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GUIDANCE NOTE OF THE SECRETARY-GENERAL

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The United Nations and Land and Conflict

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**SUMMARY**

Over the coming decades, competition and conflict over land is likely to intensify with the growing pressures of climate change, population growth, increased food insecurity, migration and urbanization. Due to growing evidence of the link between land, armed conflict, and human rights abuses, the United Nations (UN) system needs to be more responsive to the emerging needs of Member States and populations.

This Note has been developed to help the UN system be more fit for purpose on land and conflict issues, and is based on relevant international norms and standards, the 2030 Agenda for Sustainable Development, and the experiences of the UN system.<sup>1</sup> The principles and framework for UN engagement are designed to achieve a sustained and strategic common approach across the peace and security, human rights and development pillars, and tailored to inform, in particular, UN system programming and advocacy interventions.

The UN Framework for Action in this Note helps to identify potential entry points to integrate land in conflict analyses, planning and assessment processes, supports engagement of UN leadership and outlines key activities to consider in areas of UN work - such as support to peace agreements and mediation, human rights, gender equality, rule of law and governance. This Note provides guidance on partnership and the use of practical tools for analysis, coordination and programming.

This Note consists of an introductory section and three parts. Section (A) presents guiding principles for UN engagement related to land and conflict; Section (B) presents a framework for action by the Organization across the three pillars; and Section (C) describes UN system arrangements.

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<sup>1</sup> This Note follows a collaborative UN inter-agency assessment of the UN system-wide engagement on land and conflict and is based on its findings and recommendations - UN-Habitat (2016) Land and Conflict: Towards UN System-Wide Engagement at Scale (Phase 1: Scoping and Status Study) - Executive Summary, Key Findings and Recommendations.

## **A. GUIDING PRINCIPLES**

1. Assistance is based on international norms and standards related to land and conflict
2. Ensure coherence across the three pillars for land interventions
3. Interventions should be strategic, incremental and timely
4. Prioritize national ownership and recognize that land is a sovereign issue
5. Support human rights-based and gender-sensitive approaches
6. Support effective coordination and partnerships between the UN, non-UN Organizations and national actors

## **B. FRAMEWORK FOR UN ACTION**

1. Ensure land is an integral part of conflict analysis
2. Ensure consistent engagement of Senior UN Leadership on land and conflict
3. Incorporate land into the Organization's key assessment and planning processes
4. Integrate land within relevant UN institutional mechanisms, joint programmes and financing instruments
5. Integrate land-conflict related issues in country level interventions
6. Enhance system-wide capacity to address the land-conflict nexus
7. Expand partnerships with non-UN entities and actors
8. Develop and use practical tools that address the land-conflict nexus

## **C. UN SYSTEM ARRANGEMENTS**

## INTRODUCTION

As set out in the Charter of the United Nations, the three pillars of the Organization’s mission are to maintain international peace and security, to achieve economic and social progress and development, and to promote respect for human rights. This Note is based on the findings and recommendations of a collaborative UN inter-agency assessment of the UN system-wide engagement on land and conflict in fragile settings, confirming important trends on land and conflict that have implications across the three pillars of the UN.

Competition and conflict over land is likely to intensify with the growing pressures of climate change, population growth, increased food insecurity, migration and urbanization. Mounting pressure on land resources will drive conflict dynamics at global, regional, national and local levels and there is growing evidence of the link between land, armed conflict and human rights abuses. There is increasing acknowledgement that land can be a root cause or trigger for conflict, a critical factor causing its relapse, or a bottleneck to recovery. Evidence from the field<sup>2</sup> demonstrates the significance of resolving land-related issue in the achievement of sustainable and durable peace.

In positioning itself to better support Member States to achieve the 2030 Agenda on Sustainable Development Goals (SDGs), the UN needs to develop relevant capacity, strategies and partnerships (as the SDGs reflect relevant targets and indicators pertaining to land) and to support Member States in their voluntary national reviews.

### Box 1. Land: terminology and concept

*The concept of land is defined broadly*

Land is the surface of the earth, the materials beneath, the air above and all things fixed to the soil. It contains structures, resources and landscapes of significant political, economic, cultural, spiritual and symbolic value.

It represents a strategic socio-economic asset tied closely to complex relations of production, exchange and reproduction. A resource of limited availability and a high value asset, issues related to access, control and ownership of land are tied closely to power, wealth, identity and even survival for a large part of the world’s population.

Land forms part of economic, social, political, cultural and historical activity and is tied directly to peace and security, human rights and development.

Land includes ‘property rights,’ ‘territory’ and ‘legitimate tenure rights’ as used in the international standards; ‘housing, land and property (HLP) rights’ from the humanitarian field; ‘land rights,’ ‘land management,’ ‘land governance’ and the ‘land administration’ and ‘geo-spatial data’ systems that support them, as used by governments; and ‘land tenure’ to reflect the complex social relationships among people with respect to land and its resources.

There is a continuum of land tenure types<sup>3</sup> that includes all legitimate<sup>4</sup> types - based on the recognition that land has a social function and is not just a commodity.<sup>5</sup> Both formal and informal land tenure types are considered legitimate in the eyes of the community and capable of being legalized with land documents. This includes formal and informal rental agreements, cooperative housing, leases, customary and indigenous rights, community and group rights and the informal land in urban slums.

Land is fundamentally relevant across the three pillars:

- In peace and security, land can be a root cause or a trigger of armed conflicts, while at the same time being a key factor for building resilience and sustaining peace.

<sup>2</sup> UN-Habitat/GLTN, IIRR (2018) Land and Conflict: Lessons from the field on conflict prevention and peace building, Nairobi, UNON.

<sup>3</sup> General Assembly Resolution 71/256. New Urban Agenda.

<sup>4</sup> Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012).

<sup>5</sup> Seventy percent of people in developing countries do not have registered land rights due to high costs and time involved to secure freehold titles, which often requires specialized technical capacity.

