is a legal requirement of issuing certificates jointly in the name of husband and spouse. Space to include both spouses' pictures on the certificate was provided. A survey of land users with joint certificates reported that more than 80 per cent of respondents said that certification reduced conflicts, encouraged planting trees and improved their perceived possibility of obtaining compensation in case of land conversion. More importantly, from a gender perspective, women respondents with joint certificates almost universally said that these had improved their economic and social status (World Bank, 2008). This goes to show that securing tenure rights of all, particularly for women, can go a long way to reduce tensions and conflicts as well as incidence of poverty.

## **6. WHY LAND AND POLITICS ARE LINKED AND WHAT CAN BE DONE?**

Land and property rights are intrinsically linked to governance of and power over land, natural resources and processes of land use change. Land governance can be understood as 'the process by which decisions are

made regarding the access to, and use of, land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled' (FAO, 2009).

In the context of land conflict prevention and management, the power and political economy of land is an important dimension of approaching land governance. Political economy is basically ensuring that there is a clear understanding of 'who benefits or loses from decisions regarding land; how are land-related benefits distributed within society. When such power relations are mapped and understood, they should be managed to ensure that decisions over land conflicts are not further excluding, disfranchising interest groups and political power. It is important that land conflict management is not jeopardizing interests and genuine claims over land and property access, use and ownership.

In post-conflict situations, there is often a break-down of land institutions (legal, customary and informal) and emergence of new 'players'. For example, governmental institutions may be unable to carry out usual duties of prevention, monitoring and enforcement of the illegal or illegitimate occupation of land, unlawful grabbing of land, land-use rights (e.g., mineral rights) and abandoned property by many segments of the population, including the poor, the rich or criminals. Political patronage involving land concessions (often by rebel groups acting as land administrators) is widespread during most conflicts (UN-Habitat, 2007). Various interests over land and property must be safeguarded to ensure balanced societal conflicting land uses and needs of the poor and vulnerable groups. It is therefore important to build on legitimate and socially acceptable dispute resolution mechanisms.

In Uganda for instance, dispute resolution in customary tenure is based more on mediation than upon passing judgment in favor of one party or another. Where a dispute arises within a family, the person who has been chosen as the family head will resolve the dispute. Where a dispute is between families, usually between neighbors, then the *Rwot Kweri* will adjudicate or mediate. The system is simple, cheap and accessible and people are largely satisfied with the judgments received. Appeals can be made to the clan elders and cases with major implications for the clan as a whole, such as a long-term decision involving communal land, would also need to involve the clan elders (UN-Habitat, 2009).

Conflicts exist in all societies. Population growth increases competitions over land (non expandable) and diminishing natural resources. The quality of governance determines how competition over land and property (and the related natural resources) is managed, and also how any disputes and conflicts are resolved. However, land and property conflicts are recurrent in context of weak governance in poverty. For instance, 'seventy-three percent of people in societies of the bottom billion have recently been through a civil war or are still in one' (Collier, 2007, p.17). To the contrary, developed countries with strong governance frameworks are less inclined to violent property and land disputes and conflicts. This is partly so because there are systems in place to handle conflicts and resolve disputes. Developing countries can also draw from that and mitigate property and land conflicts.

In Niger for instance, the political economy of land and property disputes was critical in addressing land and natural resources-related conflicts. In particular, a range of initiatives were developed including developing consensual local rules, strengthening existing (and legitimate) institutions and mechanisms for dispute resolution mechanisms. To effectively address land-related conflicts, experiences of local agreements were used. It was clear that conflict intensity was reduced when written consensual rules were agreed upon and validated by local authorities.

In many societies, control over land rights is a means of accumulating and dispensing political and economic power and privilege through patronage, nepotism and corruption. Addressing these issues is critical to improving governance, but will require considerable commitment from policy-makers and practitioners. Government's role is to manage land in the public interest. Its own performance as land owner and regulator is critical to governance. In practice, government-owned land is often managed in unaccountable and inefficient ways, and is subject to appropriation by political or allied economic elites. This has been the case in Kenya where patronage, land grabbing and irregular attribution of public land have contributed to recent conflicts. The Peace accord that emerged from the post election violence of 2007 identified Land reform as one of the key 5 reforms agenda to avoid or minimize the instances of conflicts.

Secure land rights for all are best achieved where they are nested within coherent governance frameworks – for instance, through joined-up delivery of land, basic services, credit, marketing and business support – and which build accountability and stronger participation.

Since conflicts and disputes are recurrent, particular attention should be paid to land-related dispute resolution mechanism. Disputes regarding land can be the result of historical/political based property allocations which have never been resolved. Claims can be related to private land others relate to the rights of use or ownership of public or state owned land. A multiplicity of legal frameworks both formal and informal (customary practices), inconsistency in interpretation and a lack of enforcement mechanisms could result in land disputes. All these dimensions have to be understood to suggest the appropriate resolution mechanism. A feasible and practical dispute resolution approach must acknowledge the value of community-based knowledge and should be accessible for all groups in society especially the marginalized groups and woman. For example, alternative dispute resolutions mechanism and techniques are often effective, especially when parties appoint female mediators or arbitrators (FAO, 2009).

