

THE NEED FOR CONFLICT-SENSITIVE LAND POLICY AND LAND GOVERNANCE IN AFRICA

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IN AFRICA

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ACRONYMS

AfDB	African Development Bank
APPG	All Party Parliamentary Group
AU	African Union
AUC	African Union Commission
CSOs	Civil Society Organisations
DfID	Department for International Development
FAO	Food and Agriculture Organisation
ICARRD	International Conference on Agrarian Reform and Rural Development
IFPRI	International Food Policy Research Institute
LPI	Land Policy Initiative
NEPAD	New Partnership for Africa's Development
ODI	Overseas Development Institute
RECs	Regional Economic Communities
UNECA	UN Economic Commission for Africa
USAID	US Agency for International Development

EXECUTIVE SUMMARY

The 2008 global spike in food prices that caused widespread riots and instability and the recent predictions of another global food crisis highlight the urgency of establishing sustainable food systems, especially in Africa. However, sustainable food systems can only be created if there are coherent and comprehensive approaches to land rights, land policy and land governance. This includes taking into consideration that issues related to land are often at the root of violent conflict in Africa. Land issues therefore need to be addressed in a comprehensive way that maximises the productive capacity of people and natural resources, while also minimising the risk of violent conflict and instability. Incorporating a conflict-sensitive approach when designing and implementing land policies and land reform is consequently crucial in order to realise increased equity, greater socio-economic development and food security, as well as contribute to peace and stability on the continent.

The report identified three broad recommendations:

- First and foremost, African leaders need to have the political will and commitment to initiate the in-country land-policy development and land-governance reform processes and follow them through in a coherent, inclusive and transparent manner. To achieve this requires, among other things, a sustained national and pan-African dialogue, based on realistic analysis of the apparent political constraints, and designed to increase political incentives and reduce the disincentives for improved governance of land and more equitable access.
- Secondly, any land-policy development or land-reform process needs to be conflict-sensitive. This means incorporating conflict analysis and conflict dynamics into the different planning and implementation steps, and ensuring that there is adequate capacity to manage conflicts without violence. The Land Policy Initiative (LPI) needs to be updated so that conflict-sensitivity is integrated into the guidance provided to African states.
- Thirdly, all those planning and implementing land-reform processes should take steps to establish an inclusive dialogue process from the outset in order to ensure inclusivity, widespread support and adequate financial and technical assistance. This includes support from international and regional organisations, multilateral and bilateral donors, as well as civil society. Peer-review mechanisms, such as those envisaged by New Partnership for Africa's Development's (NEPAD) African Peer Review Mechanism can also play a role in the monitoring and evaluation of national commitments.

INTRODUCTION

Violent conflict and instability are key factors in diminishing developmental progress, stifling economic growth and destroying lives and livelihoods. In his 2003 report on the prevention of armed conflict, former UN Secretary-General Kofi Annan called for prevention strategies that address the political, social, cultural, economic, environmental and other structural causes that often underlie the immediate symptoms of armed conflicts. Issues of land rights and land access, as well as injustices tied to land, are some of the structural causes of conflict, and, when past injustices, including those related to land, are not adequately addressed, it becomes increasingly difficult for peacebuilding and development to be sustainable.¹ Land ownership and access also relate closely to issues of identity and belonging, often in contested areas and conflict-affected or conflict-prone contexts. Despite recent improvements in stability in Africa, a substantial number of African countries can be considered to be prone to, or are currently experiencing, violent conflict.

Land is crucial to Africa's social and economic development, as the majority of the population depend on land and land-based resources for their livelihoods. Similarly, sound and secure land rights are intrinsically linked to the realisation of inclusive development, peace and security, as well as natural-resource governance. The global food security crisis that erupted in 2008 emphasised the importance of the establishment of sustainable food systems that can withstand shocks associated with food-price volatility, economic upheaval, demographic changes, violent conflict and adverse climatic events.² Similarly, current warnings about rising food prices and shortages and the possibility of a new global food crisis should not be ignored either.³

In order to achieve sustainable food systems, comprehensive country-led responses are required that improve land policy and land governance. Unfortunately, as pointed out by the EU in its land-policy context analysis,⁴ inadequate and inappropriate land-policies legislation and institutions, as well as low levels of implementation, have continued to hamper adequate land governance in Africa. It states that the main reasons for this predicament include low political will and commitment by African governments and their development partners, and incoherent involvement of stakeholders at various levels in land-policy formulation and implementation on the continent.⁵ At the same time, investment in agriculture as well as the private sector has been lower in Africa compared to other continents, which, to a certain degree, can be traced back to weak property rights and tenure systems.

Further to the issues referred to above, this paper firstly discusses land and conflict issues, as well as land policy and land governance in Africa before moving on to propose key elements of a conflict-sensitive approach to land. Subsequently, it analyses the African Union's (AU) framework and guidelines of the Land Policy Initiative (LPI), which were recently adopted by the African Heads of State,⁶ before discussing the role that African states, the AU, the Regional Economic Communities (RECs) and external donors – in particular the EU – can play. Lastly, the focus of this paper shifts to how guiding principles for conflict-sensitive land policy can be operationalised to support in-country land governance, and how the implementation of appropriate land policies can act as a driver of change for greater social, economic and political participation and development.

1 Food and Agriculture Organisation (FAO) (2009). 'Land policy development in an African context', Land Tenure Working Paper 14. p.60.

2 For more information, see <http://un-foodsecurity.org>. Accessed June–October 2010.

3 See, for example, 'Global food crisis forecast as prices reach record highs', *Guardian*, 25th October 2010. Available at <http://www.guardian.co.uk/environment/2010/mar/07/food-water-africa-land-grab>

4 EU Support to the Land Policy Initiative (2009). 'Capacity building in support of land policy development & implementation in Africa'.

5 Ibid.

6 In 2009 the AU, African Development Bank (AfDB) and the UN Economic Commission for Africa (UNECA), in close collaboration with the RECs, finalised the framework and guidelines for land policy and land reform in Africa. See AU/AfDB/UNECA (2009). 'Framework and guidelines on land policy in Africa'. Available at <http://www.pambazuka.org/aumonitor/images/uploads/Framework.pdf>

This paper does not claim to reinvent land and conflict analysis or to dictate how interventions should or should not be carried out. Instead, it seeks to build on research, policy and practice that has already been carried out, highlights the importance of including a conflict-sensitive approach in the process, and offers insights into the added value of national governments and regional organisations playing a more proactive role in promoting land policy that understands conflict dimensions and seeks to reduce the propensity for land-related violent conflict in Africa. It also aims to contribute to existing initiatives and set out ways in which a renewed and appropriate focus on land policy can play an important role in reducing violent conflicts and instability in Africa, strengthen land-tenure security and improve livelihood opportunities. Lastly, it should be noted that land-policy reform and implementation will inherently cause tensions and conflict, which need to be addressed and managed peacefully at the local and national level. This issue is one of the reasons for the lack of political will to implement them. Nonetheless, the benefits of the implementation of appropriate, conflict-sensitive land policies and land governance will outweigh the costs and concerns in the long run.