- In human rights, land-related human rights abuses, such as forced evictions, are often key to the conflict and connected to large-scale population displacements.
- In development, land is essential during the whole conflict cycle including for overall recovery from conflict, economic recovery and for ending displacement.

Dealing strategically and in a sustained manner with land-related issues during the development phase could be a preventative measure. It can lessen the risk of relapse through the engagement of the parties to the conflict and strengthens state-society relations.

UN engagement should be considered, in both mission and non-mission settings, where land is a root cause of conflict, an obstacle to development that undermines peace and stability, or a factor that increases the risk of protracted conflict.

## A. GUIDING PRINCIPLES

These guiding principles are applicable throughout the conflict cycle. Established UN policies apply, such as the ‘do no harm’, conflict and gender-sensitive approaches, ensuring context-specific interventions and inclusive stakeholder participation at all levels.

### A.1. Assistance is Based on International Norms and Standards Related to Land and Conflict

The UN engagement on the land and conflict nexus should be based on international norms and standards, including international humanitarian law (IHL) and human rights laws that apply to both peace and security and development (see Annex 1).

- First, several international human rights instruments, including the Universal Declaration of Human Rights, link land to the enjoyment of specific substantive human rights such as the right to own property alone, as well as in association with others<sup>6</sup>; and to the enjoyment of specific substantive human rights such as the right to food, equality between women and men; and protection and assistance of internally displaced persons.
- Second, UN human rights treaty monitoring bodies and special procedure mandate holders have linked land to the rights to non-discrimination regarding adequate housing, water, health, work, freedom of opinion and expression<sup>7</sup>.
- Third, Human Rights Council discussions on land cover a wide range of issues including forced evictions.<sup>8</sup>
- Fourth, regional human rights mechanisms address land including civil, cultural, economic, political and social rights, and the rights of minorities and indigenous peoples<sup>9</sup>.
- Fifth, the SDGs include land-specific targets and indicators (under Goals 1, 2, 5, 11 and 15), as well as other targets (Goals 10 and 16)<sup>10</sup> for which land is relevant.

<sup>6</sup> Article 17 of the Universal Declaration of Human Rights (1948).

<sup>7</sup> Including the Universal Declaration of Human Rights (1948); International Covenant on Civil and Political Rights (ICCPR) (1966); International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966); Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1979); Convention on the Rights of the Child (1989); Convention Relating to Status of Refugees (1951); International Covenant on the Elimination of Racial Discrimination (1969) (ICERD); Hague Convention (IV) respecting the Laws and Customs of War on Land (1907); Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949).

<sup>8</sup> <https://www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/WGRuralAreasIndex.aspx>.

<sup>9</sup> African Commission on Human and Peoples’ Rights; Inter-American Commission on Human Rights; Inter-American Court of Human Rights; European Court of Human Rights; and European Committee of Social Rights.

<sup>10</sup> Goal 1, Target 1.4 on the need for ownership and control over land and natural resources; Goal 2, Target 2.3 on secure tenure and access to land; Goal 5, Target 5a on the need for more gender-equal ownership and control over land; Goal 11, Target 11.1 on adequate housing and the upgrading of slums; Goal 15, Target 15.3 on the restoration of degraded land. The land-related targets are: Goal 10 on the overall reduction of inequality (a common issue in land which wider impact on overall inequality) and Goal 16, Target 16.3 on the rule of law (land as a root cause of conflict is a key rule of law issue).

- Sixth, there are specific land-related standards such as the New Urban Agenda (2016) and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012), that describe good land governance but with are legally non-binding. Similarly, standards with land-related norms by association include guidance by treaty bodies and monitoring mechanisms<sup>11</sup>.
- Lastly, tribunals and courts at all levels are drawing links between land and the gross violation of human rights, including at the International Criminal Court<sup>12</sup>.

Some of the key land-related human rights issues to consider are outlined below.

- *Protection of civilian objects* – IHL prohibits the directing of attacks against civilian objects. Civilian objects are any objects that are not military objectives. Military objectives are those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage. As long as the land in question does not fall within this definition, it remains a civilian object and may not be lawfully targeted.
- *Protection of specific civilian objects* – Specific objects, such as the natural environment and cultural property, enjoy special protection against attack.
- *Destruction of property* – Under IHL, the destruction or seizure of the property of an adversary is prohibited, unless required by imperative military necessity.
- *Exploitation of natural resources* – Under IHL, pillage is prohibited, which may include the pillage of natural resources.
- *Explosive remnants of war* – States parties to the 2003 Protocol on Explosive Remnants of War are under the obligation to mark and clear, remove or destroy explosive remnants of war in affected territories under its control.
- *Displacement, refugees and internally displaced persons (IDPs)* - land-related human rights violations are inherent in every displacement situation, such as the destruction and illegal occupation and/or sale of forcibly abandoned land and buildings. Remedying and restoring land rights is important to achieve justice, build peace and facilitate self-reliance (including in the place of refuge) and achieve durable solutions. Monitoring, advocacy, preventive and preparatory measures are required to facilitate early successful voluntary returns.
- *Discrimination against women* - there is often discrimination in marriage, inheritance, legal status or resource distribution, and many women cannot access, use, control or own land. The number of female-headed households increases sharply during and after conflict, and without access to land, their livelihoods become insecure. Challenges include lack of awareness of their rights and the lack of necessary land documents and resources to pursue claims. International treaty bodies have emphasized the right of women to own, use or control land on an equal basis with men; the prohibition of discrimination on the grounds of land rights (or lack of thereof); and the right of women to own land without restrictions on the basis of marital status or any other discriminatory grounds.
- *Indigenous peoples land rights*- forced evictions are often associated with indigenous peoples' land. Indigenous peoples are protected by special human rights consideration - ILO C169<sup>13</sup> and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) emphasized the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy and their control over their economic, social and cultural development through “the principle of free, prior and informed consent” (FPIC).
- *Business and human rights*. There is an increasing trend of large-scale land-based investments by international and national business that may sometimes lead to forced evictions and human rights abuses, including the destruction of livelihoods. International standards identify the distinct but complementary roles of government and business, whereby the State has the duty to protect against human rights abuses by third parties, including businesses. Corporate responsibility includes avoiding infringement on individual rights and addressing the negative impacts, such as remedies for victims<sup>14</sup>.

