

Land Matters: Programme Toolkit

Christian Aid Ireland

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Poverty is an outrage against humanity.
It robs people of dignity, freedom and hope,
of power over their own lives.

Christian Aid has a vision – an end to
poverty – and we believe that vision can
become a reality. We urge you to join us.

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1. Introduction

The purpose of this toolkit is to help Christian Aid programmes develop and deepen our strategies for working on land. It is based on a larger research report, Land Matters, and two companion pieces on land inequality and large scale land acquisition, which are available at www.christianaid.ie/land.

The experiences in the countries where Christian Aid works show the full range of concerns related to land: from forced evictions for urban regeneration and land reallocation (Angola, Brazil, Colombia, South Africa and Israel and the occupied Palestinian territory (OPT), large-scale land acquisitions (Angola, Brazil, Sierra Leone, Colombia), oppression, control and violent land usurpation (Colombia and OPT) and overall land governance issues in all cases.

The intention is not to draw parallels between these vastly different contexts; rather it seeks to examine resistance to these dispossession and displacement. Dispossession can take many forms: from violent and illegal means to evictions or expropriation carried out by the State with the backing of the law.

The toolkit provides some guidance on responding to land issues based on the experience of the country programmes. For each of the areas touched on there is background and then a selection of action points. Firstly, a brief overview of land issues in the global context helps to **define the problem** and identify key issues to be considered. Secondly, tips for **conducting a power analysis** are outlined. Thirdly, strategies from country case studies¹ are grouped into community, national and international responses, and some key lessons and findings are outlined, to enable programme staff to **identify effective strategies**. Finally, risk and conflict are considered, with a view to **measuring risk and ensuring appropriate protection strategies are put in place**.

Why does land matter for development and human rights?

In January 2013, Christian Aid helped to launch the 'Enough Food for Everyone IF' campaign to make progress towards ending global hunger. One focus of the campaign was to ensure fair and sustainable use of land.²

But why does land matter for development? Firstly, seventy per cent of the world's nearly 1 billion hungry people are smallholder farmers and the rural landless.³ While there is no universal 'right to land', access to land may affect **the right to food, secure housing, water, health, work and an adequate standard of living**.

Land is also the basis of **historic social relationships and cultural and spiritual values; a source of identity, belonging, connection, prestige and often power**.⁴ Alongside this, the right to **self-determination and to freedom of movement** may be violated when marginalised people, or those living under occupation, are not allowed to autonomously govern their natural resources such as land, particularly when they depend on it for survival.⁵

Indigenous peoples' rights have frequently been undermined, despite the rights to their ancestral lands, territories and resources as set out in ILO Convention 169 and in the UN Declaration on the Rights of Indigenous Peoples.

Extensive research, including by Christian Aid on **unequal gender relations**,⁶ shows that women often have less access to tenure systems than men, and men and women play distinct roles in how they use the land. Where customary use of land prevails, privatisation tends to concentrate land in the hands of those who can successfully assert ownership, such as community leaders and male heads of households.⁷ When land changes ownership as part of a large-scale acquisition, reports show that women are often excluded, and suffer particular negative impacts of no longer having access to the land and the food and water it provides. When investors buy land that is assumed to be 'free' or unused, women can be disproportionately affected because they may be farming land without a formal title or recognition of their way of using the land. Also, when communities are displaced the burden of collecting water and firewood, usually on women, increases. For both men and women, land deals may offer new job opportunities in large-scale agricultural production, but these are highly differentiated by type of labour and wages.

Finally, land is linked to governance issues in any country and how power and resources are distributed.

Land is also linked to how tax is raised and administered.

A fair and progressive national tax system can deliver redistribution of wealth, provide resources for governments to fulfil their human rights obligations, and ensure that everyone benefits from economic development. However, large-scale land acquisition deals are frequently done without securing much needed tax revenue for developing countries because of the application of tax incentives. Christian Aid has argued that governments should only offer tax incentives on the basis of agreed and transparent criteria – including adequate environmental, social and economic cost/benefit analysis – and should publish tax expenditures as part of their budget.

2. Land issues in a global context

In the post-colonial era, many governments in the global south attempted to address the historical distortions of large privately owned land-holdings and introduce redistributive reforms.

Since the early 1990s, many of these policies are now being reversed as governments and international development agencies such as the World Bank support the acquisition of large expanses of land by either domestic or international corporations, looking to the private sector to attract foreign investment and to play a critical role in the promotion of economic development. This shift was forcibly reinforced by institutional led structural adjustment conditions⁸ which required indebted governments to free up the market in land, re-launch titling programmes, open their doors to foreign land ownership and remove any impediments to the emergence of large scale farming.⁹

Formalisation and titling private property on a large scale has been widely promoted, the underlying assumption being that poverty reduction will occur as a result of economic, market driven development. However, opponents argue that such programmes fail to factor in political, social and communal relations, and may in fact weaken economic and social security, particularly for traditionally marginalised groups, including women and pastoralists.