LAND AND VIOLENT CONFLICT IN AFRICA

IMPORTANCE OF LAND

Land is 'a unique, valuable, and immovable resource of limited quantity and is a central element in the varied and complex social relations of production and reproduction within which conflict between individuals and groups are bred'.⁷ The cultural and psychological significance of how land relates to ethnic identity is of similar significance as land is also about history and belonging: it connects family and generations and it cements belonging. Land is also power; not only power in the economic sense of representing wealth, but also the power to grant access to land, which is vested in, and exercised by, traditional and tribal chiefs under customary law. Sustainable growth and development in Africa – as well as the continent's contribution to, and participation in, the world economy in the 21st century – will continue to depend largely on the manner in which land and land-related resources are secured, used and managed, and how property-rights systems function.⁸ Land is a very sensitive issue, as it lies at the heart of social, economic and political life in most of Africa, but at the same time there is often a lack of clarity regarding land and property rights.⁹

Improving smallholder agricultural productivity is crucial for reducing hunger, poverty and food insecurity. Many African livelihoods are reliant on smallholder agriculture, livestock production, fishing and other forms of subsistence production, and, as a result, the access and right to land is a vital underpinning of these livelihoods. If land tenure and usage rights are securely managed and governed, they will foster economic efficiency and environmental sustainability, and can also have positive implications for peace in the long run.¹⁰ Land issues are therefore highly relevant to national and local development strategies, and especially with regard to economic growth, political participation, governance and food security.

However, land is also a critical "prize" in many local and national power struggles, and any development initiative needs to be aware of the political economy dimensions as it is clear that access to land is an issue that has been at the root of numerous continued crises and violent conflicts across sub-Saharan Africa since decolonisation, with members of certain groups accumulating land and property to the disadvantage of others.¹¹ The lack of political will of many African leaders and governments to implement wide-ranging changes in land policy and land rights in the last fifty years can partly be attributed to the fact that control over, as well as rights and access to, land is a key source of power which can be maintained and manipulated to ensure political and economic continuity and governmental and elite survival. At the same time, with the advent of electoral cycles, the political elite realise that any form of reform of land rights and land ownership is a sensitive and dangerous undertaking.

In short, therefore, competition over access and rights to land is often, quintessentially, about power, both socioeconomic and political.¹²

7 US Agency for International Development (USAID) (2005). *Toolkit on land and violent conflict*.

Available at http://www.usaid.gov/our_work/cross-cutting_programs/conflict/publications/toolkits.html

8 AU/AfDB/UNECA (2009). 'Framework and guidelines on land policy in Africa – Draft 5'. p.64.

9 C. Huggins and J. Clover (2005). *From the ground up: Land rights, conflict and peace in Sub-Saharan Africa*. Available at <http://www.iss.co.za/pubs/Books/GroundUp/Contents.htm>

10 N. Pons-Vignon and H. B. Solignac Lecomte (2004). 'Land, violent conflict and development', OECD Development Centre Working Paper, No. 233, France. p.13.

11 USAID (2005). Op. cit. p.1; A. Chikwanha (2007). 'The anatomy of conflicts in the East African community', keynote speech, Institute for Security Studies. Available at <http://www.iss.co.za/uploads/EACANNIE.PDF>

12 USAID (2005). Op. cit. p.3.

LAND AND CONFLICT ISSUES

Land issues in conflict-affected and conflict-prone societies are often multifaceted and difficult to resolve. Land-related violence can frequently be traced back to historical grievances related to land distribution in an economic and governance context characterised by an incomplete process of transformation from “traditional” to “modern”.¹³ According to the seminal work by the North-South Institute,¹⁴ there are a number of different reasons for this complexity. Firstly, the scale of problems can often be greater and more multifaceted, as violent conflict can aggravate existing problems of insecure land tenure and access.

Secondly, conflict also generates new land-related challenges, as it can damage or destroy already incomplete property records and cadastres, undermine customary or statutory rights to land ownership and access, and further weaken judicial or traditional instruments for the management of land-related disputes. Thirdly, violent conflicts can displace thousands of people in short periods of time, leaving their lands vulnerable to occupation by others. The massive return of refugees and internally displaced persons to their lands in post-war periods generates new conflicts and pressures for compensation. In these confused circumstances, people's rights not only to specific plots of land, but even their rights as citizens to be allowed to own land at all, can be challenged, for example on the basis that their ethnic group are “late comers” without traditional ownership rights. Conflicts of this kind can easily become generalised and increasingly difficult to resolve, as, for example, in Côte d'Ivoire or the Democratic Republic of Congo in recent years.

In many African countries, violent conflicts are directly related to the competition for access and the use of land and natural resources. Competing claims to land and natural resources and inequitable access to land and inadequate access for the poor has been and is the source of major conflict in many African societies. Even where land is not necessarily at the root of conflict, tenure disputes often emerge in the course of conflict and serve to perpetuate insecurity and instability. As the World Bank has pointed out, a highly skewed distribution of land ownership and patterns of land access can foment social conflict and violence.¹⁵ The likelihood of violent conflict increases when gross inequities characterise land-holding patterns, particularly when a large landless or land-poor population has limited livelihood opportunities.¹⁶ Attention to land policy and land governance, therefore, needs to be a part of any development or peacebuilding efforts in conflict-affected or conflict-prone environments, as it is increasingly evident that land policy and land management are intimately linked to social stability and conflict management.¹⁷

13 N. Pons-Vignon and H. B. Solignac Lecomte (2004). *Op. cit.* p.26.

14 S. Baranyi and V. Weitzner (2006). 'Transforming land-related conflict: Policy, practice and possibilities'. North-South Institute. Available at http://www.nsi-ins.ca/english/pdf/LandConflict_Eng_Web.pdf. p.10.

15 K. Deininger (2006). 'Land policy reforms'. In A. Coudouel and S. Paternostro (Eds.). *Analyzing the distributional impact of reforms volume one*. World Bank. p.214.

16 USAID (2005). *Op. cit.* p.4.

17 FAO (2009). *Op. cit.* p.59; K. Deininger (2003). 'Land policies for growth and poverty reduction', Vol. 1. World Bank. pp.157–64; UN and Civil Society Organisations (CSOs) (2008). 'Experiences, challenges and opportunities: Collaboration for pro-poor land governance'. Available at <http://www.landcoalition.org/wp-content/uploads/pro-poor.pdf>. p.31.

LAND POLICY IN CONFLICT-AFFECTED OR CONFLICT-PRONE CONTEXTS

Whether it is at the heart of a conflict or gets dragged into it, land requires a careful approach by policymakers because it is a central element in the evolution of societies.¹⁸ At the 2006 International Conference on Agrarian Reform and Rural Development (ICARRD) in Brazil, Member States recognised that policies and practices for broadening and securing sustainable and equitable access to, and control over, land and related resources should be examined and revised, and emphasised that such policies and practices should promote economic, social and cultural rights, in particular of women, marginalised and vulnerable groups.¹⁹

“Good” land policy and land governance help to generate economic growth and stability and sustain peace in the long run, and can also play an important and constructive role within strategies aimed at consolidating peace in areas emerging from conflict by ensuring that long-lasting grievances are addressed and not aggravated.²⁰ In Rwanda, for example, the government adopted legislation that promotes more effective use of the limited land resources as well as clarifying inheritance and land rights in order to reduce land disputes, which had been a contributing factor in the 1994 genocide.²¹ Land policy and land governance, therefore, lie not only at the heart of socio-economic development, governance and food security, but also at the core of peacebuilding and stability.