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<sup>11</sup> General Comments: Human Rights Committee General Comment No.23, 28; Committee on Economic, Social and Cultural Rights General Comment No. 4,7,12,14,15,16,20,21; Committee on the Elimination of Racial Discrimination General Comment No.23;

Committee on the Elimination of Discrimination Against Women General Comment No.21; Committee on the Rights of the Child General Comment No.11.

<sup>12</sup> Policy Paper on case selection and prioritization, Office of the Prosecutor, International Criminal Court (2016).

<sup>13</sup> Convention C169 Indigenous and Tribal Peoples Convention (1989) (No. 169).

<sup>14</sup> Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012); Guiding Principles of Business and Human Rights; International Convention on Civil and Political Rights (1966); International Covenant on Economic Social and Cultural Rights (Art.2).

## **A.2. Ensure Coherence Across the Three Pillars for Land Interventions**

The Organization should ensure coherence and coordination across the pillars when engaging in land-related conflict issues, taking into consideration the entities' different entry points, mandates and programming approaches at various stages of the conflict cycle, including distribution of responsibilities between pillars and entities.

- Programming should address system fragmentation through better sequencing of activities and a more sustained effort across the conflict cycle. This should include joint conflict analysis, planning and assessment, monitoring and reporting and sharing of information about land across UN entities (at global, regional, national levels).
- There should be clearer linkages between political roles and responsibilities and technical work streams. Land is often dealt with in emergency contexts as a protection or political issue, de-linked from its technical aspects, and in the development phase it is often dealt with as a purely technical issue, de-linked from the political aspects.
- Improve coordination across the SDG Results Group (UNSDG) custodian agencies<sup>15</sup> on relevant data exchange and the integration of data.
- When land is linked to conflict, UN interventions should be based on a land-related theory of change that should lead to collective, cross-pillar outcomes. Once developed, the theory of change should help to identify entry points, catalytic activities built around champions, coalitions, initiatives and targeted capacity development that can influence land-related relationships and power dynamics.
- Global and regional-level coordination is needed to address root causes of land-related conflict that transgress borders, and are often a manifestation of climate change, population growth, urbanization, migration and food insecurity.

## **A.3. Interventions should be strategic, incremental and timely**

There are a number of technical tools on land to better support local communities, for instance, through incrementally strengthening security of tenure using fit for purpose approaches to scale up the delivery of land documents for the poor and vulnerable.

- Incremental approaches that are strategically targeted may often be required to strengthen the land system, particularly when there is a need to address lack of political will or national technical capacity gaps and intermediate results should lay a foundation for long-term impact.
- The “fit-for-purpose” approach to support land administration, developed by the World Bank and UN<sup>16</sup>, links new advances in technology to the continuum of land tenure types to build sustainable land systems that provide secure land rights suited to conflict contexts. “Fit-for-purpose” approaches can be rapidly deployed, are flexible, inclusive, participatory, affordable and support accountability. A number of countries are already implementing some of these approaches, including in conflict contexts.
- Pilot projects in hot spots should include targeted capacity development that could later be upgraded to cover a larger area, more beneficiaries or scaled to support the national land administration system.

## **A.4. Prioritize National Ownership and Recognize that Land is a Sovereign Issue**

- National sovereignty issues are particularly sensitive as land often goes to the heart of national identity. Land-related initiatives should be nationally owned and wherever possible, led by national and local authorities. Particular attention is needed when supporting areas related to land law, policy and land administration and comprehensive consultations with state authorities to secure political buy-in should be

planned in advance of interventions.

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<sup>15</sup> FAO, UN-Habitat, UNCCD and the World Bank are custodians for SDG land indicators.

<sup>16</sup> World Bank and the International Federation of Surveyors (FIG) (2014) Fit-for-Purpose Land Administration, FIG publication number 60, Denmark: FIG; UN-Habitat/GLTN and Dutch Cadastre (2016) Fit-for-Purpose Land Administration Guiding Principles for Country Implementation, Nairobi, UNON.

- Inclusive and participatory processes are essential to avoid land resolution becoming a source of conflict between the State and sub-national and ethnic identity groups e.g. indigenous peoples. National ownership should include the engagement of relevant stakeholders such as civil society, victims' and women's groups and local communities.
- Land issues may require engagement and coordination with counterparts at regional, national, and sub-national levels. Conflict may be concentrated in a particular territory or hot spot where non-state actors are operating or where different government entities might have different roles and responsibilities. The sovereignty issue is also relevant when engagement at the sub-regional/regional level might be more useful when land-related issues have a cross-border dimension and/or when there are regional policy frameworks and mechanisms that can provide support.

#### **A.5. Support Human Rights-Based and Gender-Sensitive Approaches**

- To strengthen conflict prevention and sensitivity there is a need for further domestication of land-related international human rights obligations covering forced evictions and the right of refugees and IDPs to recover their land rights; women's land rights; large scale land-based investments, including the issue of FPIC in indigenous/customary land; and for improved land governance, land administration and the continuum of land tenure types.
- Land activities must be conflict-sensitive and not violate human rights/international humanitarian law, nor infringe on legitimate individual or group rights. When strengthening land-titling systems there is a need to avoid support for individual ownership at the expense of others, for instance, customary land ownership by minority, marginalized or vulnerable communities.
- UN support should incorporate gender-responsive approaches to promote women's rights to own, access, control and inherit land, particularly in the context of UN assistance to national dialogues, transitional justice and legal reform initiatives. Support should include domesticating land-related gender-responsive international standards; protecting women's access to land particularly during restitution processes; and ensuring due attention is given to enforcement measures.
- A participatory and inclusive approach strengthens buy-in, accountability, transparency and sustainability. Stakeholders should include government actors, political parties, civil society organizations, land professionals, academics, faith-based organizations, customary or indigenous leaders and communities, representative institutions, farmers groups, the landless, and the general public. Emphasis should be on those who have been historically excluded, such as women and women's rights organizations.
- Large-scale land-based investment often increases conflict and competition over land and can be associated with human rights abuses and conflict around natural resources. The needs of business enterprises and community interests should be adequately balanced, and considered in light of international human rights obligations. The UN should support responsible public and private investment that does not lead to forced evictions, displacement and human rights violations.