Forced evictions

Every year, millions of people around the world are threatened by evictions or are forcibly evicted, often leaving them homeless, landless, and living in extreme poverty and destitution. Forced evictions commonly result in severe trauma and often set back the lives of those that are already marginalised or vulnerable in society.¹³ Within these marginalised groups that are affected, women often face additional vulnerabilities, particularly given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including home ownership and rights of access to property, and given the particular vulnerability of women to acts of gender based violence and sexual abuse when they are rendered homeless.¹⁴

The UN has stated that forced evictions represent a 'gross violation of human rights', and in 2007 the Special Rapporteur for adequate housing developed basic principles and guidelines to assist states and the international community in significantly reducing the practice of forced evictions.¹⁵

A critique of land titling

There are competing conceptualisations of the understanding of land reform. It can refer to a broad range of changes in law, policy and practice related to land and mainly related to more market based reform.

Land titling and formalisation are put forward as a means to enhance security of tenure, and to act as a safeguard against arbitrary or violent seizures of land by state, corporate or other interests. The core claim that land titling can make the poor richer has been a central motivation for land titling programs in the global south.¹⁰ But establishing security of land tenure in developing countries can be complex, due to conflict, informality and customary use of land. Even where there are records, they rarely capture how people depend on the land.

The process of formalizing security of tenure can be heavily politicised and systems of private property may be inappropriate for certain cultures. By giving legal recognition to existing land arrangements, historical injustices- notably from previous dispossession- can be affirmed. Legal security of tenure is no guarantee of economic security or reform to address previous injustice. Legal titles are also no guarantee against dispossession and may inadvertently encourage processes that contribute to dispossession by formalising property rights and therefore encouraging land to be used as collateral or sold, or land can be seized at the moment of titling due to competing claims and common property can be transformed into private property.¹¹ In settings marked by a high degree of inequality and power imbalances between social classes they are likely to benefit local elites over the rural poor.¹²

The global land rush

Since the global food price crisis in 2008, there has been a dramatic increase in demand for large-scale land acquisitions in developing countries from investors.¹⁶ The global food crisis cannot be separated from the global financial crisis. The impact of financial speculation on world trade prices and food, the promotion of biofuels as an alternative and the neglect of agriculture and agricultural research due to the market orientated neo-liberal market were all contributory factors.¹⁷ This spike in food prices led to even greater pressure on agricultural land.

Although there is controversy over the figures, the World Bank estimates that in one year alone - 2008/09 - there was a 14 fold increase in the number of deals announced.¹⁸ Typically, the contracts are long leases, of between 50 and 99 years, and involve acquisitions in excess of 10,000 hectares.¹⁹ Developing country governments are actively promoting large-scale land acquisitions as a developmental strategy, but such land deals have been associated with disproportionate benefits accruing to foreign investors and multi-national corporations. UN Habitat estimates that 15 million people are forced to leave their homes and land every year to make way for development and business projects,²⁰ including urban construction and large-scale land acquisitions.

Land, dispossession and conflict

Dispossession is a major cause of concern across the world. It is often, although not always, accompanied by forced displacement. By end-2014, 59.5 million individuals were forcibly displaced worldwide as a result of persecution, conflict, generalised violence, or human rights violations. This is 8.3 million persons more than the year before (51.2 million) and the highest annual increase in a single year.²¹ In virtually all countries there is a legal concept of 'public purpose' which enables governments to take privately held land for projects in the public interest. However public interest can be poorly defined.

Dispossession is the action of taking away someone's property or land, whether through state-sanctioned legal mechanisms, or illegally. **Displacement** refers to the forced movement of people from their locality or environmental and occupational activities.

Displacement and dispossession may serve particular economic interests or be part of wider government initiatives such as urban regeneration, infrastructural, mining or agricultural investment programmes. Displacement therefore may be 'development induced' in order to facilitate the re-designation or transfer of land use and ownership for development purposes. The statistics for internally displaced people do not include people who have been displaced for reasons of development. As such the nature, drivers and extent of development-induced displacement are difficult to quantify.

ACTION POINT:

Defining the problem

Start by making sure you have a good understanding of the legal and policy frameworks on land and how they are implemented in practice in your context. Of all the potential land issues, which is the most strategic for the programme to address? For example:

- The lack of an overall land governance framework, or the need to make land governance framework more genuinely pro-poor policies (see the annex below for what a pro-poor policy might look like)
- Flawed or discriminatory land policies or legislation
- Conflicting or discriminating traditional laws on land tenure/use, especially with regard to women
- The failure to implement land reforms
- The need for land redistribution and restitution
- Land issues related to violence and conflict, or land and the potential for peace building
- Large scale land deals and acquisitions.
- Land issues related to climate change and disaster risk reduction

3. The power dynamics of land issues

“Landed property rights are not ‘things’; they are social relations between people.”