As Vlassenroot has pointed out, ‘recent research into protracted crises has illustrated that land disputes are triggered by shifts in the rights and institutions that govern access to and use of land’.²² The distribution of property rights between people has a major impact on equity, identity and productivity. It is evident that inequitable land distribution, land-tenure problems and weak land administration can lead to severe injustice and, therefore, potentially to violent conflict. Similarly, the recent increase in large-scale land acquisitions by companies and foreign states has accentuated the need for governments to better define land rights through transparent and coherent land governance in order to ensure that local populations who depend on land are not marginalised, displaced or deceived.²³

Changes to legislation, the distribution of property rights and administrative structures often have long-term consequences – positive or negative and intended and unintended – for political, economic and social development. Similarly, land policy is also crucial for environmental sustainability as it can create incentives for sustainable land use and environmental management.²⁴ This section will look at different elements of land policy and land governance in conflict-affected and conflict-prone contexts.

18 N. Pons-Vignon and H. B. Solignac Lecomte (2004). *Op. cit.* p.10.

19 Final Declaration of FAO Member States at the ICARRD, Brazil, March 2006. Available at www.icarrd.org

20 N. Pons-Vignon and H. B. Solignac Lecomte (2004). *Op. cit.* pp.11–12.

21 For more details, see All Party Parliamentary Group (APPG) on the Great Lakes (2004). ‘Land policy in Rwanda: Issues for UK policy’, Great Lakes Working Paper 3, London, UK. Available at http://www.appggreatlakes.org/index.php/document-library-mainmenu-32/doc_download/74-land-policy-in-rwanda-ukrecs

22 K. Vlassenroot (2006). ‘Households land use strategies in a protracted crisis context: Land tenure, conflict and food security in eastern DRC’. FAO. Available at <ftp://ftp.fao.org/docrep/fao/009/ag306e/ag306e00.pdf>. p.1.

23 See K. Deininger (2010). ‘Rising global interest in farmland’. World Bank. Available at http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf

24 EU Land Policy Guidelines (2004). Available at http://ec.europa.eu/development/icenter/repository/EU_Land_Guidelines_Final_12_2004_en.pdf. p.3. At the time of publication, new guidelines were being finalised in a combined EU–UN effort, and these have not been taken into consideration.

LAND-TENURE SECURITY²⁵

Having secure land tenure is vital, both from economic and livelihood perspectives, and also from a social cohesion and political point of view.²⁶ The public provision of a framework that allows households or individuals to obtain and possess secure rights to the land they use or occupy has numerous benefits, which include enhanced investment incentives, reduced potential for violent conflict, the use of land as collateral, and improved equity through increased bargaining power among social groups that have been traditionally marginalised. The establishment of such a framework requires the complex interaction between a number of features, including legal recognition of land-tenure rights; the social legitimacy of those rights; land institutions that are accessible, efficient and responsive to clients; as well as incentives and structures to manage conflicts over land.

In developing countries, the rapid growth of populations and the non-agricultural demand for land increase the potential for conflicts over land, which are unproductive and risk favouring inequitable solutions. The existence of sound, well-recognised arrangements for dealing with such conflicts quickly and decisively offers several advantages. Firstly, conflict – and the prospect of losing land through the arbitrary pathways conflict implies – undermines the guarantees that encourage investment by users and outsiders in land, particularly the most productive tracts, thus depriving the economy of part of its resources for growth.

Secondly, if people cannot trust the state to enforce their property rights or resolve conflicts over land, they will take measures to do so themselves, often in ways that are inefficient, drawing resources from more productive activities and perpetuating the vicious circle of violence. Thirdly, conflict tends to favour the powerful and wealthy, as these groups generally have better access to the information and resources needed to sustain and resolve conflict. Finally, given that conflicts over access to land are frequently closely linked to issues of identity such as ethnicity, they can easily escalate into larger clashes with damaging and far-reaching political, social and economic consequences.²⁷

As part of the establishment of a policy framework to deal with land rights and land governance, conflict- and dispute-resolution mechanisms need to be incorporated. In this regard, Deininger suggests that three elements appear to be crucial:

- i) the development of an incentive structure that rewards the settlement of conflicts and requires informal resolution as a first step;
- ii) the ability to confer legal validity on agreements reached as a result of these informal settlements; and
- iii) a system of conflict monitoring and information distribution to assist groups and individuals in resolving conflicts.

Because land has been an important element in these conflicts, attention to land issues is critical in any post-conflict reconciliation.²⁸

THE IMPORTANCE OF SOUND LAND POLICY AND LAND GOVERNANCE

Land governance is about access and rights to land and all the natural resources that are associated with it. It relates to who can use these resources and how this is decided, the security of rights and how conflict over land and resources is resolved.²⁹ Land governance, therefore, covers themes of land ownership and tenure, as well as those of land administration, conflict resolution and (re)distribution. It is concerned both with the process of allocating and securing rights to land, and with the results – the modes and patterns of ownership, as well as access and use, which are of critical economic and cultural importance to the people involved.³⁰

Growing land scarcity and concern about land-related conflicts and rising levels of rural impoverishment have brought land to the fore once more, and, as a result, land policies are becoming a bigger part of the structural

²⁵ Section largely adapted from K. Deininger (2006). *Op. cit.* pp.219–25.

²⁶ FAO (2009). *Op. cit.* p.64.

²⁷ K. Deininger (2006). *Op. cit.* p.221.

²⁸ *Ibid.* p.225.

²⁹ UN and CSOs (2008). *Op. cit.* p.21.

³⁰ *Ibid.* p.25.

intervention measures in post-conflict situations.³¹ Also, the likelihood of violent conflict seems to increase when gross inequities characterise land-holding patterns, particularly when a large landless or land-poor population has limited livelihood opportunities.³² Therefore, it is crucial that practitioners and policymakers understand how interests of different groups are pursued and countered, how authority is exercised and challenged at the local and national level, and how power is institutionalised and undermined in these contexts.³³

At the same time, land policy clearly plays a fundamental role both in recovering from conflict, and ensuring that further conflict does not follow. Fitzpatrick, in his analysis of post-conflict East Timor, draws some key lessons.³⁴ He notes that, in the first instance, land policy must deal with the immediate chaos of property destruction and population displacement caused by conflict. Returning refugees require shelter and incentives to return to their original areas. Disputes over remaining housing stock need to be minimised. Humanitarian and peacekeeping agencies require sites for their operations. Records relating to land need to be collected and restored. A functioning system of land administration needs to be rebuilt.

All these issues require urgent attention, not simply to provide humanitarian relief and allow economic reconstruction, but also to prevent a new round of land transactions causing further uncertainty to develop. Secondly, land policy must work to create institutions and laws to meet claims for property restitution. Such claims will come from returning refugees, those who acquired titles and those who lost lands under the previous regimes. Establishing certainty of titles will require resolution of these claims. Without that certainty, investment will be deterred, reconstruction slowed, and social and political stability put at risk. Yet resolving property-restitution claims presents a host of difficult and complex issues. Weak legal, institutional and customary protections can also feed into the gender dimension of the land and conflict issues, as conflict over land, particularly involving land access and rights, disproportionately and negatively impacts women.³⁵

It is evident that the development of land policy will be complex and challenging, even more so in states that have been affected by, or are prone to, violent conflict. Despite this, international organisations have not necessarily analysed the political, conflict and security issues and risks adequately. The FAO, for example, identified a number of conditions for land-policy reform to have a positive impact on social equity, livelihoods of the poor and longer-term political stability and peace. These conditions require the policy-reform process to be transparent, inclusive and participatory, as well as responsive to local, national and investor needs.³⁶ Of these, the most obvious is the need for widespread participation in the policy development in order to ensure that it is acceptable and implementable by all those who will depend upon it for their livelihoods as well as for their economic and investment plans.³⁷ However, one crucial condition that the FAO, and others before it, did not address adequately is the need for land-policy reform to be acutely aware of the power relations in any given context, as well as the need for land policies to be conflict-sensitive. This is something that is explored in more detail in the next section.