#### **A.6. Support Effective Coordination and Partnerships between the UN, Non-UN Organizations and National Actors**

- The UN should focus on its comparative advantages and available tools, whenever available, such as significant in-country presence, convening capacity, preventive diplomacy and mediation capacity, good offices and relations with non-UN actors when developing land-related strategies.
- At country-level, partnership with non-UN actors (national and local governments, the World Bank, country level institutions, civil society, academia, international non-governmental organizations (INGO), the private sector and in-country donors) is essential to understand better local dynamics and maximize local expertise and engagement on land issues to identify and support long-term solutions.



## B. FRAMEWORK FOR UN ACTION

This framework suggests strategic options, priority entry points and catalytic levers for peacebuilding activities in land and conflict settings across the three pillars and conflict cycle. In each country context, the UN system and its senior leadership should develop a joint political and technical strategy to sustain their interventions. This should include a framework for embedding land in existing UN mechanisms, developing capacity and partnerships, set against the overall goal of achieving the SDGs.

### B.1 Ensure Land is an Integral Part of Conflict Analysis

- A conflict analysis should include an assessment on whether there are land-related root causes, or drivers or triggers in the conflict<sup>17</sup>.
- Where land is identified as a factor in a conflict, a root cause analysis of land issues<sup>18</sup> (see Box 2.) should be undertaken to identify entry points for political engagement or programming.

Box 2. Land issues, root causes and triggers of conflict

1. <i>Politics of exclusion</i> : Displacement of people from their land and homes either within the country or transnationally	9. <i>Occupation of land</i> : By armed groups or foreign powers or political disputes over national boundaries
2. <i>Scarce natural resources</i> : Population pressure, environmental and land degradation, disputes over access to water	10. <i>Plural legal systems</i> : Competition between private/statutory land and communal/customary, including indigenous groups and pastoralists
3. <i>Population pressure</i> : Demography and an increased land-to-people occupancy ratio, urbanization, youth population bulge	11. <i>Economic and political competition between power blocks</i> : Competition over land between foreign investors and with local communities
4. <i>Capture of state instruments</i> : Corruption, national leaders politicizing the land agencies, powerful and wealthy people capturing the land registry and shaping land laws to their benefit	12. <i>Weak land administration systems</i> : Weak state, land policies, laws and institutions, land administration, land management and land use planning systems, land governance structures and land dispute resolution capacity
5. <i>Competition over use rights</i> : Between identity groups, such as pastoralists and farmers	13. <i>Natural disaster</i> : Leading to displacement and land grabbing
6. <i>Natural resource exploitation and criminality</i> : Rebel, armed or criminal groups funding their insurgency through natural resource exploitation	14. <i>Inter-generational violence</i> : Gender based violence, competition over family land, including where there is gender inequality
7. <i>Nation state fragmentation</i> : Driven by identity groups linked to territory	15. <i>Chaotic urbanization</i> : Migration pressure on host communities land, housing and infrastructure
8. <i>Poverty</i> : Link between poverty, inequality and the lack of access to land and secure land rights	

### B.2. Ensure consistent engagement of Senior UN Leadership on Land and Conflict

- The early and consistent engagement of senior management (the Special Representative of the Secretary-General (SRSG) and their Deputy (DSRSG), the Resident Coordinator (RC) and the Humanitarian

<sup>17</sup> UNDP (2016) Conflict and Development Analysis.

<sup>18</sup> UN-Habitat/GLTN (2017) How To Do A Root Cause Analysis of Land and Conflict for Peace Building, Policy Brief, Nairobi, UNON.

Coordinator (HC),) is essential to ensure coherent UN-system wide responses on land and conflict across the pillars.

- Land and conflict issues should be included in the design of peacekeeping and special political missions; in peace agreements and their implementation plans; and Security Council mandates, as relevant.
- A clear division of responsibilities and alignment of land and conflict initiatives is essential, with identified peace and security, human rights and development priorities. This could include rule of law interventions on land reforms; mediation of inter-communal conflicts over land disputes; and addressing the linkages between exploitation of extractives and activities of armed groups or organized criminal networks through the strengthening of the criminal justice chain.
- Ensure that available specialized land and conflict expertise in the UN system can be effectively mobilized to support UN senior leadership in peace operations and the UN Country Teams (UNCTs).

### **B.3. Incorporate Land into the Organization's Assessment and Planning Processes**

- Assessment and planning processes should, whenever relevant, incorporate land issues into appropriate areas of UN engagement, such as joint programming or transition planning.
- Incorporate in the assessment and planning, specific land-related aspects for women, relating to ownership, access to and control over land, inheritance and family law on death and divorce. A youth assessment should be undertaken as youth have different land-related needs linked to livelihoods and the inheritance rights of orphans.

### **B.4. Integrate Land within Relevant UN Institutional Mechanisms, Joint Programmes and Financing Instruments**

- Ensure that land-related concerns are explicitly included in horizon scanning and early warning mechanisms, particularly human rights mechanisms that provide early warning on violations around the right to adequate housing, evictions and the situation of indigenous peoples, minorities, migrants, refugees, IDPs and stateless persons.
- Use tools such as the Integrated Strategic Framework (ISF) or UN Development Assistance Framework (UNDAF), at country level to align action on land and conflict, and to identify division of responsibility across the three pillars on advocacy and programming interventions around land issues.
- Use established arrangements to maximize effective support to UNCTs and UN peace operations such as the Global Focal Point for the Rule of Law and the Peace and Development Advisors to bring a land focus to country-level conflict prevention work, to strengthen conflict analysis and to support national architectures for peace, mediation, and dialogue.
- Support an integrated approach to land and conflict issues across the relevant humanitarian clusters, such as the Protection, Shelter, Early Recovery and Food Security Clusters, to prevent further violations of land-related human rights and displacement.
- Ensure that mediation support mechanisms such as the Standby Mediation Team and the Insider Mediation work at country level have access to land-specific expertise.
- Include funding, whenever necessary, for land-specific support in UN budgets in mission and non-mission settings, and support the use of assessed funding for land activities critical for peacebuilding and stabilization. Ensure that pooled funding mechanisms, such as the Peacebuilding fund and trust funds, facilitate timely access to relevant expertise.