Borros and Franco, 2010²⁴

In the four principal case study countries looked at by the Land Matters report, these global developments intersect with decades of conflict, directly or indirectly related to land. In Angola, a Land Law enacted in 2004, ostensibly to regularise land ownership after forty years’ of civil war, places the onus on individual citizens to seek regularisation to protect them from forcible requisition – regularisation which, owing to high levels of illiteracy and lack of formal documentation, many are unable to fulfil. In reality even if titles are requested and granted there is still a risk of these being over-ridden by more powerful interests.

Despite ongoing peace negotiations, in Colombia, the state in collaboration with paramilitaries has been fighting guerrillas, for over fifty years, the usurpation of land by violence has characterised the conflict, and land inequality is now being exacerbated by demand for commercial farmland. In Sierra Leone, the government see large-scale agriculture and the promotion of foreign direct investment as the key to restarting economic growth after eleven years of civil war ended in 2002, and foreign land deals have been facilitated by the designation of ‘unused’ lands which are in fact farmlands that have been left fallow to restore soil fertility.²² In the OPT, Palestinians have progressively had their land confiscated as a result of Israeli occupation, and developing and sustaining resilient livelihoods is a constant struggle for Palestinian communities.²³

The underlying nature of governance and politics in any country sets the context for land management decisions, some of which result in forced evictions and unethical land deals, the consequences of which can significantly affect marginalised groups. In many countries, access and rights over lands are based on hierarchical, patriarchal and segregated systems in which the poor, less educated and a majority of women do not hold security of land tenure. Development is less a technical challenge than a political process of negotiation, conflict resolution and management of vested interests.

Land management is determined by national laws, policies and customs, and is subject to land and property laws, land-tenure agreements or planning regulations. While they may be referred to as ‘pro-poor’, these policies are usually viewed by actors such as the World Bank and others as technical or administrative issues rather than necessarily relating to the process of democratising access to and control over wealth and power.

It is about the way people organise their political, economic and social systems to determine who has the right to use which resources, for which purposes, under which conditions, and for how long.²⁵

Land tenure rules determine how land is to be allocated within a society. While land tenure is largely regulated through national law, rural citizens also often acquire land through customary tenure.

ACTION POINT:

Conduct power analysis

- 1. Start by listing all the various actors who are involved or have an interest in your land issue. Include the individuals involved where possible, as well as the institutions.**
- 2. Consider how these actors are connected in relation to land. For example, in the case of a forced eviction, local farmers may have been dispossessed, the land might have been bought by a private investor, the eviction authorised by local government, carried out by local police, and made possible by national government policy.**
- 3. Consider the power dynamics of local community leaders, family members, tribal leaders etc.**
- 4. Connect these actors to each other to better understand incentives, power relationships and potential alliances. For example, considering the relationship between the private investor and national government might raise the question of tax incentives or subsidies granted, which might bring in a new actor, an investment promotion agency.**

Stakeholder groups will vary greatly in composition and relationships depending on the country context, but the following are some questions to ask about various groups.

Local community: What differing objectives and views exist within the community? The community may include large and small landowners, pastoralists and landless peasants. It includes men and women, richer and poorer, old and young. In Colombia, some communities which have been historically marginalised (very often also victims of forced displacement and in many case women have been disproportionately affected) strongly defend commercial land projects as they may represent their only hope to gain employment.²⁶ Land issues can also divide families, as in this example from Sierra Leone: 'Chiefs and companies persuade one or two family members to give up their land and then divide and conquer.... often family members are not on speaking terms'.²⁷

Local government: How is land tenure determined at local level? For example, in Sierra Leone, statutory law is applied in the Western Area, where land can be bought and sold, but in the rest of the country, the Paramount Chiefs and Chiefdom Councils hold land on behalf of the community.²⁸ In Malen chiefdom, community members report that: 'if you say that you have been affected by land grabs you are immediately against the Paramount Chief'.²⁹

National government: Are they actively promoting or facilitating unjust land acquisition? Is the government responsive to international pressure? Colombia, for example, has ambitions to become a regional leader and enter the OECD, and as such is relatively responsive to international advocacy.³⁰ What policies do they have towards foreign investment? In Sierra Leone, research estimated that the government lost the equivalent of 59% of its budget – or 8.3% of GDP – as a result of exemptions and tax breaks to foreign investors.

International actors: International financial organisations, investor home countries and multi-national corporations push national governments to uphold international treaty law, and to facilitate foreign investment projects including urban regeneration projects and large-scale land acquisitions. Investors can also have direct influence on communities by engaging with them and offering benefits attached to land deals, or by persuading pivotal elites at local level to support changes in land use.

Each context varies- pressure from foreign governments, regional courts and the UN system can spur governments to uphold human rights norms and principles in forced evictions. In other situations states may be complicit at the national level in violations of international law and ignore pressure from international human rights bodies or other governments.