31 FAO (2009). Op. cit. p.1.

32 USAID (2005). Op. cit. p.4.

33 See P-Y. Le Meur and C. Lund (2001). 'Everyday governance of land in Africa'. *Bulletin de l'APAD*, issue 22, accessed October 2010. Available at <http://apad.revues.org/48>

34 S. Fitzpatrick (2002). 'Land policy in post-conflict circumstances: Some lessons from East Timor', PDES Working Paper 58. Available at <http://www.unhcr.org/3c8399e14.html>

35 For more information, see USAID (2005). Op. cit. p.3; FAO (2009). Op. cit.; K. Deininger (2003). Op. cit.

36 FAO (2009). Op. cit. p.82.

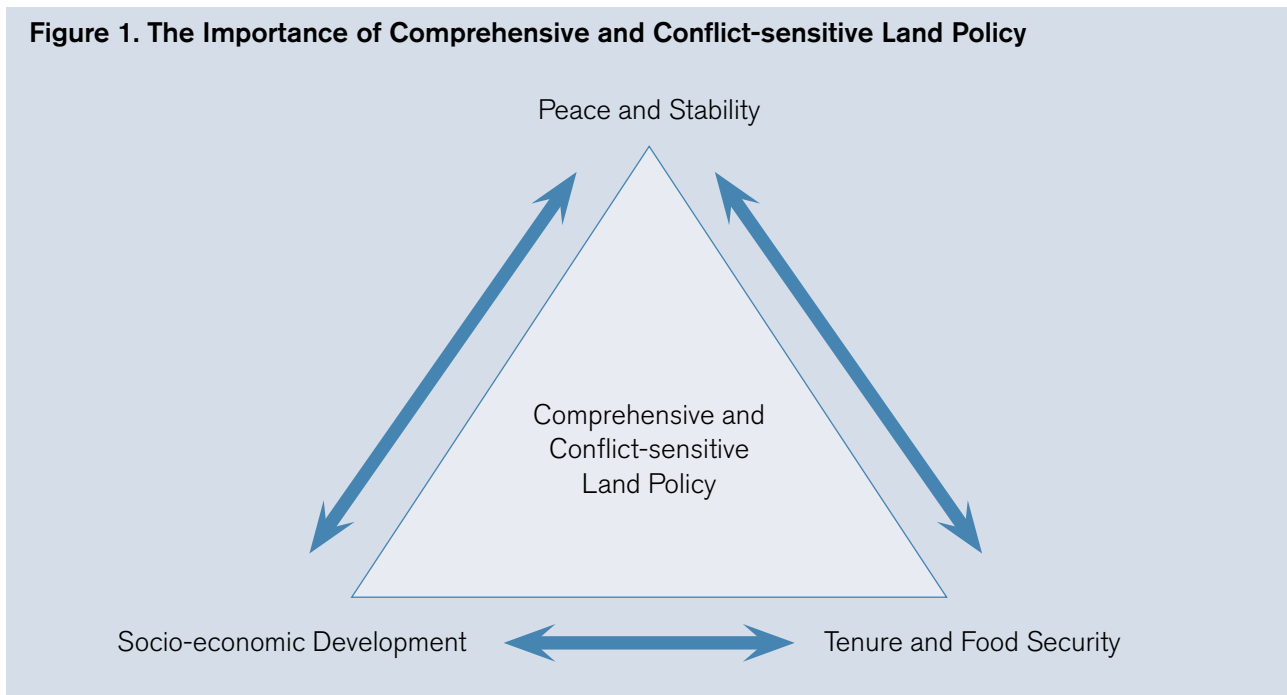
37 Ibid. p.82.

KEY ELEMENTS OF CONFLICT-SENSITIVE LAND POLICY

Different kinds of economic and political tensions have forced land policy and its implementation to re-emerge as important issues in many countries where land remains highly unequally distributed with systemic inequities, and in post-conflict countries where access to land was often a central demand that contributed to violent conflict.³⁸ Land is tied to a complex network of issues ranging from power relationships to economics and from symbolic attachments such as identity to systemic inequities, and addressing land issues effectively demands a broad, integrated and inter-disciplinary approach.³⁹ At the same time, land-policy interventions often neglect conflict and power dimensions, and, while efficient land policy promoting agricultural development is important for securing peace and stability in the long run, the technical prescriptions which are often made tend to pay little or no attention to preventing the outbreak of violent conflict or the resolution of disputes.⁴⁰

Land policy cannot be created or started from scratch: there is no such thing as a clean slate, as every country has different kinds of existing laws, regulations and policies in place. Nevertheless, there is always scope for adding a conflict lens to existing policies, or incorporating a conflict-sensitive dimension when adjusting, or designing, land policies. Conflict-sensitivity is 'the notion of systematically taking into account both the positive and negative impact of interventions, in terms of conflict or peace dynamics, on the contexts in which they are undertaken, and, conversely, the impact of these contexts on the interventions'.⁴¹ Figure 1 illustrates how conflict-sensitive land policy interacts with and contributes to a range of key social, economic and political factors.

Figure 1. The Importance of Comprehensive and Conflict-sensitive Land Policy



38 K. Deininger (2003). *Land policies for growth and poverty reduction*, Volume 1, World Bank, p.151.

39 USAID (2005). *Op. cit.* p.3.

40 N. Pons-Vignon and H. B. Solignac Lecomte (2004). *Op. cit.* p.13.

41 Conflict Sensitivity Consortium (2004). *Conflict-sensitive approaches to development, humanitarian assistance and peacebuilding: A resource pack*. London, UK. p.1. For further information, see <http://www.conflictsensitivity.org>

It is critical to understand and acknowledge that land-policy reform and implementation will cause tensions and conflict, as any sort of intervention in this area is by nature political and linked to power relations; it will not benefit everyone to the same extent, as land reform includes, directly or indirectly, some form of redistribution of power. However, policymakers and stakeholders need to understand that conflicts are not inherently bad; they are an inevitable part of living in society, and caused by the inherent differences and tensions between people and between groups. Indeed, a certain degree of conflict is essential for progress because progress requires change, and change generates conflict. Thus, conflict is not the problem: *violent* conflict is. The challenge for policymakers and stakeholders, therefore, is to channel conflicts in peaceful ways towards constructive ends, and to manage differences without violence. Conflicts can turn violent only when societal mechanisms and institutions for managing and resolving conflicts peacefully break down. "Peace", as such, can only exist when people anticipate and manage conflicts without violence, while engaging in inclusive social-change processes that improve the quality of life.⁴²

This section lays out the main elements of a conflict-sensitive approach for the development of land policies and highlights what the benefits of such an approach would be.

Box 1. USAID Toolkit on Land and Conflict

USAID has developed a very relevant programming toolkit on land and violent conflict. The authors of the toolkit note that many lessons are emerging as development practitioners pay greater attention to the relationships between land and violent conflict. The purpose of the toolkit is to provide a practical introduction to the relationship between land and violent conflict, how land issues function as causal or aggravating factors in conflict, or how land issues arise in post-conflict settings. The toolkit is also designed to familiarise practitioners with a range of programmatic interventions and to sensitise officers to the fact that development activities, such as infrastructure projects and the exploitation of underground resources, can inadvertently cause land conflicts to erupt.

