



Uncharted territory: Land, conflict and humanitarian action

Meeting Report

[Agenda](#) | [Participants list](#) | [Speakers list](#)

Introduction

1. **Sara Pantuliano** opened the conference by outlining why land issues are important to the Humanitarian Policy Group at ODI. She emphasised the significance of land in many humanitarian contexts and the considerable effects that protracted crises can have on land relations. Land issues often come to the fore in the post-conflict period as populations seek to claim and reclaim land. This transitional period can be the most dangerous as land grabbing occurs and creates permanent changes.
2. Despite the importance of land in many situations, humanitarian agencies often neglect the issue on the basis that it is too complex and politically sensitive, and that it lies in the mandate of development agencies.
3. Although awareness has increased, humanitarian organisations remain focused on returning land to IDPs and refugees rather than on wider structural issues and their effects on the population as a whole.
4. Pantuliano outlined the agenda of the conference and emphasised its aim of generating learning to help humanitarian actors better understand and address land issues in their work.

Keynote Speech: Why humanitarian organisations need to tackle land issues

Speaker: Alex de Waal, Social Science Research Council (SSRC)

5. **Alex de Waal** said he first understood why land issues were important for humanitarian agencies during his work in Darfur in the 1980s, where land was a main concern for much of the population.
6. He said the absence of land on the humanitarian agenda is striking in that land plays a leading role in the aetiology of many humanitarian emergencies but also unsurprising in that current humanitarian discourse (particularly in the US) has struggled to come to grips with the idea that it should be concerned with more than the sole preservation of life.
7. De Waal explained why land is important for humanitarian agencies:
 - Understanding why crises occur and why they take the form they do is vital to the development of adequate interventions. Since land has tended to be at the root of many recent conflicts, it should not be left out of response planning.
 - Humanitarian agencies can sometimes develop livelihood strategies that have a lasting impact on future land tenure and settlement patterns. Careful consideration should therefore be taken to ensure the most appropriate response is chosen. This could mean moving away from focusing only on the security of tenure rights and looking instead at providing loans to tackle distress sales and land seizures, or using customary tenure.

8. De Waal outlined seven ways in which land access and control is central to understanding how complex emergencies function:

- *Taking hold of the land:* Belligerents such as rebels, governments and warlords often seek to control land (or the resources that lie beneath it) by dispossessing populations that live and use the lands they want. Humanitarian responses can often lubricate this dispossession by providing insufficient rations to the displaced (as an attempt to avoid dependency) who may then seek alternative modes of survival through wage labourer, often on the very land they lost.
- *Land as a reward:* Land is often seized by belligerent groups as a means to reward their proxies or allies. Land becomes a form of loot. This is the case in Darfur with state supported militias.
- *Controlling the city:* States often seek to control urban land because they see displaced or squatter groups as a burden on services, a security threat or even a source of political discontent. As a result, states may push displacement and use the land to settle other populations or for economic activities. Humanitarian response to urban displacement tends to focus on shelter rather than addressing issues related to urban housing or land rights in any systematic way. There is a real need to develop strategies that can deal with the possibilities of complex emergencies in cities.
- *Inter-communal land conflict:* Communities can often fight amongst themselves for land with the state showing little interest or capacity to resolve. Clashes can be around boundary disputes, access to pasturelands or rights of access and decision making. Humanitarian agencies often have to intervene in these challenging contexts and such interventions require local knowledge and engagement together with effective peacemaking mechanisms.
- *Ethnic cleansing:* Forced displacement and land seizure can often form part of a project to create ethnically homogenous areas. These situations create dilemmas for humanitarian agencies because taking people to safety risks falling in line with a strategy to ethnically cleanse an area. Furthermore the human rights principle of resisting gross abuse of rights entails taking a politically partisan stance which may expose the target population or aid workers to serious risks.
- *Controlling people:* Seizing land or forcing displacement is often a means to control populations or reduce their autonomy, sometimes as part of counter insurgency strategies. International Humanitarian Law (IHL) is limited with regard to prohibiting the destruction of material items and activities needed in order to sustain life such as livestock herding, migration for work and gathering forest products.
- *Battlefields:* Land is often the battleground on which conflicts are fought; it can lie in the way of military operations, can become a minefield or even displacement camps. This can be to the detriment of groups such as farmers who live close to the battle-lines of war (i.e. Ethiopia, Eritrea). Once again IHL is ill equipped for tackling these issues.

9. De Waal also emphasised that humanitarian crises are not an aberration of normality but rather a longer term historical processes of change. They are accelerated or traumatic transitions in which the direction is not always, but often involves, processes of 'primary accumulation' or asset stripping. These include:

- *Urbanisation:* During displacement, populations often settle in urban areas and rarely return to rural life. Rather than being short-term IDPs, they become permanent urban squatters which impacts on their livelihoods and often leads to issues related to security of tenure.
- *Rupture of previous forms of social organisation and local authority:* Forms of authority change with war, famine and forced migration and humanitarian interventions feed into these dynamics. Authority based on land, kinship and tradition are substituted with new forms of authority that emerge around the distribution of relief.

- *Commoditisation*: War and hunger are typically marked by a shrinking of the ambit of trust and a move towards an increase in monetary relations. Items that were previously free, such as access to land, can become commoditised.
- *Extension of administrative control*: Populations that were previously autonomous may fall under state systems. Humanitarian agencies can sometimes provide a means of this extension through counting, monitoring and governing affected populations. In fact, they can often create a locus of resistance by giving protection and salaries to populations seen as a threat by governments.
- *Selective nostalgia*: Humanitarian agencies frequently try to ‘return to the way things were’, but these ideals are often unrealistic or even undesirable after processes of change and transition. There is a need to get to grips with the reality of change and how best to promote positive outcomes.

General Discussion

10. The audience questioned the viability of registering land as it can inflame grievances and possibly rekindle a return to violence. Registration should only occur in non-conflict contexts when displacement occurs because people are searching for food. This proposal can create solutions as well as problems so needs further exploration.
11. The issue of how humanitarian organisations should respond in situations where ethnic cleansing is taking place was raised. It was stated that there are no right answers but that responses need to be context specific.
12. The role of honest and reliable states was raised and, specifically, whether there is a need to strengthen them in these contexts. Although it was agreed that this might be beneficial, it often makes more sense to strengthen communities vis-à-vis the state instead – especially when they are not honest brokers.

Panel 1: Legal pluralisms in humanitarian approaches

13. **Paul Richards** opened the first panel by talking about the need to understand land tenure in conjunction with other related factors such as governance, livelihoods, gender, labour and law. He highlighted the importance of the panel topic and said that understanding legal pluralisms and its relation to land tenure is key to obtaining a holistic approach to these issues.