### **B.5. Integrate Land-Conflict Related Issues in Country Level Interventions**

The UN should examine available and innovative entry points when requested to support Member States on land and conflict issues. In conflict and crisis contexts, these could include:

- *Peace agreements.* When land has been identified a root cause or trigger of the conflict, or when land-related wealth sharing is linked to obstacles to peace and stability, land issues should be prioritized in

political negotiations, peace agreements and their implementation, including the cost of implementation. Peacebuilding interventions should address the land conflict nexus, the root causes and avoid relapse into conflict. Special attention is needed for displaced persons, including women-headed households, who often move into urban areas to access services, housing or security of tenure, particularly in protracted conflict environments. A range of activities could be considered such as: a shared analysis of root causes and drivers of conflict in planning processes; new institutions or processes to address complex and multi-faceted land-conflict issues, including historical injustices; increased mediation and dispute resolution at all levels for land governance, settlement planning and access to housing; prioritizing implementing restitution and compensatory mechanisms to address the violations of victims' housing, land and property rights; promoting activities to prevent the capture of the land registry records; and legal reform to criminalize land grabbing.

- *Mediation and dispute resolution.* These should be used as entry points for hot spots, to prioritize interventions or to target disputes involving priority stakeholders. They can be used for wider political engagement or programming, including medium to longer-term activities. In conflict settings, where national courts may be barely functioning or not present at all in areas where there are large numbers of land disputes to be addressed, support should be considered for functioning local systems with social legitimacy. These include customary dispute-resolution systems strengthened with mediation capacity, and specialized land courts and tribunals that might need to be supported. Civil society, including women's groups, have a key role to play in mediation initiatives and should be supported. Concrete linkages (or eventual linkages) to the formal legal system should be considered.
- *Rule of law.* Strengthening rule of law institutions and access to justice, particularly to support transitional justice, reconciliation processes, resolution of political disputes and peace agreements are key. International human rights law and IHL should guide any UN approach, including on forced evictions and destruction/confiscation/seizure and pillage of land. Any form of legitimate tenure should give protection against forced evictions, or related harassment and threat that is not consistent with State obligations under national and international law. Relevant initiatives to consider are:
  - the creation of land-mandated bodies with judicial, mediation or compensation/restitution capacity;
  - the passing or amendment of land-related legislation for the recognition and protection of land-related human rights;
  - legal recognition of systems of customary or indigenous land and FPIC processes and the harmonization between plural legal systems (formal, customary, religious, indigenous);
  - the recognition and enforcement of women's equal rights to land;
  - the recognition and enforcement of security of tenure as part of the right to adequate housing;
  - access to justice, including access to effective means to resolve grievances over land rights, adequate enforcement of outcomes, including just and fair compensation where land rights are taken for public purposes;
  - ensuring national laws respect international standards to prevent forced evictions;
  - building capacity in civil society and human rights defenders to monitor human rights violations and support legal aid services on land-related claims and disputes.
- *IDPs and refugees.* Activities to support the achievement of durable solutions for these groups may be distinct and responsive to their specific circumstances, including:
  - strengthening national laws, policies and regulations to facilitate reclamation/restitution of land-related rights;
  - raising awareness on international standards related to land restitution and compensation<sup>19</sup>;
  - resolving land disputes particularly around illegal occupation of abandoned land;
  - using land administration pilots in hot spots characterized by displacement issues;
  - prioritizing access to justice mechanisms related to land rights;
  - coordinating civil registration and/or legal identity mechanisms that assist land rights reclamation;
  - prioritizing support to land documentation for displaced women.

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<sup>19</sup> UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005) (Pinhero Principles).

- *Territories under the control of armed groups:* Displaced persons in these territories may warrant special attention and activities could include: a review of land laws and practice against international standards to consider rescinding discriminatory conditions; supporting quick land inventories to assess the land situation once the territory is free; freezing registered property transactions and developing adequate procedures and due process mechanisms to support returnees; and adopting alternative standards of proof to facilitate the recovery of forcibly abandoned land.

In other contexts, and from a prevention perspective, land entry points could include:

- *Land information management.* UN and non-entities working on land and conflict often create information and data for a range of purposes. Shared knowledge and a common base of information and data, including geo-spatial data, needs to be developed for political engagement, programming and reporting. Support should be provided to data collection using the SDG indicators and methodology in hot spots and conflict settings, and to assist countries with their Voluntary National Reviews.
- *Land policy, land (management) reform, land administration, dispute resolution and capacity development.* These components are the major land-related entry points for political engagement and programming across the conflict cycle and the UN should promote land policy processes and policy development at the national or territorial levels which can be used for mediation purposes between opposing parties and to prevent conflict.
- *Government, civil society actors and the international community working at country level should be supported* to adopt targeted approaches in conflict settings and to reflect human rights standards in their national land legislation supported by fit-for-purpose land administration approaches. States should be assisted in their land administration systems through facilitating: land access through resettlement and land regularization; rapidly improving security of land tenure; dispute resolution and rapid improvement of tenure security in priority hotspots; the prevention of conflict or the violation of land-related rights where displacement could occur.