International actors may also be compliant in this lack of accountability and not push for adherence to international law by certain states due to lack of political will or other vested interests and power dynamics. Pressure from foreign governments may ultimately be counter-productive where governments blame outsiders for restricting development.

Other intermediaries: Who else is involved in carrying out the land deal: legal firms, insurance companies, surveyors?

Private sector: Increasingly, land is acquired by large private sector entities for large-scale agricultural projects. Many of them will be multinational entities, but it can also be large domestic companies, and strategies will differ accordingly. However, it is worth verifying whether the company has international links? For example, in the case of forced evictions in Las Pavas in Colombia, Christian Aid linked the acquiring palm oil company back to a supplier of the Body Shop, and was instrumental in the Body Shop breaking ties with the supplier as a result. If the company is domestic, does it have ties to national government? Who funds the company? Investors (private or public) may be able to influence the company with threat of divestment, and may have ethical guidelines to which you can refer. Is the company willing to engage with local concerns? In Huila in Angola, Christian Aid partner ACC enabled, for the first time, effective engagement with local government on establishing land access and other rights for pastoralists. The UN Guiding Principles on Business and Human Rights also provide guidance in this area.

Other non-state actors: Are there other powerful non-state actors, such as paramilitaries in Colombia or Israeli settlers in OPT, to take into account? Is any part of government complicit with acts by non-state actors? In Colombia, government officials have collaborated in legalising land seized by paramilitaries.³¹ In OPT Israeli authorities have failed to take action against illegal Israeli settlers who arbitrarily take land.

International organisations and institutions: Are international organisations influencing the national government, and what are some of the positive or negative consequences? For example, while both human rights conventions (which protect rights for all) and international investment agreements (which protect investors) are legally binding on the states that are party to them, investment legal frameworks feature far stronger dispute, arbitration and compensation mechanisms.

ACTION POINT:

Based on your power mapping, where might potential allies be found?

NGOs/civil society: What other groups are active on these issues, locally, nationally or internationally? Is there existing analysis of land issues that you can draw on, or analysis of the state's compliance with the FAO Voluntary Guidelines on Tenure of Land, Fisheries and Forests?³²

Gender considerations: It is important to pay particular attention to the interplay between power dynamics and gender relations- importantly gender should be considered and assessed in planning, activity implementation, research and community engagement, amongst other areas. Gender dynamics are important both within the community – where women may have much weaker land related rights than their male partners and counterparts – and in relations with other power holders. In the OPT, for example, women can face two levels of discrimination – from the Israeli authorities and from the predominantly traditional and patriarchal attitudes in Palestinian society.³³ In Colombia, women human rights defenders experience high levels of threats of sexual violence, and in Angola, resistance to land expropriations tend to be dominated by men, partly due to the perceived physical risk to women activists.

Alliances between disparate groups with similar goals are critical in strengthening advocacy, and countering strong vested interests. In Colombia, for example, alliances have been formed between small farmers and small businesses, and in Angola, protests were more effective when members of the middle class who were affected got involved. In Sierra Leone, the formation of the Malen Affected Landowners and Users Association (MALUA) brought together those with a legal claim to the land, and those who depended on the land to combat land acquisition. In the OPT, Israeli human rights organisations may have more success in getting a response from Israeli authorities than their Palestinian counterparts.³⁴

4. Choosing a strategy

ACTION POINT:

Before reading the following section, return to the **problem that you have defined**. Then, based on your **power analysis**, identify what you would like to see change (your objective), and how you might make that change happen (your strategy). The following section groups strategies identified in the case studies into community, national and international actions, and may help to **identify elements of effective strategies** for your land issue. It is important to remember that no strategy is isolated and action at the different levels – community, national and international levels – needs to be linked and connected.

Community action

Most responses to land dispossession will start at local level, and all good strategies will feature local community members as active participants. Community action and mobilisation can take many forms, and some examples are provided below.

- In Angola and Sierra Leone, Christian Aid partners have used **community early warning systems** to respond more quickly to any changes in land tenure. Communities identify changes to land in their areas, for example when they see fencing, new facilities or new roads ... community leaders are trained to analyse trends in land changing.³⁵
- In the OPT, human rights group B'Tselem, **provides cameras to community members** to document life under Israeli occupation, gathering evidence of violations including the reality of checkpoints and the behaviour of the military forces and the settlers.³⁶
- In Colombia, communities have used the innovative approach of **establishing humanitarian zones** to remain on their territory and resist ongoing conflict. These zones use international humanitarian law to distinguish between combatants and civilians. Communities define and mark the areas they inhabit and prohibit any armed group from entering, whether they are there legally or illegally – thus providing sanctuary not only for the local population, but for other citizens during attacks in the context of an internal armed conflict.