Speaker: Jon Unruh, McGill University

14. **Jon Unruh** defined legal pluralisms as the overlap and interaction of separate social fields of ‘legality’. With regards to land and property, these refer to sets of rights and obligations that cross both formal and informal legal fields. In post-conflict contexts, legal fields are often reworked within larger processes of change and transition brought about by war. As a result, difficulties can emerge between these legal fields with regards to land access, claim, use and disputes because different actors or groups (i.e. the state, ex-combatants, the displaced and other communities) seek to consolidate their interests, often threatening a delicate peace. Furthermore, attempts at developing formal legal reform and land laws in the post-conflict period are slow and do not move as rapidly as informal legal fields. This creates a disconnect between formal law and local realities on the ground. In Liberia, for example, squatters continue to occupy lands in urban and peri-urban areas while some ex-combatants control rubber plantations.

Forum shopping

15. Unruh outlined some approaches to legal pluralism in post-conflict contexts. During the peace process where the state’s authority is weak and there is inadequate legislation to resolve important land and property rights dilemmas, it can be useful for humanitarian agencies to support ‘forum shopping’. This involves different individuals and communities choosing which legal field to go to in

order to resolve their land-related problems and can create room for manoeuvre or negotiability in land disputes. It may also help avoid a return to violence associated with the rigidity and lack of legitimacy of formal legal structures. Forum shopping has been common in Ethiopia, especially in the conflict prone areas of the south east, where a mix of state, clan, religious, village and regional mechanisms provide a significant choice of arenas in which to pursue land issues.

Means of appeal

16. Forum shopping can evolve into a roughly vertical process where different stakeholders seek to resolve their land disputes in one legal field (often the most informal) and if they fail to reach an agreement, resolution is sought in the next arena (often with a higher level of authority). This creates an informal realignment of social fields and can serve as a means of appeal. Ideally this system aligns itself with formal law and also serves as a way of reducing the overburden of cases that courts often suffer in post-conflict contexts. Humanitarian agencies can support this form of appeal by helping communities or individuals to position themselves within this vertical alignment in order to support the peaceful resolution of disputes. This can have the further effect of influencing formal law with customary norms as customary decisions and outcomes are communicated to formal institutions.

Mediation

17. Humanitarian agencies can also get involved in mediation of disputes around land and property that transcend different legal fields. It should be noted, however, that the lack of legal legitimacy agencies possess in making binding decisions means that these efforts largely depend on the goodwill of the disputants and the ability of the mediation process to encourage meaningful participation. Although an ultimate resolution may not emerge, the process of mediation and postponement of a final resolution can be beneficial as it non-violently buys time for customary or formal laws to be re-established without the need for violence.

State interaction

18. Humanitarian agencies interact with the state on legal issues in both positive and negative ways. On the one hand, the organisation of land policy reform consultation processes with local populations can help provide a unique opportunity for people to feed informal perspectives into the establishment of laws, policies and decrees. On the other hand, when there is poor coordination between humanitarian organisations and the ministry undertaking a particular reform (or the donor supporting it), it can have the effect of slowing down the reform effort, misinforming local communities or misdirecting the reform process all together. For example, some NGOs seek to monitor land or obtain titles for communities to protect their land, but the outcomes might be the reverse if laws that would facilitate such titling no longer apply and are open to dispute from other parties.

Human right vs Property right

19. Unruh closed by raising the issue of human rights vs. property rights in restitution processes. Whilst human rights are non-transferable, this is not the case with property rights which can be sold, exchanged or leased. Therefore restitution as a human right is not connectable to a property rights system (customary or formal). Humanitarian agencies often press for restitution as a human right without articulating how it will interface with an often rapidly changing property rights system. This introduces an incompatible form of pluralism. There is a need to translate land and property restitution as a human right into workable property rights that fit within prevailing or reforming tenure systems. This may include the recipient selling the property received as a human right.

Discussant 1: Judy Adoko, Land and Equity Movement in Uganda (LEMU)

20. **Judy Adoko** said that she would respond to Unruh's presentation using her experiences from Uganda in which three state tenure systems exist alongside an informal customary system. These pluralisms emerged during the colonial period which created new systems of governance and mixed them with

previously existing ones. Further change has happened as a result of the war and has had the effect of making the current state legal system lose its reach and influence with regards to tenure. The customary system has also been weakened because traditional authorities (such as elders) have lost respect amongst certain groups (particularly youth).

21. Given this plural context, forum shopping can be positive. It should be noted, however, that some people will 'keep on shopping' until they find the resolution that most favours their interests. This can also exclude others that may not have the means to 'keep on shopping' in different forums.
22. Supporting an appeal system could be a workable solution but if the state system does not recognise customary forms of tenure, some members of the population can be completely disconnected from the process. A first step would be for the state to acknowledge that these mechanisms exist and bring them into the formal system. There has undoubtedly been huge changes brought about by war and the legal pluralisms that have emerged or reconfigured in these processes need to be harmonised.

Discussant 2: Conor Foley, Independent Analyst

23. **Conor Foley** emphasised the importance of land issues in conflict and post-conflict contexts and echoed De Waal's point that too few people are actually engaged in the topic. He said that humanitarians tend to take quite a practical approach to land since displaced people simply *must have* land in one way or another to stay alive. In other words, they take a needs based approach rather than a rights based approach. This is starting to change somewhat with the development of the Pinheiro Principles and the consequent emergence of returning home as a right, and was particularly evident in the Balkans experience. Various legal aid programmes carried out by the Norwegian Refugee Council have been part of this shift. In some contexts like Afghanistan, however, the absence of strong formal laws result in a lack of power to implement these 'rights' so forum shopping can be an effective means of finding solutions.
24. Current humanitarian practice focuses on the implementation of standards and principles developed at the international level. The problem is that upon implementation, the challenges of a confusing mix of legal pluralisms arise. This mismatch between standards and realities on the ground results in interventions that can hinder state development and the role of government. There is a need to see how the state can be democratised to include all actors and legal pluralism together.

Discussant 3: Caroline Gullick, Independent Analyst

25. **Caroline Gullick** spoke of how legal pluralisms in conflict situations regularly change; particularly as state law often fails to penetrate remote rural areas. In Sudan, for example, customary law has thrived in rural and remote areas because it is more accessible than formal law. Tensions occur when the government declares customary land to be state land at the expense of the inhabitant's usufruct rights. Since customary law is not recognised in statutory law, it is difficult to secure rights from traders and foreign investors. People in turn are attempting to secure their land through alternative mechanisms such as demarcating boundaries by foot. Land issues were not resolved during the peace process and remain a potential destabilising factor of peace.
26. On forum shopping, Gullick emphasised that it can only be effective if statutory law recognises customary law. Otherwise there will be a mismatch and continued competing interests. In the Kordofan region of Sudan, for example, the population believes their lands are registered, however, statutory law does not recognise them and this can create a dangerous precedent.