## **B.6. Enhance System-wide Capacity to Address the Land-Conflict Nexus**

There are capacity gaps within the UN system to address land and conflict issues required to undertake political and technical interventions, as identified in the Scoping and Status Study. The following initiatives can be considered to improve UN capacity:

- Ensure that the SRSG, DSRSR, RC and HC at country level have access to the expertise, resources and tools to advocate and promote interventions to deal with land-related conflict and to incorporate land concerns into UN assessments, planning and strategic engagement where land is a factor in conflict.
- Ensure that the UN has the capacity to deliver at the country level, including setting strategic priorities for targeted capacity development. This should include capacity at institutional, leadership and mid-management levels.
- Make available specialized training for technical and advisory staff to better understand when and how to use available mechanisms and tools and to develop initiatives to address land-conflict issues more effectively at the global or country levels. This should strengthen the UN system's ability to incorporate land issues into early warnings, assessments, conflict analysis, planning, political engagement, programming, monitoring and reporting. As and when relevant, land expertise should be included in the deployment of small teams to support national governments and the UNCTs to address emerging conflict situations or to support transition from peacekeeping to sustaining peace or development contexts.
- Develop capacity in the UNCTs to ensure that national data systems and infrastructure are strengthened for sustainable data collection, analysis and reporting against land-related indicators for the SDGs where land may be a perpetual factor in the conflict cycle.
- Develop a common pool of knowledge and capacities for system-wide support at global, regional and country and local levels, both inside and outside the UN. This should include applicable human rights norms, standards and principles; documentation of good practices at country level; the development of a

knowledge base on land and conflict and how land is connected to peace, stability, and gender equality; integrating the land dimension into conflict analysis tools, the Integrated Mission Planning process and other (mission and non-mission) assessment and planning processes;

- UN entities with a land mandate should further develop their knowledge and technical capacity to engage in conflict and recovery settings.

#### **B.7. Expand Partnerships with Non-UN Entities and Actors**

- The UN system should expand partnerships with external actors through instruments such as the UNDAF, national priority plans, the SDGs reporting frameworks, and the World Bank-led Poverty Reduction Strategy Papers (PRSPs).
- The UN system should establish partnerships at the global, (sub-) regional and national levels, with the World Bank and other International Financial Institutions, non-governmental organizations, think tanks, representative institutions, the academic sector and land professional networks to fill organizational gaps.
- Information sharing among partners should be in place, including integration of data collection against the land-specific indicators of the SDGs.
- The UN-World Bank Partnership Framework for Crisis and Post-Crisis Situations should enable shared assessment, planning and financing related to land-conflict issues.
- Other initiatives to engage with include the Land Policy Initiative (LPI) in Africa to support programming for sustainable peaceful solutions. The LPI is well positioned to help focus attention on the land-conflict nexus and can help to facilitate partnerships, dialogue, capacity development and increase the impetus to address land issues in the continent.
- The Global Land Tool Network (GLTN) is an alliance of global, regional and national partners contributing to poverty alleviation and security of land tenure through the development of pro-poor and gender-sensitive land tools. The Land and Conflict Coalition, an alliance of UN and non-UN entities promoting the land-conflict nexus agenda, is facilitated by GLTN. These networks can be used at the global, regional, national and local levels to fill gaps in the Organization.
- The Global Donor Working Group on Land includes many of the large bilateral donors working on land, including the land-conflict nexus. They have focused extensively on the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security but are increasingly turning their attention to land and conflict. In some countries they have specific land programs and might also be part of a coordination mechanism supporting government focused on land. The UN should support these efforts and consider convening and coordinating these mechanisms to encourage funding into a country's land sector.

#### **B.8. Develop and Use Practical Tools that Address the Land-Conflict Nexus**

Relevant UN entities should jointly-develop practical tools to address the land-conflict nexus by collating and building on existing tools and practices across the three pillars. New tools should be developed and could be piloted through the adaptation of land tools used in development contexts for conflict settings and the documentation of good practices in conflict settings. This could include:

- Supporting land information management that addresses the land-conflict nexus and improving the sharing of country level land information, databases, geo-spatial data and mapping. This data and information could be useful for early warning, conflict analysis, assessment and planning, monitoring, reporting, peace agreement negotiations, and coordination and collaboration between agencies.
- Developing robust methodologies for data collection, analysis and reporting for countries to be able to monitor and measure land-related targets and indicators in conflict settings; and improving the collection and dissemination of gender disaggregated data on women, land and conflict for SDGs reporting.

- Adapting and developing new tools for land and conflict settings to analyse land issues associated with displacement in order to facilitate returns and the early documentation of the land and housing status of displaced persons. The tools should recognize legitimate forms of land rights and claims beyond freehold land documents using geospatial data to track conflict and displacement, and clarifying the status of abandoned land to prevent land grabbing and illegal occupation and which can be integrated into fit-for-purpose land administration systems.
- Tools for strengthening land governance in state-building efforts and protection of land documents and land registries from targeted and intentional destruction during periods of high risk. They should reflect due diligence approaches for land titles issued during or immediately following conflict as this could complicate return or trigger further conflict as well as restitution for women where legal systems and practice are not gender-responsive.
- Additional tools may be needed for distributing responsibilities between pillars from emergency to development; for building resilience; for addressing global climate change and impact of conflict on land degradation, displacement, human settlement and livelihoods; for promoting legitimate land rights rather than just legal land rights, community-based GIS, land records, and territorial planning; and to improve technical approaches that strengthen land governance. Specific land-related tools should be developed to empower women in conflict settings around land rights, access and control.

### **C. UN SYSTEM ARRANGEMENTS**

This Note provides guidance to ensure UN-system coherence for a more sustained approach to land and conflict, in particular the following existing arrangements should be supported:

- The UNSDG on the implementation of the SDGs, and its relevant task teams, in particular related to transition settings and recovery, is the forum that should oversee a common land and conflict approach and roadmap, linking with, and building on ongoing and upcoming UN reform processes. The Rule of Law Coordination and Resource Group (ROLCRG) continues to provide a forum for system-wide policy coordination on rule of law related aspects of land and conflict.
- Organizational engagement on land and conflict should further build on existing institutional arrangements at all levels. Land should be embedded in existing country level support mechanisms and joint services to strengthen the existing UN system's overall response.
- Retain purpose-built land units in UN entities to support the development of normative guidelines, land tools and procedures, undertake knowledge management, pilot, give technical assistance, capacity development and develop communication messages for awareness raising and advocacy.