- **Raising awareness at local level** is in itself an important strategy. In Sierra Leone, showing communities the agreements and pointing out the number of hectares that have been taken from specific chiefdoms has caused local chiefs and community members to raise questions, leading to protests in some areas.³⁷

National level strategies

- **Mass mobilisation** has been effective in many situations. A 2010 conference and march organised by Christian Aid partners and others in Angola resulted in an apology from the national government for the violent forced evictions of more than 3,000 families in the province of Lubango, and a verbal commitment not to carry out evictions in the same way again.³⁸

In India, Christian Aid partners are involved with Ekta Parishad, a non-violent action people's movement on land reform. Massive marches organised in 2005 and 2007 resulted in a National Land Reform Commission being established to develop and reform land policies to meet the demands. Mass mobilisation can present considerable risks: in 2013, a national agrarian strike in Colombia effectively paralysed the country and generated much greater national awareness about the issues,³⁹ but also resulted in 12 dead, with 485 wounded and 4 missing.

ACTION POINT:

If you are considering legal advocacy or action, Christian Aid may be able to facilitate access to pro bono lawyers (many of whom are based in programme countries) who can analyse legislation, policies and land agreements at no cost to the programme.

- **National legal recourse** has also been used to good effect in Colombia where there is a functioning and independent judicial system. In 2009, Colombian police forcibly evicted 120 families in Las Pavas, telling them the farmland had been sold to palm oil companies. In 2011, the Colombian Constitutional Court ruled that the community could return to their land, pending the re-examination of legal title to the land.⁴⁰ Two years later, the State Institute of Rural Development declared that most of the land was public, not the property of the palm oil companies, and that it should be returned to the Las Pavas community.⁴¹ Legal action can also delay land dispossession when all other options have failed.

- In Sierra Leone, the **national media** has been used to highlight land issues. Media outlets have been used to host public debates and there has been work to strengthen the capacity of journalists with human rights interests. There have even been radio soap operas which have dramatized land issues in the Krio language, to create greater public awareness.

International strategies

Recourse to **international human rights systems**.

- In 2013, the Inter-American Court for Human Rights declared the Colombian government responsible for forced displacements carried out in 1997, in a joint operation between military and paramilitary forces. The Inter-American Court has also been instrumental in supporting and legitimising the humanitarian zones in Colombia mentioned above.

In the OPT, international advocacy at the United Nations has become an important tool, with a focus on documenting human rights violations and calling on Israel to respect international humanitarian law and the international community to fulfil its obligations in not recognising illegal situations such as settlements and the separation barrier. However, international human rights mechanisms have some substantial shortcomings (see critique below), and sometimes, may lead to greater repression. In Angola, for example, the UN Special Rapporteur on the Right to Adequate Housing called on the Angolan government in 2006 to abide by basic principles and guidelines on development-based evictions and displacements. The government was also warned that it could be in violation of economic, social and cultural rights. But the official response contested these findings, and it is suggested that the episode led to the restriction of civil society activities.

- Pressure can be put on the international business community. In the Las Pavas case mentioned above, Christian Aid discovered that one of the companies buying the land from which families were forcibly evicted was a subsidiary of Daabon, which supplied the Body Shop

with 90% of its palm oil. Christian Aid brought this to the attention of the Body Shop, and co-financed an independent investigation, which led to the Body Shop cancelling their contract with Daabon. In the OPT, Christian denominations that Christian Aid partners have been working with were among the first churches to begin divesting from companies which support illegal settlements. This toolkit gives guidance on how to follow the money to identify and leverage pressure points along agricultural investment chains to defend land and natural resource rights.

- Campaigns can influence **other national governments**. For example, Traidcraft made a number of recommendations to the UK government on ensuring that bilateral investment treaties conducted with countries affected by large scale land acquisitions safeguard the rights of the poor.⁴² In the OPT, strategies also encourage foreign government to ensure that they are not complicit in any human rights violations, including any act that sustains illegal settlements.

A critique of international advocacy principles and mechanisms

Christian Aid partners have successfully made use of international human rights treaties and other international advocacy mechanisms to tackle land issues. However, international treaty mechanisms can be slow, and feature substantial shortcomings in enforcing legal remedies. In contrast with investment treaties, international human rights law typically require complainants to pursue all national remedies first, with a few exceptions. While the Inter-American Court for Human Rights is relatively robust, other human rights systems, such as in Africa, are not so well developed.

A range of non-binding guidance, principles and standards on land governance and responsible investment have also been developed to respond to land issues. For example, the Voluntary Guidelines for Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security provide guidance on important aspects of the governance of agricultural investment. They are primarily aimed at states and amongst other things, promote investment by, with and in small scale producers, seek to protect legitimate tenure rights, ensure transparency of process and recognise the important role of non-state actors, including civil society, in promoting implementation.

It is perhaps too soon to assess the impact of these principles and standards, however the International Institute for Environment and Development (IIED) have illustrated that a common problem in guidelines and principles is that the sanctions and incentives for compliance remain weak.