General discussion

27. The audience questioned the viability of forum shopping without an authority or 'shop keeper' to control the process. However, it was also noted that an authority can actually sometimes be the problem. What is more, although the process might be somewhat imperfect because of its fluidity, the reality is that a return to violence is always a very real alternative option in transitional contexts.

28. On formalising customary law, it was argued that this would not work because it is heterogeneous and based on local specificities. The need for flexibility was stressed. There were also calls for a more nuanced understanding of customary tenure since in some customary systems (i.e. Uganda) women are seen to be 'excluded' from owning land but in fact may have other rights that support different understandings of ownership.
29. The issue of nationalising land was raised particularly with regards to reconciling a government's right to use land for development (i.e. by extracting natural resources from it) with the right of certain groups to use the land they previously owned. Some experimentation needs to be carried out on alternatives means of acquiring land such as leasing, which is better at taking account of user rights. Investors may, in fact, prefer this arrangement as it guarantees access to land for a fixed period and removes the risk of rebellion or unrest caused when groups are forcefully expelled.
30. There was some concern about portraying property as a human right. It would be more helpful to talk about the right to a fair litigation process without discrimination, particularly as the Eurocentric property rights system is often alien in many contexts such as Afghanistan. However, it was argued that restitution should be pursued as a human right and that there needs to be a way to insert that right into a property rights system that is culturally relevant.

**Panel II: Land in emergency to development transitions:
Who does what? Or is there something missing here?**

31. **Gunnar Sorbo** opened the session by stating the importance of land issues for peace-building efforts. He highlighted the case of Darfur where little has been done to address livelihoods at the local level and where the peace process has been top down, has lacked the consent of communities, and has failed to take account of the fact that there is little confidence in national authorities.

Speaker: Liz Alden Wily, Independent Analyst

32. **Liz Alden Wily** began her presentation by saying that the question posed to her by HPG (who should do what?) implies that a certain amount of awareness about what to do on land in emergencies already exists, but this is not the case. There is incomplete knowledge about property relations in the humanitarian sector that renders even the commitment to act often mild and confused.
33. Wily therefore focused on the missing structural analysis by highlighting ten watch points that cross-cut most conflict situations:
 - Political will makes all the difference so the aid community can only do so much. There is a need for actions to coerce political will and limit the land grabbing that often occurs in the post-conflict phase by governments and elites.
 - Concerns around the right to land have come to the fore in the last half century. Wars have changed from *inter*-state to *intra*-state which has shifted the nature of conflict, making it about land rights rather than about national territory. The central question is who owns the land?
 - The agrarian character of most conflicted societies helps define the property issues that need addressing. There is a need to understand the history of land issues, the role of the state as a landowner and controller of land, and the fate of majority indigenous/customary land rights.
 - Peace processes often misplace the role of property in conflicts and pay little attention to chronic grievances around land issues that underlie conflicted states. Property issues will always become an issue in post-conflict contexts even if land was not the main cause of war. The Sudan Peace Agreement is an example where land issues were postponed and have yet to be resolved.

- There needs to be a shift from focusing solely on restitution to reform. Restitution is not always the main issue, such as in Afghanistan where most of the returnees are actually landless. Securing their livelihood and reintegration will require land reform.
- Property disputes are not always negative and are often the highest percentage of cases in courts in both conflict and non-conflict countries. Raising the alarm in these contexts can be counter-productive as some of these conflicts form part of a self negotiating process of resolution. Humanitarian legal aid interventions are often unwarranted.
- Peace can be dangerous and deliver a sharp rise in property matters. The post-conflict policy environment can aggravate property concerns through land grabbing, the failure of the rule of law to regulate returns and not preparing for urbanisation.
- Everything changes with war. People change their awareness, skills, aspirations and demands around land issues and society also undergoes important changes such as through the urban-rural balance, settlement patterns and the structure of livelihoods. The notion of 'our land' frequently becomes the centre stage of the post-conflict environment.
- Property issues are often the same as those in non conflict affected states but are just more loaded. For this reason, other contexts can provide relevant lessons.
- Debates on property issues are far from resolved. Land experts do not speak with 'one voice' and there remains a lot of work to be done to resolve some of these complex issues. There is a need to go beyond current paradigms.

34. Wily then outlined ten points of action for humanitarian agencies:

- Build up core expertise
- Get in early and ensure land is addressed in the peace agreement
- Use international leverage while it still counts
- Prepare for the post-conflict city
- Pay attention to customary tenure and collective norms
- Focus on ownership of natural resources
- Consider the governance issue
- Though there is no magic bullet, there are routes forward
- Make working with communities a priority
- Pay attention to the advantages of working with women.

Discussant 1: Robin Waters, Royal Institute of Chartered Surveyors (RICS)

35. **Robin Walters** gave a brief introduction of RICS and outlined how its members are working on land and property issues all over the world and supporting the development of international standards. He said Wily's paper was a real education and emphasised the importance of customary ownership. He asked two questions related to the presentation:

- How can humanitarian agencies gain the expertise necessary to effectively tackle land issues?
- How can they influence governments that are not honest brokers?

Discussant 2: Dan Lewis, UN-Habitat

36. **Dan Lewis** strongly recommended Wily's paper as it raises many important issues that are difficult to get across in a short presentation. He emphasised the non-linearity of emergency to development transitions and the need for the different actors involved to come together at an early stage. The variety of actors and the different perspectives and strengths they bring make it important for an increase in dialogue and an integration of efforts. This will also help reverse the deficit of skills amongst agencies on the ground. He agreed with the points on what humanitarians can do, but emphasised that these should not be limited to humanitarians and include others working in these environments.

Discussant 3: Barbara McCallin, Internal Displacement Monitoring Centre

37. **Barbara McCallin** acknowledged the lack of understanding on land issues amongst the humanitarian community and highlighted the importance of the conference in providing an opportunity for different sectors to learn from each other. She outlined that, while providing legal assistance to allow individuals to repossess their land and homes, the Norwegian Refugee Council's (NRC) has faced many challenges linked to the existence of legal pluralism, and the non functioning of institutions. In an attempt to reflect on its property restitution experience NRC contributed to the development of a handbook on the implementation of the Pinheiro Principles. However she acknowledged that the handbook lacks concrete recommendations regarding the role that traditional dispute resolution mechanisms can play in addressing property disputes and that it doesn't put restitution in the broader perspective of evolving land tenure relations. Following up on a question she emphasised that the rights based approach to land issues is in no way limited to property restitution and could be applied to other solutions such as broader land reform. She asked three questions:

- How can land experts engage the humanitarian community to gain a better understanding of land tenure issues at an early stage?
- Why is the humanitarian community not willing to tackle land issues? Is it simply because it is perceived as too politically controversial and complicated?
- Could a critical review and analysis of the Pinheiro principles and handbook be drafted from a land tenure perspective to improve the understanding of the humanitarian community on land issues?