## ANNEX 1: APPLICABLE INTERNATIONAL NORMS, STANDARDS AND AGREEMENTS

The following table presents a series of land issues that are addressed by applicable international norms, standards and agreements. A detailed listing of the relevant international norm, standard and agreement appears beside each land issue<sup>20</sup>.

LAND ISSUE	APPLICABLE INTERNATIONAL NORMS, STANDARDS AND AGREEMENTS
Participation and inclusion. For improved rule of law (land governance), land policy and law reform, including due process.	UDHR (Arts.8,10, 17, 21); ICCPR (Arts.2(3),14,21,22,25(a)); ICERD (Art.5(c,d,e); CEDAW (Arts.7, 14 (2a,f)); ILO 169 (Arts.3, 5(c), 6(b), 7(1), 15,16(2)); UNDRIP (Arts.1,5,10,18,19,27,28,29,30,32);VGGT (3B (6,7,9), 4(4,7,10), 5, 6(9), 8(3,6-9), 9(2,6,7,9,10,12), 10(1,3,4), 11(2), 12(4,5,7-10-12), 13(1,6), 14(4), 15(1,4,6,7,9,10), 16(2), 17(5), 20(2,4), 22(1,3), 23(2,3), 24(3,5), 26(2)); NUA (13A)
Non discrimination and equality.	UDHR (Arts.2, 7,17); ICESCR (Art. 2); ICERD (Arts. 1(1), 5(d)(v,vi); ICCPR (Arts. 2(1,2), 3,26); CEDAW (Art.15); ILO 169 (Art.3(1,4)); UNDRIP (Arts.2,9); UN Declaration on Minorities (Arts.3,4(1)); Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles) (3); UN Guiding Principles on Internal Displacement (Deng Principles) (1,4,21(1)); VGGT (3B (2-4), 4(6), 5(3,4), 6(1), 15(6,7) 17(3), 21(6), 25(3,5,7)); NUA (13A,34); SDG 1 (Target 1.4), 5 (Target 5.a)
Minorities. Important for identity groups and their territory, linked to their culture, religion and language.	UDHR (Arts. 18, 27); ICCPR (Arts. 18, 27); ICERD (Art.5 (d,e); CRC (Arts. 3,19,30,31); CEDAW (Art.13); UN Declaration on Minorities (Arts.1,2(1,2,3), 3,4(1,5)); UNDRIP (Arts. 11,12,13,25,31(1),32(3))
Security of tenure. Different terms are used such as right to property, possession, legitimate tenure rights. It also includes adequate housing and living conditions.	UDHR (Arts. 13,17,25); ICESCR (Art.11); ICCPR (Arts. 12,17(1)); ICERD (Art. 5(d)(v,vi)); CEDAW (Arts. 14, 15(2), 16(1)(c,h)); ILO 169 (Art.14(1)); UN Guiding Principles on Internal Displacement (Deng Principles) (21); Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles) (6,7); UNDRIP (Arts.25, 26.1-3, 27);VGGT (3A (3(1), 3B(6), 2(4), 4, 5(3) 7, 8, 9, 10, 12(4,6,9,10,15), 13(1), 14(1), 15(3), 16(1), 17(1), 23(1,3), 24(3,4), 25)); Guiding Principles on security of

<sup>20</sup> International Standards and acronyms: Universal Declaration of Human Rights (1948) (UDHR); International Covenant on Civil and Political Rights (1966) (ICCPR); International Covenant on Economic Social and Cultural Rights (1966) (ICESCR); International Covenant on the Elimination of Racial Discrimination (1969) (ICERD); Convention on the Elimination of All Forms of Discrimination against Women (1981) (CEDAW); Convention on the Rights of the Child (1989) (CRC); Convention on The Indigenous and Tribal Peoples (1989) (ILO 169); Hague Convention (IV) respecting the Laws and Customs of War on Land (1907); Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977); Declaration on the Rights of Indigenous Peoples (2007) (UNDRIP); Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities (1993) (UN Declaration on Minorities); 1951 Convention Relating to the Status of Refugees (Arts. 13, 21); Guiding Principles on Internal Displacement submitted by Francis Deng, Special Representative of the Secretary-General to the UN Commission on Human Rights (1998) (Deng Principles); UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005) (Pinheiro Principles); Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) (VGGT); UN Comprehensive Human Rights Guidelines on Development-Based Displacement (2010) (UN Forced Evictions Guidelines); Guiding Principles on Business and Human Rights: Implementing the UN “Protect, Respect and Remedy” Framework; Guiding Principles on human rights impact assessments of trade and investment agreements (A/HRC/19/59/ADD.5); Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge (A/HRC/13/33/Add.2); International Guidelines on Urban and Territorial Planning; Guiding Principles on Internal Displacement (E/CN.4/1998/53/ Add.2); UN Conference on Human Settlements (Habitat II), Istanbul, Turkey, 1996; UN Conference on Human Settlement, Habitat III New Urban Agenda (NUA), Quito, Ecuador, 2016; Security Council Resolution 1325 on Women (2000) and the Report of the Secretary-General on women and peace and security; Security Council Resolution 2250 on Youth (2015); ECOSOC Commission on Human Rights, Final report of the Special Rapporteur on Principles on housing and property restitution for refugees and displaced persons (2005).