The toolkit emphasises the point that land issues must be approached systematically and that, in many contexts, sequencing and process are critical to the sustainability of programmes and to broader issues of stability. In addition to covering key issues, discussing lessons learned and suggesting relevant programme interventions, the toolkit offers a rapid appraisal guide that can help determine which land issues are most relevant to conflict in a particular setting. Together, the elements of this toolkit are intended to help raise awareness about the linkages between land, development assistance and conflict; and to assist officers integrate a conflict perspective into their land programmes. While no single formula can explain how to plan successful programmatic interventions to address land and violent conflict, several important factors help ensure that programmatic thinking moves in the right direction.

Source: USAID (2005). Op. cit. pp.8–12.

UNDERSTANDING THE POLITICAL ECONOMY OF A GIVEN CONTEXT

The most important aspect of a conflict-sensitive approach is the ability to comprehensively understand the context in which one is working, which is where a political economy analysis becomes so crucial. A political economy analysis is 'concerned with the interaction of political and economic processes in a society: the distribution of power and wealth between different groups and individuals, and the processes that create, sustain and transform these relationships over time'.⁴³ According to the Department for International Development (DfID), the importance of a political economy analysis is that it 'gets beneath the formal structures to reveal the

42 Adapted from R. Hettiarachchi, L. Holdaway and C. Gündüz (2009). 'Sustaining business and peace: A resource pack on corporate responsibility for small and medium enterprises'. International Alert. Available at <http://www.international-alert.org/publications/pub.php?p=404>

43 S. Collinson (Ed.) (2003). 'Power, livelihoods and conflict: Case studies in political economy analysis for humanitarian action', Overseas Development Institute (ODI) HPG Report 13. p.3. Available at <http://www.odi.org.uk/resources/download/241.pdf>

underlying interests, incentives and institutions that enable or frustrate change'.⁴⁴ In other words, understanding the formal and informal political and economic relationships and processes in a given context is essential if meaningful reform is to be planned and implemented.⁴⁵

CONFLICT-SENSITIVE PLANNING

Conflict-sensitive planning brings in an additional ingredient – conflict analysis of the actors, causes, profile and dynamics in a given context – with the aim of ensuring that the project or programme does not inadvertently increase the likelihood of violent conflict, but rather serves to reduce potential or existing violent conflict. Planning a conflict-sensitive intervention requires careful and detailed exploration of the potential impacts, direct and indirect, of:

- i) the proposed activities on the actors, causes, profile and dynamics relating to conflict or potential conflict within the context; and
- ii) the actors, causes, profile and dynamics on the proposed activities.⁴⁶

In Zimbabwe, for example, a more coherent and conflict-sensitive approach to land reform could have prevented some of the associated violence of land invasions, food insecurity and displacement.

ENSURING ADEQUATE CONFLICT-MANAGEMENT CAPACITY

After long periods of civil war or instability, there is always a desperate need to maintain and support fragile peace settlements. In situations where social, economic and political institutions are still in a start-up phase of development and consolidation, tensions created by land conflicts can rapidly spill over and foster instability and even renewed civil war. If the land question is not handled appropriately and comprehensively, a rise in land conflicts can undermine social stability at a critical time of post-war reconciliation and economic recovery.⁴⁷ It is obvious that it is essential to ease tensions and prevent new flashpoints from turning into the cause of renewed violence. Therefore, the effective resolution of land conflicts should be a central part of the overall strategy to consolidate peace and promote future development in states that have been affected by violent conflict.⁴⁸ What is therefore required is a strong focus on building up the capacity of land-mediation structures that are able to resolve land disputes and conflicts in impartial and effective ways.

THE BENEFITS OF A CONFLICT-SENSITIVE APPROACH

In 2003 the World Bank acknowledged that 'the deprivation of land rights as a feature of more generalised inequality in access to economic opportunities and low economic growth have caused seemingly minor social or political conflicts to escalate into large-scale conflicts'.⁴⁹ Land-policy development should also take existing sensitivities and grievances into account, in order to better monitor the risks and likelihoods of violent conflict.⁵⁰ Incorporating a conflict-sensitive approach to land policy has the potential not only to reduce the likelihood of the escalation of violent conflict, but also to increase the overall stability, food security and economic potential of a country. However, if policymakers ignore the conflict dimension, and view land reform as a mere technical exercise, the possibility of instability and land-related violence increases significantly.

44 DfID (2009). *How to note on political economy analysis*. Available at <http://www.odi.org.uk/events/2009/07/23/1929-dfid-note-political-economy-analysis.pdf>

45 It is expected that a number of external and/or impartial actors are involved in the land-policy development process which can carry out the political economy analysis.

46 Conflict Sensitivity Consortium (2004). *Op. cit.*

47 FAO (2009). *Op. cit.* p.81.

48 *Ibid.* p.73.

49 K. Deininger (2003). *Op. cit.* p.157.

50 N. Pons-Vignon and H. B. Solignac Lecomte (2004). *Op. cit.* p.10.

THE FRAMEWORK AND GUIDELINES FOR LAND POLICY IN AFRICA

In 2006 the AU, AfDB and UNECA, in close collaboration with the RECs, initiated a process for the development of a framework and guidelines for land policy and land reform in Africa with a view to strengthening land rights, enhancing productivity and securing livelihoods for the majority of the continent's population. This culminated in the production of a framework and guidelines on land-policy development and implementation to support AU member states in their efforts to improve land governance and the performance of their various land sectors. It is considered to be a pan-African framework which aims to assist member states in the process of undertaking or embarking upon and harnessing land-policy reforms in the interests of their national development objectives. In the framework, the African Union Commission (AUC), UNECA and AfDB claim that the struggle for land and natural resources remains one of the key factors fuelling instability in Africa. They go on to state that equitable access to land, secure land rights, gender equity, improved governance in the land sector and reduction of land-related conflicts are fundamental aspirations of African people, which can pave the way to secure livelihoods and prosperity and need to be reflected in land policies across the continent.

This jointly developed LPI was welcomed by the Heads of State and government of the AU at their summit held in July 2009 in Libya.⁵¹ African leaders committed themselves to prioritise, initiate and lead land-policy development and implementation processes; support the emergence of the institutional framework required for the effective development and implementation of land policy; ensure that land laws provide for equitable access to land and related resources among all land users; and strengthen security of land tenure for women. The Heads of State and government requested that the AU, UNECA, AfDB and the RECs work towards establishment of an appropriate institutional framework to provide coordination of follow-up activities and facilitate mutual learning by member states as they develop/review their land policies.

While declarations and initiatives of this nature do not necessarily carry a lot of weight or guarantee success, it is a welcome step towards addressing this crucial issue which lies at the heart of peace, stability and prosperity on the African continent. However, it is only an initial move in the right direction and the follow-up and implementation will be critical. This section summarises the key elements of the framework and guidelines and subsequently offers a number of ways in which they can be used in a more conflict-sensitive way.

THE LPI

The continental and regional consultations established an emerging consensus among African stakeholders on a number of issues. These included that:

- i) land-policy development should be seen as a prerequisite for economic growth and sustainable human development;
- ii) land is a highly sensitive political issue and, as such, the process of land-policy development, implementation and evaluation needs to be as inclusive and participatory as possible;
- iii) national ownership in the development of land policy is critical for engendering broad grassroots endorsement which is more likely to lead to successful implementation;

51 'Declaration on Land Issues and Challenges' by African Heads of State and government, adopted during the AU's 13th summit, Libya, 1st–3rd July 2009.