Discussant 4: Richard Trenchard, Food and Agriculture Organisation

38. **Richard Trenchard** stated that humanitarian actors and the land tenure community could do a lot more in the early stages of recovery with regards to the property project. There is a need to raise awareness of the importance of these issues and overcome the political and practical barriers to dealing with land in post-conflict countries. This will require the following:

- The need to look at who does what and ensure they have the capacity to respond accordingly. Most post-conflict work in the initial phase is not done by technicians, but by logisticians and procurement people who often lack the capacity to adequately respond or simply react in an ad hoc manner.
- Land tenure specialists have yet to communicate the importance of land issues in an effective way. There is a need to translate concepts into practice. This is a task that the Cluster Working Group on Early Recovery has taken on by highlighting some of the main problems and issues (i.e. lack of funding) and trying to identify potential solutions.
- There is a need to help develop land experts with humanitarian backgrounds that can be deployed rapidly and effectively at an early stage.
- Whilst humanitarianism is often about short-term interventions, land issues are part of a long-term process. This mismatch makes it difficult to get land people involved early. Donors must help by providing funding that is flexible and not short-term. Humanitarian funding does not translate well when moved towards development projects.

General Discussion

39. In the general discussion, participants talked about the distinction between land and property and different conceptions of ownership. Problems with terminology were highlighted, particularly those which derive from Eurocentric conceptions of property systems. These ambiguities can serve as an obstacle to resolving land conflicts.
40. The difference in priorities between donors and land experts was discussed, as was the failure of these two groups to communicate effectively. This has been particularly evident in Afghanistan where

a lack of interaction between USAID and UN-Habitat has served to slow down (and sometimes undermine) the efforts of both actors. It is vital that these differences be resolved before they can effectively help the humanitarian community.

41. The unclear distinction between the ‘conflict’ phase and the ‘post-conflict’ phase was also raised as a potential obstacle to bringing land tenure experts and humanitarians together. At what point should the land community be called upon? The response to this was that this distinction is unhelpful since land tenure specialists can make effective contributions to both phases. Deploying them should therefore always be considered an option. Work still needs to be done to explore how to do this effectively.

Panel 3: Land in Return, Reintegration and Recovery Processes

42. **Roger Zetter** started by discussing the issue of timing. In particular, the problem of identifying when return, reintegration, and recovery processes begin and finish. He also spoke about the challenges of understanding what is actually being reconstructed, restored or resettled. This, combined with a general lack of appreciation of land issues in these processes, serves to further complicate operating in the post-conflict environment.

Speaker: Chris Huggins, Independent Analyst

43. **Chris Huggins** said that land is often at the root of a conflict or at least an underlying factor. Land issues can also surface *during* conflict as well as *after* fighting has stopped. In the post-conflict environment when most economies are opened up to international markets and can experience an economic boom, land rights are precarious because donors tend to emphasise and privilege external investment over local land grievances and disputes. In fact, post-conflict states often end up being laboratories for experimentation in land tenure at the detriment of communities. Time and again, pilot projects focus on the first phase of implementation without considering the true impacts that are felt many years down the line.
44. Huggins used examples from post-genocide Rwanda and Burundi to help outline some important issues:

Rwanda

45. After the genocide in Rwanda, mass returns of refugee populations put a strain on the availability of land. This was exacerbated in some areas by local level land grabbing by local administrators and the military, which saw both Hutus and vulnerable Tutsis losing land. The government underplayed these issues and went about resolving the situation through a nationwide process of villagisation and, in some provinces, through compulsory land sharing programmes. Villagisation, which was supported by the international community, was characterised by forced re-settlement and was enmeshed in the government’s counter-insurgency strategy that sought to prevent rebels making incursions from neighbouring DR Congo. Human rights monitoring of these policies was repressed by the government who often accused critics of having genocidal ideologies. Donors have not provided adequate political support to civil society and independent monitoring of such policies is weak.
46. Another issue of concern is the fate of the large number of vulnerable IDPs in Rwanda, particularly those in the northwest of the country. In 1999, it was estimated that the number of displaced was over 500,000, however, this number was instantly reduced to 150,000 in 2000 due to a change in definition by some UN agencies. This decision was not adequately justified by evidence.
47. Effective solutions to some of these issues are hindered by the fact that many donors chose to work only with the central government in Kigali rather than also carrying out their own field work or engaging with civil society or middle-management civil servants to enable them to properly gauge issues of concern (especially in rural areas). A DfID evaluation recently found that due to lack of

engagement 'on the ground', as well as language issues, DfID is 'distant' from the realities of programme implementation.

Burundi

48. In Burundi, humanitarian agencies have focused mainly on IDP and refugee return programmes and have tended to avoid the matter of land reform. If wider structural issues like competition over land, demographic pressures, corrupt and dysfunctional registration, and outdated land laws are not tackled, however, this risks undermining their work in the long run.
49. The Comprehensive Peace Agreement attempted to deal with some of Burundi's land issues by calling for compensation schemes to be established for those who have lost land. However, since the government lacks the means to pay people out, it is difficult to see what effect this initiative will have. Despite widespread awareness of the importance of land issues, attempts to address the land claims of returning refugees and internally displaced people, and more structural land-related issues, remaining wanting. .
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47. Effective solutions to some of these issues are hindered by the fact that many donors chose to work only with the government in Kigali rather than also carrying out their own field work to enable them to properly gauge issues of concern (especially in rural areas). A DfID evaluation recently found that their staff spent only one day a year in the field on average.

Burundi

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49. The Comprehensive Peace Agreement attempted to deal with some of Burundi's land issues by calling for compensation schemes to be established for those who have lost land. However, since the government lacks the means to pay people out, it is difficult to see what effect this initiative will have. The international community has so far not sought to support the government despite how potentially destabilising this issue might be.
50. Huggins then went on to outline some possible 'next steps' for organisations working in conflict environments:
 - In the latter phases of conflict, humanitarians should engage in documenting the situation on the ground.
 - Housing, land and property issues should be included in peace agreements.

- More support should be given to civil society platforms and common advocacy approaches.
 - Constant emphasis should be put on the rights of women and specific vulnerable groups.
 - Pilot projects should be used to test methods rather than as a means to implement preconceived ideas and models.
 - Local dispute mechanisms should be strengthened but not at the expense of the courts.
51. Huggins concluded by urging donors to give adequate resources to systematic monitoring. He also suggested that humanitarian agencies should take a wider view of housing, land and property issues; incorporate a natural resource perspective into their programme planning; and ensure sustainable livelihoods through access to resources.