	tenure for the urban poor (A/HRC/25/54); NUA (13A,35,104,107), SDG 1 (Target 1.4)
Indigenous peoples, land ownership and possession, legal pluralism.	ILO 169 (Arts.1, 2(1,2), 3, 5(a,b,c), 6,7,8, 10,12, 13,14(1,2,3), 15(1,2), 16(1-5), 17(1,2), 23); UNDRIP (Arts.2, 3,5,8(1,2),9,10,11, 12,16-19,20 (1, 2), 23,25, 26 (1-3), 27,28 (1,2),29,30,31 (1,2), 32 (1,2,3), 34,40,41); VGGT (2 (3),4, 4(8), 5(6), 6(5,6), 7-9; 11(2), 12(7), 13(6), 14(3), 15(5), 17(1,2), 20(2,4,5))
Women and land and equal rights to property.	ICESCR (Arts. 2(2),3,11); CEDAW (Arts.2(a), 14(2),15,16); ICCPR (Art. 23(4)); VGGT (3B(3,4), 4(4,6,7), 4(5), 5(3), 6(1), 7(1,4), 8(9,11),9(2,6,10), 10(1,3), 12(11), 13(5,6), 14(4), 15(3,5,6,10), 17(3), 20(3,5), 21(1), 25(3,4,5), 26(2)); Security Council Resolution 1325 on Women, Peace and Security, NUA(34,35), SDG 5 (Target 5.a)
Youth and peace building.	UDHR (Art.17); CRC (Arts. 3,30,31); Security Council Resolution 2250 on Youth (2(a)); VGGT (3B(3), 9(2), 15(5)); Habitat Agenda (Habitat II) (Art.7)
Forced evictions, free, prior and informed consent, displacement, dispute resolution.	UDHR (Art. 17); ICCPR (Art.17); ILO 169 (Arts.13,14(3), 15(1,2),16,17(2,3),18); UNDRIP (Arts.8 (2b), 10, 28(1,2), 30(2), 32(2)); Geneva Convention (IV), Protection of Civilian Persons in Time of War (Art.49); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (Art. 17); UN Basic Principles and Guidelines on Development-based Evictions and Displacement; VGGT (3A, 3(1 2,4), 4(4,9), 6(3), 7(6), 9(9), 10(6), 12(10), 15(9), 16, 21, 23(2), 24(2-5), 25(2-6))
Refugees, Internally Displaced Persons, returnees.	Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinhero Principles) (2(1), 3, 5(1), 6(1,2), 7(2), 10(1,3), 21); VGGT (3A(3(1) 5), 24(2), 25); Convention Relating to the Status of Refugees (Arts. 13, 21); UN Guiding Principles on Internal Displacement (Deng Principles) (1,4,6(1),7(1), 21(1,3), 28,29(2)).
Protection of property, land and natural resources in times of armed conflict.	Hague Convention (IV) Respecting the Laws and Customs of War on Land (Annex to Convention IV) (Arts. 23(g), 25, 27, 46, 47, 55, 56); Geneva Convention (IV), Protection of Civilian Persons in Time of War (Arts. 33, 53, 147); Protocol I to the Geneva Convention (Arts. 35(3), 48, 51-56); Protocol II to the Geneva Conventions (Arts. 14-16); ICRC Customary International Humanitarian Law Rules (Rules 7-14, 38-45, 50-52, 133); Rome Statute of the International Criminal Court (Art. 8(2)(a)(iv); Art. 8(2)(b)(ii); Art. 8(2)(b)(iv)-(v), (ix), (xiii), (xvi), (xxv); Art. 8(2)(e) (i), (iv), (v), (xii)); The Protocol on Explosive Remnants of War, adopted in November 2003 by the States Parties to UN Convention on Certain Conventional Weapons (CCW or CCWC), concluded at Geneva on October 10, 1980.
Food security and right to food.	UDHR (Art.25); ICESCR (Art. 11); VGGT (4(1), 8(11), 10(3), 11(8), 12(1,2,4,6,8,10,12,15), 13(1,3), 15(4,5,7,10), 20(4,5), 22(1), 23(2,3), 26(2)), SDG 2 (Target 2.4)
Natural resource management.	UNDG-ECHA Guidance Note on Natural Resources; Women and Natural Resources, Unlocking the peace building potential, SDG 15 (Targets 15.1, 15.3)
Business enterprises/Large scale land-based acquisitions.	Guiding Principles on Business and Human Rights; Guiding Principles on human rights impact assessments of trade and investment agreements; Large-scale land acquisitions and leases; VGGT (3A 3(2), 9(9,10), 11 (1,2),12); UNDG-ECHA Guidance Note on Natural Resources; 2030 Agenda for Sustainable Development



Urban land for improved security of tenure and access to land, land management and use, adequate housing.	ICESCR (Art.11(1)); Habitat Agenda (Habitat II) (H2.9, 75,109) (40b,d,m,j, 43p,t, 61b, 67d,e, 68a, 70f, 72b,d-f, 74a-c, 75, 76 a-g,k,l-m, 77b, 78b, 79a-f, 83, 98, 113a,c,i,h, 114a-b, 137m, 159c, 172a, 180e, 186c; Guidelines on Urban and Territorial Planning; VGGT (10); NUA (13a, 14b, 35, 69, 104, 105, 107, 111, 137, 138, 152, 156); SDG 11 (Target 11.3)
Regional human rights frameworks with land applications <sup>21</sup> .	American Convention on Human Rights (Art.21); Arab Charter (Arts. 25,31,38); African Charter (Arts. 14,21(1)) and Protocol on Women’s Rights (Arts.1, 6(j),7(d),19,21(2)); Kampala Convention (Arts.4,9,11); European Convention on Human Rights (Protocol 1, Art.1); ICGLR; Islamic Declaration (Art.16); AU, UNECA, African Development Bank, Land Policy Initiative, ASEAN Human Rights Declaration 28 (a),(c),(e),(f).

<sup>21</sup> American Convention on Human Rights; League of Arab States, Arab Charter on Human Rights; African Charter on Human and Peoples Rights; Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa; African Union, African Development Bank and UNECA Land Policy Initiative (LPI) Framework and Guidelines; African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention); Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights); International Conference of the Great Lakes Region, Nairobi Declaration on the Effective Implementation of the Protocol on Property Rights of Returning Persons in the Great Lakes Region, Nairobi Kenya, 2015.