Additionally many have challenged the relevance of voluntary guidelines as a means to regulate land deals and agricultural investments. Events around the World Bank's development of the Principles on Responsible Agricultural Investment were critiqued by NGOs and transnational alliances of farmers and indigenous peoples on the basis that 'trying to compensate for this absence of legitimacy by getting investors to adhere to a few principles is deceitful'.⁴³

The World Bank is currently consulting on its Environment and Social Framework that sets out requirements for government's receiving loans from the Bank.⁴⁴ This framework contains a specific provision on land acquisitions, restrictions on land use and 'involuntary resettlement' and on paper might be expected to address the rights of small-scale farmers, pastoralists and forest dependent communities. However vague and contradictory provisions could leave poor and vulnerable landholders or pastoralists adversely affected by a framework that favours state investment. To address this it would be essential that this framework explicitly reference international conventions to protect human rights and set out the need for independent, third party support to manage disputes or ensure human rights in relation to land are upheld.

For supporting responses to land deals, a strengthened international framework for regulating land deals, investigating human rights abuses and providing mechanisms for effective remedy remains a priority. The success or failure of these experiences ultimately depends, to a significant extent, on the ability of citizens to mobilize international networks and pressure points for compliance.⁴⁵

ACTION POINT:

Appendix 1 lists some of the international human rights treaties and voluntary principles and guidelines which are relevant to land issues. Even if you are not planning to appeal directly to the human rights bodies, it can be useful to frame your advocacy on land matters in terms of their effect on legally binding human rights and internationally recognised standards.

Key findings with regard to strategies

- **Strong strategies link community response to wider action.** In the B'Tselem example, the cameras empower the volunteers, moving from victim to peaceful activist, and volunteers have reported a greater sense of security. At the national level, video testimony has successfully been used to quash wrongful arrests in court, and internationally, B'Tselem video testimony has served to raise awareness internationally about daily life in the OPT. The Las Pavas case in Colombia also provides an example of linking local, national and international activism.
- Due to patriarchal norms, the threat of physical risk and lower literacy levels, **women may be less visibly active on land issues**, something which Christian Aid partners are working to correct. Partner ACM in Angola is using participatory and visual tools to look at demarcation of land, for example. In the B'Tselem camera project, most researchers tend to be men and therefore they have a higher proportion of male testimonies. B'Tselem is addressing this through gender training.
- In situations where a lasting solution at national level seems far off, local community action plays a vital part in **keeping hope alive**. Christian Aid partner Palestinian Agricultural Relief Committees (PARC) works on developing the communities' sense of resilience and survival. Within the OPT, PARC encourages farmers to work collectively and promote agricultural development and diversification of produce in spite of the restrictions imposed by Israeli occupation.
- **Stigma attached to protest can affect certain strategies** and need to be explicitly considered. In Colombia, the persistence of stigma attached to protests, as a result of associating them with armed groups (a deliberate strategy by their opponents), undermines efforts to get the issue of land issues onto the national agenda. In Angola, Colombia and Sierra Leone, protestors risk being viewed as undermining economic development if they oppose large-scale land deals and urban development. In some cases protest can be viewed as political opposition or a threat to the state and any activism is met with repression. In the OPT, pursuing legal action and accepting compensation for land confiscation can be viewed by Palestinian communities as submitting to the Israeli occupation and a rejection of the land related rights of the Palestinian population.⁴⁶

- Linking actions by civil society to outcomes is challenging in complex and dynamic settings. While strategies may not produce immediate results they may establish 'new patterns of decision-making' at local or national levels or a greater sense of citizenship and capability to claim rights. Ultimately shifting power dynamics and decision-making processes towards citizens is key to real reform. **Inclusive and deliberative consultation** should be a standard feature of governance- giving people a say should not wait until an issue occurs, it should be part and parcel of development.⁴⁸

ACTION POINT:

Considering the strategies your programme already has in place, are there ways to create stronger links between local, national and international action?

5. Considering risk and conflict

Struggles over access to and control of land (and the resources located in the land) and struggles over territory are often associated with violent conflict and civil wars. Legacies of conflict, inequality and weak governance are intertwined with incomplete land reform and inadequate oversight to ensure equality and access to land for the poor. In conflict and post-conflict countries, land acquisition and repeated patterns of dispossession frequently exacerbate tension and are the underlying cause of further violence – often linked to wider processes of political exclusion, social, ethnic and racial discrimination, economic marginalisation, and a perception that peaceful action is no longer a viable strategy for change.⁴⁹ This underscores the importance of land in peace building efforts.⁵⁰

Formal armed conflicts have only recently ended in Angola and Sierra Leone and remain ongoing in Colombia and the OPT. Concerns around levels of violence persist in all contexts- it can occur in more subtle and complex ways that makes the response harder to navigate for civil society. Tensions over forced evictions and land deals/confiscation have the potential to reignite and exacerbate conflict at local level and undermine local stability.