- iv) there are a range of indigenous principles and emerging innovative local practices that can inform sound national land-policy development and implementation;
- v) deliberate steps must be taken to ensure the full and informed participation of women – Africa's primary land users – in policy development and implementation; and
- vi) successful implementation of land policies will contribute to improved governance, environmental management and the consolidation of peace.⁵²

The framework and guidelines note that the consolidation of colonial control and subsequent regulation of acquired lands was effected through the promulgation of a variety of European laws and the establishment of political, administrative and economic management systems, which were grafted on to a diverse range of indigenous economic and cultural practices, thus leading to dualistic land-tenure and land-administration regimes.⁵³ The framework and guidelines envisage that African governments will seek to develop land policies in a manner that is inclusive and responsive to the needs of all land users, contributes to political stability, promotes gender equity, fosters the reduction of conflict, enhances the sustainable management of natural resources, ensures orderly urban development and puts all stakeholders on the path to higher economic growth and a better quality of life. Furthermore, the framework and guidelines seek to offer a basis for commitment by AU member states to the formulation and operationalisation of sound land policies as a basis for sustainable human development that includes assuring social stability, maintaining economic growth and alleviating poverty, and protecting natural resources from degradation and pollution.

The key principles of this initiative are the need to promote sustainable, equitable and inclusive rural development; the need to prevent and address land-related conflicts; the overarching responsibility of sovereign states; and to support informed and constructive dialogue among key stakeholders, including government, civil society and the private sector, for the identification and implementation of land policies and reforms. One key problem has been that significant fragmentation and duplication of authority and responsibilities in land governance have led to serious conflict and competition not only across line ministries and institutions but also between central and local government authorities. The document therefore notes that, if institutions responsible for land governance, including land held by the state, are to operate in a transparent, accountable and efficient manner, it is important that they are harmonised and their respective mandates rationalised.

IMPLEMENTING THE FRAMEWORK AND GUIDELINES

While the publication was welcomed by the African Heads of State who stated that they would prioritise, initiate and lead land-policy development and implementation, more than one year on very little evidence of actual implementation exists. In discussions with experts from the AU and the UNECA, who are working on the LPI, it was acknowledged that land policies can only have a real impact if they are implemented first and foremost by governments at the country level, who need to show the political commitment to take concrete steps to follow up on the Declaration.⁵⁴ The experts were quick to point out that countries need to develop and 'own' their implementation plans, and that the framework and guidelines can only be used as a tool or a resource. Efforts are also under way to operationalise the LPI Secretariat, which is supposed to offer technical assistance to countries developing and implementing new land policies and establish a network of land-policy experts who could assist in the national country processes. A project aimed at capacity-building in support of land-policy development and implementation is to be executed by the UNECA and its partners, which will also aim to improve the land-policy development and implementation processes, including increased monitoring of progress attained.

HOW CONFLICT IS ADDRESSED IN THE FRAMEWORK

The framework and guidelines note that, in many countries, conflicts have led to forced evictions and horrific atrocities (including genocide) against non-combatants, mainly women and children. They therefore claim that – in addition to dealing with issues relating to the redress of historical injustices and the attainment of social equity –

52 AU/AfDB/UNECA. (2009). *Op. cit.* p.42.

53 *Ibid.* p.19.

54 Interviews with experts from the AUC and the UNECA, conducted in June 2010.

land-policy development and reform must address the problem of conflict prevention and the restoration of peace and security in Africa.⁵⁵ Furthermore, they state that, when acceptable to a broad stakeholder base, effective land policies will also play a role in peacebuilding by inspiring a higher degree of trust in regulatory systems among various interests competing for scarce land resources.

The framework and guidelines identify a number of possible, and realistic, challenges to comprehensive land-policy development in African states.⁵⁶ These include the low level of stakeholder and civil society participation; no harmonisation of policies; lack of budget allocation to the process; and inadequate human and institutional capacity. All of these challenges are acute and relevant in many of the in-country contexts. The LPI experts also noted that conflict was not addressed in detail in the framework and guidelines, but that the peacebuilding element of effective and equitable land policy is a key objective nonetheless.⁵⁷ However, the bottom line is that the challenge of understanding and addressing tensions and possible conflict triggers related to land rights, land access and land tenure are not adequately dealt with in the framework and guidelines. This is critical, and is an issue to which this paper aims to offer possible remedies. If land policies and land reform are to be a force for positive change, development and peace, they need to incorporate a clear and comprehensive understanding of the conflict dimensions.

HOW CAN THE LPI AND IN-COUNTRY PROCESSES BE CONFLICT-SENSITISED?

The adoption of the framework and guidelines by the Heads of State heralds an opportunity to develop new land policies and implement institutional reforms in order to address issues of poor land-use regulation and legislation, the unequal distribution of land, as well as land-tenure insecurity, especially for women, pastoralists and marginalised groups. In the past, land policies have often neglected the conflict dimension, and, while efficient land policies promoting agricultural development can indeed be considered important for securing peace in the long term, the more traditional technical prescriptions are often insufficient to prevent the outbreak of violent conflict.⁵⁸ However, there is growing awareness among international agencies that the tackling of land scarcity and land-tenure insecurity should be an integral part of food-security interventions and economic development in its wider sense, as well as post-conflict rehabilitation processes.⁵⁹

The LPI and resulting in-country land-policy and land-reform processes can be conflict-sensitised in a number of ways, as discussed in the previous sections. First and foremost, any land-policy development process needs to systematically and comprehensively take into account the positive and negative impacts that the policy and its implementation can have with regard to violent conflict and instability. This will require conducting conflict analyses at the outset of the planning stage,⁶⁰ while also ensuring that conflict triggers are identified and dealt with throughout the implementation process. Important to note here is that different individuals or groups can be affected or impacted positively or negatively, and that these concerns need to be understood and dealt with appropriately. Mitigation measures for those who will (or perceive they will) be losers are essential.

Secondly, land issues need to be addressed through multisectoral and intra-institutional approaches which are established after a thorough inclusive dialogue process with all the different actors and stakeholders, led by politicians but including civil society and the private sectors, and, where relevant, supported by the donor community. This dialogue will need to be maintained for the many years which it takes to implement changes in land policy, laws, etc. Careful planning, based on a comprehensive analysis of the conflict context and actors, will help ensure that peacebuilding operations are conflict-sensitive and thereby more likely to reduce tensions and violent conflict. Sound coordination between international, national and local organisations can minimise opportunities for overlap, missed opportunities and competition.

55 AU/AfDB/UNECA (2009). *Op. cit.* p.21.

56 *Ibid.* pp.45–46.

57 Interviews with experts from the AUC and UNECA, conducted in June 2010.

58 N. Pons-Vignon and H. B. Solignac Lecomte (2004). *Op. cit.* p.13.

59 K. Vlassenroot (2006). *Op. cit.* p.1.

60 For guides to conducting conflict analyses, see, among others, the 2004 UN Interagency framework for conflict analysis: <http://www.undg.org/index.cfm?P=1252>; USAID Conflict Assessment: http://www.usaid.gov/our_work/cross-cutting_programs/private_voluntary_cooperation/conf_conflict_assessment.pdf; <http://www.conflictsensitivity.org/>; and the Peace and Conflict Assessment Methodology: http://www.berghof-handbook.net/documents/publications/hoffman_handbook.pdf

Thirdly, the institutions that are established or strengthened to implement the new land policies or land reform need to have adequate conflict-management capacity to identify and resolve competing claims through property claims or other relevant commissions.

Fourthly, as land-policy reform involves complex political initiatives, the implementation stage – which will take many years of sustained effort – needs to be preceded and accompanied by a public information and education campaign that ensures that there is widespread understanding and support for the process.