Discussant 1: Allan Cain, Development Workshop – Angola

52. **Allan Cain** began by stressing that there are risks in relying on traditional leadership in post-conflict land disputes because traditional leaders often have lost their legitimacy with more ethnically heterogeneous IDP communities where household heads are increasingly women.
53. He then spoke about humanitarian programmes in Angola and said that, although they have been viewed by OCHA as a success both in terms of saving lives and in terms of influencing government policies to humanitarian resettlement laws (e.g. the right of IDPs to choose where they wanted to settle), the post conflict period has been a different matter all together. This is because there has been a vacuum of information on IDPs – a major issue because the Angolan conflict took place far from borders so the number of IPDs was a lot higher than refugees. The result has been that the rights of those displaced have been intermeshed with general civic rights and many issues have been passed on to regional and local governments. The massive bulk of IDPs have, over several generations of conflict, migrated to the safe-havens of the urban peripheries where they have occupied, and usually purchased land in good faith. The IDP’s land claims must be seen as part of a larger issue of post-war land reform which includes the recognition of new patterns of settlement that also recognises the occupation rights of the urban poor whose assets are invested in their housing and the land that they acquired in “good faith” during the years of conflict.

Discussant 2: Koen Vlassenroot, University of Gent

54. **Koen Vlassenroot** started by saying that land disputes are dynamic processes caused by insecurity which lead to changes in the local rights and institutions that govern rights and access to land. Context is therefore a very important factor when becoming involved in land tenure issues. He went on to stress that the tendency to focus on land in the post-conflict period can be problematic because this is when the political environment is at its most fragile. What is more, new regimes often lack the capacity or political will to properly engage.
55. Vlassenroot then spoke about local dispute resolution mechanisms, which he said can confuse formal systems and undermine or prevent the state from getting involved. Access to these mechanisms tends also to be limited to members of the associations which introduced them so is sometimes not particularly inclusive. For this reason, it is important to stress the historical dimensions of land issues and support processes that increase the capacity of the state to help it guide rural reform.

Discussant 3: Gregory Balke, UNHCR

56. **Gregory Balke** said UNHCR’s role with HLP derived from its interest in the refugee’s right of voluntary return in conditions of safety and dignity, as well as the general human right to adequate shelter. These interests, combined with UNHCR’s practical experience of housing and land restitution in the context of refugee reintegration, means that it must take land issues very seriously. As one example, the Handbook on the Pinheiro Principles (a recent Inter-Agency publication) is given to field officers to help them analyse and intervene in HLP issues in return contexts that involve both refugees and IDPs. He made three key points:

- On the relationship between customary systems and official institutions, humanitarian agencies often work with the former as these are the ones they encounter on the ground in the deep field immediately post-conflict. However practical and relevant the informal systems, this engagement can potentially be dangerous if it is not matched by engagement with more formal structures. Agencies need to engage with customary systems in a manner that is not viewed as disempowering other legal mechanisms and the rule of law in general.
- Humanitarian agencies are sometimes ad hoc and lack a systematic response to HLP issues. It is often individual personalities that determine the level of institutional engagement and interagency coordination on HLP; this is unsustainable. Humanitarian and development agencies must increase their general coordination and dialogue around these issues and make their responses more systematic and predictable. The cluster approach is a possible avenue to support this, though it must be acknowledged that experience using it has been mixed.
- There needs to be a mechanism for humanitarian agencies to bring in the land expertise they need at an earlier stage in post-conflict response. Once again, the cluster approach could possibly assist this.

Discussant 4: Paul de Wit, Independent Analyst

57. **Paul de Wit** outlined how land issues could be incorporated into conflict and post-conflict contexts:

- There is a need to ensure land issues are tackled in peace agreements and that this includes adequate follow-up. Though references to land are made in the Sudan Peace Agreement, many initiatives have been postponed or not dealt with effectively. In fact, land is not even mentioned in the UN's mission document and only \$700,000 of the total \$6 billion has been earmarked for land in the operational response.
- Political commitment from governments to address land issues and carry out reform is crucial. A way to do this might be to ensure that land is included in peace agreements (even if initially vague) so that it can then be used as an effective means to lobby the government at later stages.
- Donor service provision and coordination is important, however, the cluster system may be an inadequate means by which to address land because it is a cross-cutting issue. Coordination is often hampered by competition between agencies and egos within and between agencies. Informal and formal partnerships at the headquarter level are not always translated in the field and vice versa.
- Funding is a critical issue and it needs to be made available in order for land to be addressed adequately in the emergency context. Current humanitarian funding is concerned only with projects that save lives so in some instances seeds and tools are distributed without considering whether there is land available to use them.

General Discussion

58. The open discussion focused on issues of return and emphasised the need for it to be voluntarily – no humanitarian agency should force people to go back to certain areas if they do not want to. This happened in Kosovo and there is now recognition that this was the wrong approach. It should be noted, however, that even if people do not want to return to their original land, they still have a right to it.
59. Due to a recent push to try to operationalise the Pinheiro Principles in the Great Lakes region, there was some optimism on the fate of property rights there. However, it was noted that the success of this initiative will largely depend on political will. Though Tanzania has signed up to the protocol, it recently expelled over 20,000 refugees.

60. The issue of including HLP in peace agreements was raised and concern voiced over the extent to which the issue should be pushed since it could compromise an often fragile peace. Nevertheless, making references to land can be important (even in fragile contexts) as it puts pressure for the issue not to be dropped off the political agenda.

Parallel panel sessions: Experiences, challenges and lesson learned

Panel 1: Transitional programming

This session was chaired by Prof. Lionel Cliffe from the Institute of Politics and International Studies at the University of Leeds. He replaced James Putzel from the London School of Economics who could not attend.

61. **Prof. Lionel Cliffe** began the session with a reminder that, although there is definitely a place for land experts and humanitarians to come together in post-conflict peace negotiations, it should be noted that certain conflicts end because of victory of one group over another. In some instances, land issues are settled without the need for a formal agreement.