Globally, there has been a dramatic increase in violence against those who work on land and dispossession. Global Witness reported that between 2002 and 2013, 908 citizens were killed protecting rights related to their land and environment, and three times as many people were killed in 2012 than 10 years previously, with the death rate rising in the past four years to an average of two activists a week. These figures do not include non-lethal violence, sexual violence and intimidation.⁵¹

Some protection strategies used by country programmes in the case studies include:

- **Public exposure of threats of violence and international advocacy.** In Sierra Leone, civil society organisation SILNORF organise emergency interventions when they are informed of threats of violence against community members, involving the media and the Human Rights Commission of Sierra Leone. According to SILNORF, 'That has been effective - when that happens the company can't continue - instead they have to get back to the people with peaceful solutions'.⁵² In Angola, SOS Habitat has used radio and online media to increase visibility of their actions and any related threats to enhance the security of its staff, they have also effectively engaged with international human rights organisations to draw attention to protection issues.

- **Physical accompaniment of human rights defenders.**

In Yannun village in the OPT ecumenical accompaniment is carried out on a 24-hour basis to protect villagers from attacks by settlers from illegal Israeli outposts.⁵³ In Colombia, international observers give the community confidence and provide a link to the international community.⁵⁴ In Angola, Christian Aid partner ACC accompanies local community leaders who advocate on land issues.

- **Use of humanitarian zones.** As mentioned above, Colombian communities have created designated humanitarian zones which provide a safe space for their inhabitants and those fleeing violence.

ACTION POINT:

Assessing the power dynamics of risk and conflict can help you respond. For example a way to look at risk is to assess your vulnerabilities and threats? Then assess, what are your capacities to respond?

When looking at those who threaten you- what are their positions, interests and needs?

Finally before committing to any strategy, it is important to consider whether your intervention will do no harm¹ and how it can be conflict sensitive².

1. www.principletopractice.org/from-principle-to-practice
2. www.conflictsensitivity.org/content/how-guide

ACTION POINT:

What measures have been taken in the strategies you support to measure risk and provide protection for human rights defenders and communities they work with?

6. Conclusions

“We believe that things can change. When people work together to achieve a common goal for the common good, the impossible is made possible.”

Christian Aid, Partnership for Change

The *Land Matters* research presented some overall findings relevant for programming, summarized here below:

- **Power analysis**, and the need to understand the political settlement (elite bargains) and the incentives for stakeholders, is vital for staff working on land issues to understand how country programmes can target their response.
- **Gender analysis** is critical, and organisations need to understand how to integrate general equality into their daily work and engage both men and women in debates on land.
- **In conflict or societies that have moved beyond major armed conflict**, it is important to understand the dynamics and intersections with new forced evictions and land deals/ confiscation, and to develop strategies to manage risks to individuals or communities. At the local level, without pre-existing organisation and an evidence base, responding to land deals is a race against time.
- **Information remains critical** for mobilising communities, creating an evidence base, building advocacy, and launching legal challenges, media awareness and international advocacy.
- At the local level, without pre-existing organisation and an evidence base, responding to land deals is a race against time. **Early warning systems and pro-active strategies**, rather than reactive responses, offer better chances of at least securing better terms of incorporation or adherence to guiding principles and regulations for land deals.
- **Collective action and the coordination of civil society matters** - particularly when civil society is fragmented. Working with a diverse and broad range of actors strengthens advocacy and counters vested interests.
- Engaging to get a better deal for the poor and **improved governance in all public policies and national systems is vital**, otherwise even positive outcomes are secured in individual land deals, better terms of incorporation are not guaranteed in other deals.
- **Alternative proposals carry the risk of being labelled ‘anti-development’ and radical**. Civil society has to position itself carefully with alternatives that avoid

this labelling. Other ways to counter dominant approaches are to work through related land policies and development strategies and then to different forms of involvement in land deals.

- The gap in implementation, at the international level, between **protection for investors, and protection of the rights of those affected by land issues**, must also be addressed. As part of this the role of the international community in protecting civil society space and in supporting civil society in challenging sophisticated strategies by vested interests to abuse power is important.

The research carried out in the production of *Land Matters*: dispossession and resistance and its companion piece on large scale land acquisition have highlighted the complexities of land issues, the growing scale of the problem, and many of the difficulties and repression faced in resisting unjust land matters. They are also testimony, however, to the resilience of the most marginalized, who continue to respond to and resist land injustice despite conflict, unequal power relations and restrictions on civil society. It is based on these hard-won experiences that this toolkit attempts to give some practical guidance to country programmes seeking to enhance and strengthen their approaches towards land matters and resistance to dispossession.

Appendix 1

What might a genuinely pro-poor policy look like?