Fifthly, the monitoring and evaluation of processes and programmes related to land-policy development and land administration is vital to ensure that these processes accomplish their intended objectives of addressing land-related challenges. If land policies and land reform do not take this into consideration, there is the risk that the implementation will inadvertently increase tensions, risk violent conflict, undermine accountability and even reinforce inequality and exclusion.

Lastly, and most importantly, theory must be turned into practice, and the practice needs to be more than a technical exercise, as land reform is a highly political and sensitive process. The framework and guidelines, and the acknowledged support from the African Heads of State, are an important indication of the desire to improve land rights and address land issues, but, to drive the necessary change processes, all stakeholders must come together to turn words into action. Different actors have different roles to play in addressing land policy and related conflict issues, which is explored in the next section.

ROLES OF THE DIFFERENT ACTORS

The overall objective of land policy is social and economic development, poverty reduction and improved stability and security through improved land use, management and governance. At the same time, the involvement of stakeholders in these reform processes, and greater equity and distribution of opportunities related to land ownership and use, can be a driver of greater political and social change in societies. Land-policy reform processes and their implementation can lead to demands of greater state accountability and enhanced participation of population groups in governance processes.

A variety of actors should be involved in the land-policy development and implementation process and this section discusses their possible roles and responsibilities. The North-South Institute rightly states that political will is a key ingredient, as are time and financial resources, changes in organisational cultures and working methods, skills-building for local and national institutions, and improved access to information for all actors involved.⁶¹ Non-state actors and donors can encourage and support efforts to ensure that these issues are addressed.

It is also important to note that policymakers and practitioners should not promote short-sighted solutions that may jeopardise longer-term stability and development. All immediate and mid-term corrective, preventive and retentive land- and property-related measures that are envisaged to facilitate the conflict transformation process need to be streamlined with an overall conflict-sensitive development vision and policy.⁶²

This section relates primarily to the in-country implementation of land policy based on the framework and guidelines adopted by the African Heads of State. It should be noted here that there is frequently an “implementation gap” between policy commitments on paper and actual changes in practice and governance. Indeed, more often than not, policy commitments on this issue are simply ignored in practice because of the inherent complexities, sensitivities and challenges discussed above. Despite the adoption of the LPI, this will continue to be the case in many countries because the short-term political calculations of those in power make it extremely difficult for them to provide the leadership and action, even when they wish to do so.

AFRICAN HEADS OF STATE AND GOVERNMENT

States have the primary responsibility for their own economic and social development, which includes national policies for the implementation of agrarian reform and rural development strategies. In most African countries, there is a reliance on the use of land and natural resources for livelihoods and food production.⁶³ However, when land access and rights are insecure or badly defined, investments to increase land productivity tend to be lower as a result of this insecurity.⁶⁴ African leaders and their governments should, therefore, acknowledge the importance of sound land governance and land policy to the wellbeing of their countries and citizens, and take the required steps to initiate the land-policy development process in a conflict-sensitive manner as well as build up the capacity for institutions that deal with the management and governance of land to ensure the success of the implementation phase. This is not an easy or straightforward process, and it is fraught with complications and risks, especially within electoral democracies. Nonetheless, it is essential for longer-term equality, socio-economic development and stability.

61 S. Baranyi and V. Weitzner (2006). *Op. cit.* p.24.

62 Adapted from FAO (2009). *Op. cit.* p.60.

63 *Ibid.* p.62.

64 K. Vlassenroot (2006). *Op. cit.* p.1.

Crucially, there is an urgent need for sustained political will from the highest levels of government to consider making changes to land rights and land governance. Political ownership, willingness and commitment are key factors for the definition, elaboration and implementation of effective land policies.⁶⁵ It should be noted here that sometimes the lack of political will to resolve land-related conflicts through land reform can be correlated to situations where political elites and the landed classes are linked, if not the same.⁶⁶ In many cases, widespread stakeholder involvement, independent political economy analyses and overall process transparency can seek to highlight, if not address, this.

THE AU, UNECA, AFDB AND THE LPI SECRETARIAT

Overall, the AU, UNECA and AfDB are strongly advised to acknowledge the absence of any guidance on conflict-sensitivity in its framework and guidelines, which, if not addressed, can increase the risks associated with the implementation of land-policy reform in member states. The AU is expected to continue to provide the overall leadership to the LPI and lead in the implementation of activities that are within the political domain. This leadership role can and should include the inclusion of conflict-sensitive approaches to land-policy development, as discussed in the sections above. The AU and the LPI have the scope to explore ways in which the framework and guidelines can link up with the Comprehensive Africa Agriculture Development Programme.

The AU can also encourage New Partnership for Africa's Development's (NEPAD) African Peer Review Mechanism to play a greater role in evaluating the in-country implementation of the framework and guidelines. The UNECA is best placed to provide technical expertise to activities related to policy analysis and advocacy, enhancing partnerships, communication and knowledge sharing, as well as capacity-building. The UNECA can also seek wider engagement with the RECs on this topic. The AfDB, on the other hand, can assist in providing technical capacity needed to implement the various activities of the implementation phases and in mobilising financial resources to support the joint secretariat at the AU and possibly co-finance national land-policy reform and implementation programmes.

The AU, UNECA and AfDB, as well as the LPI Secretariat, can play a useful role in providing technical advice and capacity-building through the provision of training for trainers, expanding their database of experts, as well as supporting land-policy needs assessments. By fully acknowledging and incorporating the conflict dimension into their approach to land-policy reform, these actors can also help to build the political will of African leaders for the right kinds of land-policy reforms. There can also be an important role for the LPI Secretariat to facilitate independent monitoring of land-policy reforms and support sharing of experiences between different countries and the RECs. Lastly, if the link between land-policy development and conflict prevention and resolution is strengthened, there will also be more scope to receive external funding for such cross-cutting initiatives.

THE RECS

The RECs have a strategic role to play in the implementation of land policy in their member states. The RECs are very well placed to take this initiative forward and support and guide member states in its implementation. Regional cooperation on land issues is not an issue that has been tackled coherently or consistently by the RECs, and collaboration and encouragement through regional fora can ensure adequate attention is paid to the importance of land-policy reform and land governance.

During the 2009 summit, African leaders called on the RECs to convene periodic regional platforms to facilitate experience sharing, lesson learning and dissemination of best practices in land-policy formulation, implementation and monitoring based on member states' experiences.⁶⁷ The LPI-run project on capacity-building plans to extend financial and technical support to the RECs in conducting an inventory of land-related information as a basis for decision-making and to provide baseline data for assessment of progress made. The RECs can facilitate the different land-reform processes and emphasise the social, economic and political benefits that they can have in both the member states and the RECs.

65 FAO (2009). *Op. cit.* p.1.

66 S. Baranyi and V. Weitzner (2006). *Op. cit.* p.12.

67 'Declaration on Land Issues and Challenges' by African Heads of State and government, adopted during the AU's 13th summit, Libya, 1st–3rd July 2009.

CIVIL SOCIETY ACTORS

Civil society has an important role to play in the development of new land policies in African countries. They can engage and advocate for national governments to start inclusive land-policy reform processes, using the framework and guidelines developed by the AU, UNECA and AfDB. Civil society actors can provide support and insights to the RECs and donors involved in these processes. Crucially, they can assume a central role in providing checks and balances in the land-policy implementation process and holding governments to account, as well as in relation to deals made with foreign investors. Different kinds of civil society actors play two critical roles:

- i) representing the interests and voices of particular groups of people who will be affected by any changes in land policy, especially the poor and vulnerable; and
- ii) monitoring the implementation from a conflict-sensitivity perspective, and drawing the attention of those involved to problems and the need to adapt approaches where necessary.