The humanitarian-development divide on the ground: Questions from Oxfam's experiences

Speaker: Robin Palmer, Mokoro Limited

62. **Robin Palmer**, who runs Oxfam's [land rights in Africa website](#) and worked for Oxfam for 20 years (first on its Southern Africa Desk and later as a global adviser on land rights), said that although he had considerable experience of humanitarian work (including managing the managers of Oxfam programmes in wartime Mozambique and Angola), all his work on land rights had been conducted within a non-humanitarian framework. In fact, it had never occurred to him that it could be otherwise. As a manager in immediate post-war Mozambique, he was concerned that Oxfam's programmes focussed on cementing the peace and supporting reintegration, while a few years later, as a policy adviser he successfully persuaded Oxfam to look at land rights by stressing their importance in the long-term.
63. Ten days after the Indian Ocean Tsunami, it was suggested off the record by a UNOCHA official in Geneva that Oxfam might want to take a close look at land and property rights in the affected areas because these might become 'a major headache' during the reconstruction phase. It was also feared that people's land rights might be completely ignored in the immediate UN and government responses. Following from this, Palmer was asked to carry out a quick Oxfam scoping study. This provokes two questions:
- Why did the UN itself not feel able to respond on land rights?
 - Why did it not occur to Palmer, as its Global Land Adviser, that Oxfam might seek to engage?
64. The fact that the humanitarian and the development departments within Oxfam rarely talk to each other might provide an answer to the second question.
65. Concluding, Palmer stressed the importance of listening to a broad range of local people and organisations; undertaking quality research as a base for credible advocacy; looking at the levers of change which you might affect; adopting a pro-poor, long-term perspective on land issues; implementing campaigns to make people aware of what rights they have or may soon acquire; and, in politically sensitive environments, creating a space in which highly emotive land issues can be discussed. Individuals can also really make a difference.

IDP return

Speaker: Jacquie Kiggundu, Brookings Institution

66. **Jacqui Kiggundu** discussed her work on internal displacement, particularly the findings of a recent desk study on the impact of customary land tenure on IDP return processes. The study raised three key issues:
- First, traditional processes can both facilitate but also complicate return. This is because during displacement, customary knowledge can easily be lost which can lead to much confusion and infighting, particularly where arbitration mechanisms are underdeveloped. It is, however, important to remain aware of customary tenure's potential to assist returnees in some

circumstances. Since it often promotes multilayered forms of land use that can accommodate different lifestyles and livelihoods, such systems could be useful to governments tasked with reallocating land to IDPs - especially where shortages exist. Cooperation and accommodation may be more pronounced in customary systems than statutory systems that focus on individual ownership and control.

- Second, policies that try to impose uniform, statutory land management systems can have unintended consequences for returnees. Many development actors have advocated for the replacement of customary systems with statutory tenure but the task of unifying land management requires a level of institutional capacity that is often out of reach of many post-conflict states. A failed attempt could result in dual usage of customary and statutory systems where the latter is accessible only to an elite few. Moreover, the use of dual tenure systems can result in mass confusion for returnees.
- Third, customary tenure often has a distinctly adverse impact on returning IDP women. This is due to the fact that customary tenure often fails to recognise women's inheritance rights and may limit women's ability to use the land following the death or absence of their male relatives.

67. Kiggundu then went on to talk about a number of policy options including:

- A 'mapping' exercise to try to provide an overall picture of the scope and nature of customary tenure and its specific impact on the displaced.
- Greater use of the Guiding Principles on Internal Displacement which affirm authorities' duty and responsibility to assist returned or resettled IDPs to recover their property and possessions. In alignment with this, the Representative of the UN Secretary-General on Internally Displaced Persons has suggested the creation of an administrative body with the power to mediate conflicts between claimants; adjudicate – subject to appeal – in courts; and be flexible enough to offer targeted remedies based on community needs.
- Registration of land entitlements for IDPs and affected communities at large. Where land is abandoned, authorities should attempt to identify the displaced owners. This could form part of an information campaign targeting displaced groups, explaining customary landholder's rights and any changes coming into effect.
- The development of practitioner guidelines on customary tenure and IDP returns.

Post-conflict reconstruction

Speaker: Lizzie Babister, CARE

68. **Lizzie Babister** introduced herself as CARE's Senior Shelter Specialist and said that CARE's work touches on land in a number of ways and at various levels – from research on land as a source of conflict in Burundi to basic housing in Kabul. She also deals with funding for lots of different types of projects that involve land and is involved in advocacy work to help get access to land for vulnerable groups in Ghana.

69. The aim of shelter programmes is to support shelter security. For this reason, land issues are an integral part of the sector and shelter experts often have similar expertise to land experts. Shelter has a major part to play in economic recovery both in the way it can boost the construction industry in an area, and because individual shelters can act as a place to create small work schemes. There are number of significant issues related to land:

- Land is considered a developmental issue and is therefore not part of humanitarian coordination structures such as the cluster system. It is difficult to get land on the table at Emergency Shelter

Cluster meetings, for instance, and because humanitarian projects often have to fit into 9 months timeframes, in-depth discussion on land is hampered.

- NGOs and (especially) donors remain reluctant to programme around land advocacy.
- Finding available or appropriate sites is a practical issue that continues to be a problem. There is a need to understand the technical use of land and the fact that, in some instances, land might be *available* but not *usable* because of how it was previously used (i.e. for waste disposal).

General Discussion

70. The floor was then opened to general discussion and questions. The following themes were discussed:

- The role of action research as a way to push the political agenda since it provides governments with the opportunity to own research findings and can also be a way to challenge inadequate legislation without directly disputing past/current government policies.
- The need to tailor responses to specific contexts. Here the example of Kashmir was raised where shelter projects based on African templates were implemented and were completely inappropriate.
- The responsibility of humanitarians, who are often the ‘first on the ground’, to understand that what they do after or during a conflict can, and often does, have a massive impact on what happens in the future especially with respect to land tenure issues.
- The need to reconceptualise the idea of registration so that it is not seen as individualisation but, rather, as something that involves and includes entire communities.
- The importance of involving local people and asking them what they want. The humanitarian community has not been good at this in some areas, particularly with respect to shelter and protection programmes where land and livelihoods are central. This is not to say that humanitarians have to become experts in all areas, but that they should be aware of the key issues that might affect their programmes so that they can be connected to the right people when they need to be.
- The need for better monitoring and evaluation to be able to clearly demonstrate why land issues are important in the context of humanitarian programmes.
- The need to find a way to deal with claims if information is faulty or where people might have a vested interest in not providing information.

Panel 2: Protection and legal aid

71. **James Darcy** opened the session by asking whether land and protection signified a concern with property rights or with human rights since the two are not necessarily complementary. Human rights are concerned with freedom of movement and freedom from violence which do not necessarily correlate with strict property laws.

Linking protection with land issues

Speaker: Pier Michel Perret, ICRC

72. **Pierre Michel Perret** said that seeking acceptable livelihoods involves dealing with human rights such as physical integrity or freedom of movement, as well as food and economic security. Therefore, when land issues are a threat, an obstacle or a vulnerability factor in peoples’ livelihood, all types of interventions that seek to preserve or restore peoples’ dignity have to be considered together. For this

reason, protection is consistently linked with land issues because land is almost always central to people's livelihood.