Where possible, an effort should be placed on rebuilding the stable institutions for dispute and conflict resolution to sustain peace and reduce further conflicts. These institutions could be new, formal, informal or inspired from customary or routine practices. The most important element is to promote trustworthy institutions. In Rwanda for example, land and property disputes have been handled through local Gacaca courts, a traditional institution that was restored in the aftermath of the genocide. Specialized land courts can have a role also; however, they often suffer from a lack of capacity, procedural complexity and high costs, coordination issues (FAO, 2009).

Furthermore, any approach to sustainable dispute resolution must address the historical and underlying grievances associated with how land was acquired whether by government or individuals. Analysis of court cases and interviews with local lawyers specialized in land disputes can assist in obtaining this information. For instance, availability of local lands tribunal and community-based adjudication process could also assist to determine if effective land –related dispute mechanism are in place.

## 7. CONCLUDING REMARKS

This paper has discussed why securing land rights for all is paramount to avoid the narrow focus of property rights. Property rights often imply individual ownership and tend to eliminate many land users, holders and beneficiaries. It was argued that shifting in thinking more widely about the range of rights that are nested in land and its resources is one of the conduits for conflict prevention and resolutions. The paper stressed the importance of gender considerations in managing and preventing conflicts. For example, the case of Ethiopia was presented and underscored that securing land rights for women, along men, significantly reduce conflicts. The paper has also emphasized the role of understanding the political economy of land, especially the power play in conflict prevention and management. Several case studies were presented and many lessons drawn.

One of the key lessons emerging from this paper is the importance of developing common understanding of various needs around land through active participation and communication among land actors. It has become clear that conflict over land and its resources could be better managed through the strengthening of existing and legitimate sources and forms of tenure regimes. In post-conflicts situations, supporting strong, reliable and legitimate sources of power, institutions (including informal, traditional and formal) could serve as starting point for conflict management and prevention. More importantly, the paper noted that finding lasting solutions to conflicts and prevent opportunistic disputes will require mapping, understanding and addressing the needs of various power centers and political interests. These power arrangements and the political economy of land (conflict) is not limited to statutory, legal and formal arrangements, but could also be rooted in customary, religious and informal practices. The main argument in this paper has been for the prioritization and promotion of legitimate (even at the given time) sources of power while preparing for lasting solutions. The paper did not dwell on the sources of conflicts, rather had focused on possible means to successfully manage and prevent conflicts. These possible options are meant for all stakeholders working on land conflict management and prevention.

### NOTES:

This papers draws largely from UN-Habitat's materials and experiences including, *Quick Guide to Post-Conflict Land Issues* (unedited 2009 version but under finalization), *Secure land rights for all*

(2008), *A Post-Conflict Land Administration and Peace-Building Handbook* (2007), and *Towards Improved land governance* (FAO, 2009).

## REFERENCES

- CAPRI, (2008), Property rights, collective action, and poverty: The role of institutions for poverty reduction.
- Collier, P. (2007), The Bottom Billion. Why the poorest countries are failing and what can be done about it, Oxford University Press
- GTZ (2008), Land Conflicts: A Practical Guide to Dealing with Land Disputes, Eschborn.
- FAO (2006), Land Tenure Alternative Conflict Management, Rome.
- FAO, (2004) Post – conflict land tenure, using a sustainable livelihoods approach.  
<ftp://ftp.fao.org/docrep/fao/008/j5415e/j5415e00.pdf>
- FAO (2009), Towards Improved land governance <ftp://ftp.fao.org/docrep/fao/012/ak999e/ak999e00.pdf>
- FAO (2007), Good Governance in Land Tenure and Administration,  
[http://www.fao.org/nr/ltten/abst/ltten\\_071101\\_en.htm](http://www.fao.org/nr/ltten/abst/ltten_071101_en.htm)
- OHCHR (1998), Guiding Principles on Internal Displacement.  
<http://www.unhcr.ch/html/menu2/7/b/principles.htm>
- Payne, G., Durand-Lasserve, A. and Rakodi, C. (2009), The limits of land titling and home ownership, Environment and Urbanization, Vol 21(2): 443–462.
- UN-HABITAT (2007), A Post-Conflict Land Administration and Peace-Building Handbook: Volume 1 – Countries with Land Records, Nairobi.
- UN-Habitat (2009), Quick-Guide to Post-Conflict Land Issues, UN-Habitat, Nairobi
- UN-Habitat (2008), Secure land rights for all, UN-Habitat, Nairobi
- United Nations (2007), Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles, Turin, ILO International Training Centre.
- World Bank Poverty Reduction and Management Network (2008), Gender Equality as Smart Economics. Washington.