DONORS

There are a number of ways in which bilateral and multilateral donors can support conflict-sensitive land policy in Africa. These can be roughly divided into:

- i) advocacy for appropriate, inclusive and conflict-sensitive land reform;
- ii) highlighting the importance of political leadership in driving this process forward;
- iii) ensuring that all stakeholders are consulted and included in the process; and
- iv) where appropriate, providing the financial and technical assistance for land-policy development and land-reform processes.

All of these should fit into an approach that is coherent with the recent thinking on state-building and peacebuilding, in which donors are recommended to play a careful role supporting the emergence of responsive and effective states.⁶⁸

Donors should avoid purely technical approaches that fail to take political dynamics into consideration, as this could seriously impede the implementation of institution-building programmes.⁶⁹ This means, for example, that conflict-sensitivity should feature prominently in donor interventions related to land policy. A major task for donors is, therefore, to take this into consideration and persuade African governments that short-sighted, explorative and speculative land management in a chaotic environment has a high opportunity cost for later economic development and may even result in the outbreak or resumption of violent conflict.⁷⁰ Also, donors need to support African leaders, governments and civil society in the land-policy reform processes that are undertaken, and offer financial and technical assistance where required. In playing this role, they need to understand very well and take full account of the role that land plays in the political economy, and therefore in politicians' own strategic calculus and analysis. Land-policy reform and implementation is not cheap, nor should it be done on the cheap. Therefore, adequate, if not ample, financial resources need to be made available through different facilities and mechanisms.

THE EU

The EU is the largest aid donor to Africa, and as a result is well placed to play a leading role in supporting the implementation of land policy on the continent. The EU Guidelines for support to land-policy design and land-policy reform processes in developing countries were approved by the Commission in January 2005, and, while the EU Guidelines acknowledge the importance of understanding power relations in a given context when developing land policy, the key EU principles on land do not mention the need to integrate conflict-sensitivity into land policies and unfortunately do not adequately address the different ways in which conflict-sensitive land policy can be implemented at the country level.⁷¹

68 See, for example, the International Dialogue on Peacebuilding and Statebuilding (2010). 'Dili Declaration: A new vision for peacebuilding and statebuilding'. Available at <http://www.oecd.org/dataoecd/12/30/44927821.pdf>

69 N. Pons-Vignon and H. B. Solignac Lecomte (2004). Op. cit. pp.10–13.

70 FAO (2009). Op. cit. p.61.

71 EU Land Policy Guidelines (2004). Op. cit.

In the supporting documentation of the EU's support for the LPI, they note that severe challenges related to poor land administration and land information systems remain, and suggest that enhancing capacity, increasing knowledge and lesson sharing, developing monitoring tools and improving the transparency and effectiveness of land institutions are priorities.⁷² These are all key challenges and priorities, albeit rather technical.

Nonetheless, the EU should be spearheading the advocacy efforts to include conflict dynamics in land-policy development and land-reform processes in Africa, and view land tenure, land rights and land policy not just from a technical, natural resource or agricultural perspective, but from a peace and security standpoint as well. By adopting such a comprehensive approach, the EU and its institutions can make an important contribution to equitable, inclusive, conflict-sensitive and pro-poor land policy in Africa.

FOREIGN INVESTORS

Foreign investors, whether they are private companies or foreign states, have become important actors in land acquisition for agricultural development.⁷³ According to the International Food Policy Research Institute (IFPRI) and the *Economist*, an estimated 15–20 million hectares of farmland have been subject to negotiations or transactions over the last few years, which roughly equates to a fifth of all farmland in the EU.⁷⁴ Wealthy countries that lack sufficient farm capacity to feed their populations are the major sources of land acquisitions, while several multinational companies and investors consider agricultural commodities to be a worthwhile investment. The acquisition of agricultural land in developing countries can result in increased capital investment, new technologies and employment for local people, while longer-term advantages include the expansion of production of food for a global market.⁷⁵ Nevertheless, there are serious political and conflict risks involved, especially when land rights and land-governance structures are weak and lack transparency. Foreign investors need to be aware of these risks, carry out due diligence procedures and understand that their operations have a greater likelihood of success if they do not cause disputes over land or violent conflict.

72 EU Support to the Land Policy Initiative (2009). Op. cit.

73 See K. Deininger (2010). Op. cit.; J. von Braun and R. S. Meinzen-Dick (2009). "Land grabbing" by foreign investors in developing countries: Risks and opportunities'. IFPRI Policy Brief. Available at <http://www.ifpri.org/publication/land-grabbing-foreign-investors-developing-countries>; 'Africa investment sparks land grab fear', *BBC News*, 5th August 2009. Available at <http://news.bbc.co.uk/1/hi/business/8150241.stm>; and 'How food and water are driving a 21st-century African land grab', *Guardian*, 7th March 2010. Available at <http://www.guardian.co.uk/environment/2010/mar/07/food-water-africa-land-grab>

74 'Outsourcing's third wave', *Economist*, 21st May 2009. Available at http://www.economist.com/displaystory.cfm?story_id=13692889, quoted in M. Kugelman and S. L. Levenstein (Eds.) (2009). *Land grab? The race for the world's farmland*. Woodrow Wilson International Center for Scholars. Available at www.wilsoncenter.org/index.cfm?topic_id=1462&fuseaction=topics.publications&group_id=587120

75 D. Correll (2009). 'Land policy in Tanzania: Current issues and social aspects'. Available at <http://www.icsw.org/doc/LandPolicyinTanzaniaDCSep09.pdf>

CONCLUSIONS AND RECOMMENDATIONS

There are numerous factors that can positively contribute to the LPI and in-country land-policy reform and implementation in Africa.

- First and foremost, African leaders need to have the political will and commitment to initiate the in-country land-policy development and land-governance reform processes and follow them through in a coherent, inclusive and transparent manner. To achieve this requires, among other things, a sustained national and pan-African dialogue, based on a realistic analysis of the apparent political constraints and designed to increase political incentives and reduce the disincentives for improved governance of land and more equitable access.
- Secondly, any land-policy development or land-reform process needs to be conflict-sensitive. This means incorporating conflict analysis and conflict dynamics into the different planning and implementation steps, and ensuring that there is adequate capacity to manage conflicts without violence. The LPI needs to be updated so that conflict-sensitivity is integrated into the guidance provided to African states.
- Thirdly, all those planning and implementing land-reform processes should take steps to establish an inclusive dialogue process from the outset in order to ensure inclusivity, widespread support and adequate financial and technical assistance. This includes support from international and regional organisations, multilateral and bilateral donors, as well as civil society. Peer-review mechanisms, such as those envisaged by NEPAD's African Peer Review Mechanism, can also play a role in the monitoring and evaluation of national commitments.

The various actors and stakeholders discussed in the previous section all have different roles to play. It is in the interests of all that these land-policy reform processes are initiated and implemented as outlined above. The LPI and the development of the framework and guidelines for land policy in Africa are a step in the right direction, but the in-country implementation is the difficult stage. It is only if land-policy development and land-governance processes that understand conflict dimensions and seek to reduce the propensity for land-related violent conflict can be initiated that these processes can start to play an important part in reducing violent conflicts and instability in Africa, strengthening land tenure and food security, as well as increasing citizens' engagement with their governments to drive forward social, economic and political development and change.

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