73. He explained that ICRC intervenes with protection interventions *stricto sensu* when there are violations of international humanitarian law (IHL). There are, however, growing efforts to establish closer links between *stricto sensu* protection and assistance interventions, particularly when trying to prevent displacement. This is accompanied by advocacy to relevant authorities to ensure access to land and livelihoods.
74. Perret then outlined the ways that ICRC has gone about ensuring that interventions are effective:
- Only intervene with the consent of affected populations
 - Ensure that interventions are relevant to the context and do no harm
 - Understand the role of land as both a source and resource of conflict (at micro and macro levels) and how land affects peoples' livelihoods.
75. He used the example of the West Bank to illustrate the importance of the above points. In this context, land legislation is based on Ottoman law which holds that if land is left uncultivated for three years, it becomes the property of the state. This has resulted in severe economic losses for Palestinians who, due to the West Bank Barrier, have experienced severe access restrictions. Some have had to cease cultivating altogether leaving Israel to appropriate their land and used it to build settlements. In this particular case, ICRC strategically concentrated on developing Economic Security Programmes with strong links to protection in order to facilitate access to land, and to mitigate the impact of these policies on the livelihoods of farmers.

Monitoring and mapping

Speaker: Sergio Odorizzi – INTERSOS

76. **Sergio Odorizzi** explained that INTERSOS runs a land monitoring programme in West Darfur which has monitored 550 settlements since 2005. This information is used to monitor protection issues like secondary land occupation and movement trends in the area. Some key information they discovered is as follows:
- 50% of IDP's in South West Darfur cannot move back to their lands due to occupation by squatters. This affects over 150,000 individuals.
 - The ethnic balance of the region has changed as a result of this displacement and land occupation.
77. INTERSOS uses thematic mapping of these changes to support the planning of interventions. For instance, communities which have occupied land are not eligible for humanitarian assistance whereas Nomadic peoples get support for traditional ways of life.
78. Odorizzi then went on to emphasise the need for monitoring to be collaborative and said that-inter agency data management is crucial to avoid duplicate assessments.

Norwegian Refugee Council's (NRC) mandate with regard to Protection and Legal Aid

Speaker: Fernando de Medina Rosales – Norwegian Refugee Council (NRC)

79. **Fernando de Medina Rosales** highlighted the approach of the Norwegian Refugee Council with regards to protection and legal aid. His points were as follows:
- The key objective of NRC is to provide assistance to refugees and IDPs. Their core activities are camp management, education, shelter, food security and legal assistance.

- NRC targets displaced persons to help them reach durable solutions. Removing legal obstacles to housing, land and property is a specific objective of the organisation. Their approach has its roots in interventions in the Balkans. Nowadays, NRC implements projects in Afghanistan, Pakistan, Sri Lanka, Colombia, Nepal, Georgia, Sudan, Uganda, Burundi, Congo, Ivory Coast and Liberia.
- The primary mechanism used is legal assistance such as court representation, mediation, and working with customary institutions. This is combined with the provision of information, counselling, capacity building and advocacy.
- Since property restitution can become very narrow and legalistic and can often be inappropriate where there is legal pluralism, there is a need to think more broadly about how to facilitate access to land. This implies a human rights approach to land issues, which includes a focus on access to resources, as well as land.
- Beginning legal aid too early can be problematic since, in many cases, conflicts can resurface making legal assistance programming inappropriate. A baseline level of stability is often needed before legal aid programmes can begin.

Changes in humanitarian response systems

Speaker: Gert Ludeking – UN Habitat

80. **Gert Ludeking** talked about the major change in the humanitarian response system that has occurred over the last three years. He highlighted the 2005 humanitarian review which said that housing, land and protection were critical gaps.
81. He also spoke about the emergence of the cluster approach to coordination where particular agencies were given responsibility for different sectors. While there is no specific cluster for land and property, there is a 'sub-group' under the protection cluster which is lead by UN Habitat.
82. One of the key barriers to establishing land projects in emergencies is that donors continue to split their funding between humanitarian and development programmes. Since land is seen as a development concern, it makes it hard to access funding.

General Discussion

83. The floor was then opened to general discussion and questions. The following themes were discussed:
 - The need to be clear about whether we are talking about property rights or human rights. While the human right to shelter exists, this may not be recognised under property law and this lack of correlation between the two systems can be problematic.
 - The need to see return as a contentious issue. Displaced populations will often integrate locally rather than return to their places of origin and even if they do return, it is not clear whether the right of return is to their own land or to another property.
 - The importance of land monitoring and the need to look at whether current data is sufficiently rigorous. The question of whether there is sufficient local knowledge to apply systems that categorise specific tribes as 'Arab' or 'African' was also raised as was the issues of whether humanitarian assistance should be denied on the basis of the monitoring.
 - The need for there to be a level of stability before intervening on land issues.

Closing remarks

84. **Sara Pantuliano** closed the conference by emphasising the critical importance that land issues play in conflict and post-conflict situations and also stressed the need to bring land tenure expertise to the humanitarian community.
85. The conference raised a myriad of complex issues, from how to deal with legal pluralism to how to tackle land issues in the peace process. This is the beginning of a process which intends to build on these complexities and ensure future humanitarian action is better equipped to tackle land-related issues. In order to support this process, ODI plans to edit a book that will bring together key learning and other field experiences to serve as the groundwork to move the agenda forward.

Following the conference, a closed roundtable meeting took place which included all speakers and discussants. The goal of the meeting was to distil some of the key messages that came out of the main conference.

86. **Sara Pantuliano**, Research Fellow at the Overseas Development Institute, facilitated the meeting around the following key themes:

The lack of expertise amongst donors, research institutes and agencies

87. A major gap in expertise exists when it comes to land tenure issues and their relation to conflict and post conflict situations, especially within donor and agency communities. There is also a lack of dedicated research programmes dealing with the topic. In fact, it is the World Bank that is doing the bulk of the work on land and this is only because key individuals within the organisation have a specific interest in the issue. If they move on, this expertise might be lost. What is more, key emerging issues that are linked to land – for instance, urbanisation and displacement – are not being analysed.
88. There has been some work done on land at the ODI but a specific programme has not been established because the topic is seen to be the domain of the [International Institute for Environment and Development](#) (IIED). IIED does not focus specifically on how land interacts with humanitarian action though so their work tends not to be tailored to practitioners in the field. There are few people working on the interface between these two realms.
89. The Humanitarian Policy Group at ODI could provide a link to the humanitarian community through its independent network (the Humanitarian Practice Network) which currently has a membership of over 6,000 practitioners and policy makers globally.