Borras and Franco in 'Contemporary discourses and contestations around pro-poor land policies and governance'⁵⁵ set out what might be necessary to make a land policy genuinely pro-poor:

A pro-poor land policy is a public policy that categorically aims to protect and advance the land access and property interest of working poor people. In most agrarian settings, the rural poor are various social classes and strata of the landless and land-poor peasants and labourers: small owner cultivators, small-scale cultivators, middle peasants, landless rural labourers, subsistence fishers, indigenous peoples, pastoralists, both male and female. By landed property rights we mean here landbased social relations. It is these relationships between groups of people or social classes that are the subject of any pro-poor land policies.

Land policies are not technical-neutral devices. When implemented, land policies impact differently among different social classes and groups of people, favourably or otherwise. Not all land policies are categorically meant to favour the poor. Not all officially labelled as pro-poor land policies automatically result in pro-poor outcomes. Not all well-intentioned land policies actually benefit the poor. There are unintended and unexpected land-policy outcomes, both positive and negative. Therefore, it is important to specify the key features of a categorically pro-poor land policy. In this context, we identify nine interlinked key themes:

1. Protection or transfer of land-based wealth in favour of the poor: pro-poor land policy transfers wealth to, or protects existing land-based wealth of, the rural poor (as broadly defined above). Land-based wealth means the land itself, water and minerals therein, other products linked to it such as crops and forest, as well as the farm surplus created from this land.

2. Transfer of land-based political power: A pro-poor land policy transfers (or protects) political power to control land resources to the landless or near-landless rural poor. It is a policy that confronts, and does not back away from, political conflicts that are inherently associated with land-based social relations and any serious attempts at recasting the latter. By political power transfer we mean here the actual transfer of real or effective control over land resources.

3. Class-conscious: It ensures that the policy benefits the landless and near-landless working classes. For example, mainstream land titling and land-rights formalization initiatives carried out in settings marked by a high degree of inequality and power imbalances between social classes are likely to benefit local elites, not the rural poor.

4. Historical: A pro-poor land policy is historical in its perspective. This means the policy should understand the issue of land-based wealth creation, political power transfers and recipients from longer historical perspectives. This allows for a 'social justice' framework to be fully developed.

5. Gender-sensitive: Land policies that are gender-blind are likely to undermine women's rights, and by implication for some types of households in some settings weaken the capacity of the households to combat poverty. But recent studies have also cautioned us not to see allocation of separate land titles to women as always appropriate in all places at all times, and not to assume that joint titling is a 'magic bullet' that could deliver women's empowerment.

6. Ethnic-sensitive: Similar to that of the issue of gender, a pro-poor land policy is one that at a minimum does not undermine, and at a maximum promotes the distinct right of ethnic groups (and other race- and caste-related groupings) to their territorial claims, often as peasants and as a people. This is especially important in national settings that are ethnically diverse.

7. Productivity-increasing: A pro-poor land policy contributes to increasing land and labour productivity. This means land policy leads to more intensive land and labour use after land policy implementation.

8. Livelihood-enhancing: A pro-poor land policy contributes to building diverse and sustainable livelihoods. Land policies are usually thought of as something to do with agricultural or forestry development. While to a large extent this is correct, greater understanding of the complexity of livelihoods of the rural poor demonstrate the extent to which on-farm and off-farm sources of livelihood are, to varying extents, mixed from one household to the next, from one country to the next.

9. Rights-securing: Finally, a pro-poor land policy is one that contributes to effectively securing the rights of poor people to occupy and use land for purposes and in ways of their own choosing.

Appendix 2

International advocacy mechanisms

Human rights treaties (legally binding on States Parties) which outline rights related to land.

- The International Covenant on Civil and Political Rights
- The International Covenant on Economic, Social and Cultural Rights
- The Convention on the Elimination of all Forms of Discrimination Against Women
- ILO Convention 169 on the rights of indigenous and tribal peoples

Non-binding guidance, principles and standards on land governance and responsible investment

- FAO Voluntary Guidelines for Governance of Tenure of Land, Fisheries and Forests
- UN Guiding Principles on Business and Human Rights
- UN Declaration on Rights for Indigenous People
- United Nations' Guiding Principles on Internal Displacement
- World Bank Guidelines Principles of Responsible Agriculture Investment
- World Bank Guidelines on involuntary resettlement
- IMF Code of Good Practices on Fiscal Transparency
- UN Basic Principles on the Use of Force and Firearms
- UN Special Rapporteur on the Right to Food's Principles on Large-Scale Land Acquisitions and Leases (Olivier De Schutter)
- UN Special Rapporteur on the Right to Adequate Housing Basic Guidelines and Principles on development based evictions and displacement
- OECD Declaration on International Investment and Multinational Enterprises
- Extractive Industries Transparency Initiative
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- EU Land Policy Guidelines
- OECD Convention against Bribery
- Convention on Biological Diversity

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