The need to gather existing knowledge and produce practitioner-focused tools

90. The Pinheiro Principles, which outline the UN's principles on housing and property restitution for refugees and IDPs, were a step forward in terms of providing a guideline to the humanitarian community on land. They would, however, benefit from a review to help resolve some of their weaknesses and to align them with other initiatives. Training should also be initiated and done regularly to allow practitioners to ask the right questions about land when they are in situations where they have to respond rapidly.
91. Though tools like the [Global Land Tools Network](#) and individual civil society-led initiatives exist, there remains a basic lack of practitioner-friendly material grounded on 'what is happening on the ground'. Wider buy-in from agencies has therefore been difficult.
92. One way forward might be to bring land tenure experts into existing humanitarian interventions to help make practitioners aware of the how land dynamics can cause (or contribute to) conflict. Their presence might also allow agencies to be more aware of the effect that their activities have on longer-term land projects. That said, practitioners seldom invite non-humanitarian actors to be involved in

their work during the initial response phase, so there is a need to be realistic about what can practically be done regarding land during this phase.

93. Another way to make humanitarians more aware of land issues might be to do a review of past responses in different contexts with information on funding, who was involved, best/worse practice and lessons learned. This compendium could be helpful to field staff and may also be useful for lobbying purposes to get issues on agenda. If developed into a fuller report, it might also provide humanitarians with a conceptual lens through which to look at certain issues.
94. But the challenge is not to make all humanitarian actors land experts as they should remain focused on completing their mandates as quickly as possible and handing over to agencies that works on longer term projects. Getting them linked to the expertise they need at the right place and at the right time should be the primary objective.
95. At the very least, the humanitarian community should be given clear guidance of what not to do and particularly what they should steer clear from both operationally and in policy terms. It is almost inevitable that certain interventions *are* going to cause land tenure problems so practitioners need to be provided with an effective way of assessing what to do when it comes to dealing with land-related issues – temporary urbanisation, squatters, etc – to help minimise the problems that some responses create. Perhaps a standard set of diagnostic tools (with links to more in-depth academic reference) would be helpful. These could help practitioners ask the right questions and get a better sense of how to identify situations that would benefit from the input or guidance of a land tenure specialist.
96. A similar set of tools could also help those involved in negotiating peace agreements since land issues have not historically been incorporated as thoroughly as they should be into these agreements.
97. It would also be helpful to do some specific work on predicting and dealing effectively with displacement since the idea that ‘everything will go back to normal’ at the end of a conflict is unrealistic – especially since ‘normality’ is an ambiguous word in many post-colonial contexts. Looking at ways to generate more realistic expectations about resettlement and supporting coping mechanisms that develop during conflict would therefore be a step forward. Doing some coordinated contingency planning would also be beneficial.
98. All tools and resources for practitioners should be based on historically grounded analysis and this work (which can often be both academic and extensive) should be supported and built up. Land experts should also ensure that political dynamics are incorporated into their studies so that policy options are easier to identify. Humanitarians could play a role in this by collecting baseline information before (or during) a crisis.

The need to disseminate experience better

99. Though it is good to develop the tools mentioned above and push for more analysis to be conducted, it is also crucial for land tenure experts and organisations working on land issues in conflict and post-conflict environments to improve their capacity to share work – especially that which already exists. There is currently no central/searchable repository of key articles on land which makes it difficult to find resources easily and though individual organisations are starting to cluster certain land-related resources, this is mostly being done internally rather than shared with others.
100. The Guidelines and Toolkit on Post-Disaster Land, Tenure and Property Issues produced by the Emergency Shelter and Early Recovery Cluster should also be made more widely available and accompanied with more thorough training.
101. Successful pilot projects should also be documented and shared. For example, UNHCR recently provided funding to a large housing project in Bosaso, Somalia instead of opting for a temporary settlement. By locating it within the main city rather than outside it, humanitarian capital was

channelled into a more permanent asset. This created a sense of durability and gave people access to an urban economy.

The need for better partnerships and sequencing

102. A mapping exercise to understand how agencies with different mandates deal with land-related issues might be beneficial as it could provide a clearer sense of when it makes sense to start/stop specific land projects. It would also help reconcile timeframes by linking humanitarian responses with longer term engagements.
103. International actors might also want to consider more comprehensive and sustained work with local NGOs, local authorities and civil society organisations who are ‘there for the long haul’ after others leave. It is also important to support these organisations and provide them with the capacity they need to continue engaging in land-related projects.

The need to be aware of institutional developments and constraints

104. Recent reforms to the humanitarian system have not helped to bridge the gap between humanitarians and land experts. The cluster system in particular has not provided a clear focal point for land issues in humanitarian contexts leaving a diverse set of different agencies to engage with land-issues at different times, in different ways, and, in some cases, overlap with each other.
105. Revisions to humanitarian law, which include new forms of legal instruments for civilian protection and security should, however, be taken advantage of. ‘Temporary protected status’ is an example of the kind of things that should be employed in certain contexts.

The need to promote legislative reform

106. Since NGOs seem to be the main actors involved in implementing longer term transitional programmes, they should be supported to engage with governments to try to change bad land policies or avoid them being passed in the first place. One way to shift political will is through pilot projects which demonstrate clear results to governments and give them a sense of ownership over the results.

To need to develop donor advocacy strategies

107. It is essential to educate donors about the importance of land in different contexts since many of their programmes fail to integrate the issue properly. This may be the result of funding cycles which tend to make it difficult to fund land-related projects in the first place – especially in the conflict or post-conflict phase. Another reason might be that that ‘fast’ results demanded by donors are difficult to deliver in land projects because working with governments and regional authorities is a long-term process (4-5 years).
108. Donors also need to be made aware of the importance of sharing relevant material about the humanitarian programmes they fund since their reluctance to be forthcoming with (sometimes) vital information can slow down longer term land projects.

The need for more systematic monitoring and evaluation

109. One way to bring donors on board might be to ‘speak their language’ a bit more by improving the way land initiatives are monitored and evaluated. This could help practitioners make a better case for incorporating land in their programmes. Mainstreaming M&E into land projects would help in this respect as would consolidating (or at least linking) the different databases that currently exist.

110. Following the **main discussion**, a number of ‘next steps’ were set out:

- i) Follow up with something that would be useful for practitioners. This could include:
 - a. a brief or more detailed work,
 - b. a consolidation of key materials from the field,
 - c. a ‘what not to do’ guide, and/or
 - d. a set of sophisticated diagnostic tools.

Though HPG at ODI could facilitate the creation of one or more of these, the need to secure ownership from key UN and other agencies should not be overlooked.

ii) Commission a land tenure expert to do a critical review of the Pinheiro Principles and/or edit a second edition of the Handbook. Though it is clear that these principles are not changeable, it is still important to comment on them and do work to help different actors interpret them. This review could perhaps also provide a set of case studies outlining how and when different principles were used successfully in different contexts.

iii) Accompany the Guidelines and Toolkit produced by the Emergency Shelter and Early Recovery with more thorough training.

iv) Create (and keep up-to-date) a roster of land experts for use by field practitioners.

v) Advocate donors to incorporate land more fully into their programmes and refine their funding cycles to make it easier to put specific land projects in place.