

Pride of Ownership

Land Tenure and Conflict Resolution

ON SEPTEMBER 5, 1995, the US State Department announced a breakthrough in the peace process in Bosnia. Resolution of the conflict was finally in sight. However, the news was not all positive. John Shattuck, US Assistant Secretary of State for Democracy, Human Rights, and Labor, announced that the property of Bosnians in Serb territory would be confiscated unless those individuals returned to claim their land and participated in an elaborate process to certify their ownership of it. At this key juncture in the peace process, the negotiators had still not fully addressed a very serious underly-

analysis presents an opportunity to bridge the gap between prevention and response and to address a root cause of social strife. It also moves beyond conflict identification and analysis to the implementation of measures to prevent conflict. While the US government has standardized, and continues to perfect, protocol for peacekeeping activities—traditionally involving military troops, police forces, and, in recent years, civilian experts—the issue of land tenure has yet to be assigned the priority in this process that its crucial importance demands.

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ing cause of the conflict: land tenure.

In the wake of the Cold War, the world has seen the proliferation of situations in which countries emerging from a significant political transition, a civil conflict, or a natural disaster could benefit from timely provision of assistance. Given the opportunity and the risks facing nations in such situations, the international community must respond quickly and efficiently. In the past several years, the world community has responded most frequently with traditional disaster relief or with the most common tactics for long-term programs of sustainable development, which include the reintegration of dislocated populations, the demobilization of soldiers, the restoration of elementary security and infrastructure, and the creation of political institutions. However, the important issues related to land ownership in the recovering society are often overlooked. This omission may become one of the most serious threats to global tranquility.

In addition, the international community is beginning to realize the relative importance of conflict prevention strategies, and such strategies have begun to supersede the resolution and response strategies of the past. Land tenure

Some assert that the potential for increased democratization will depend on reductions in economic inequalities, including disparities in land ownership. Similarly, there is a great need to prevent or mitigate food crises, especially in economies in transition. Inability to resolve property disputes may mean worsening food security and continued social tension and conflict. Lack of clear land ownership principles often causes social conflict and obscurity in the land market, leading to instability and strife. The formation of racial or ethnic alliances is often driven by their members' concern over their property interests. However, in the long run, these alliances often become ends in themselves, and those societies may spiral toward genocide, as in Bosnia or Cambodia.

Consequently, land tenure concerns must be addressed before they spiral out of control. Alternatively, if conflict is already taking place, dealing with underlying property issues is important as a prerequisite for the lasting suppression of ethnic or racial conflict. Nations and societies experiencing land-related troubles face difficulties that range across a wide spectrum of severity. Most of the points on this spectrum can be assigned to one of three categories: land conflicts, civil strife, and reconciliation.

Both land conflicts and civil strife may stem



Until land tenure conflicts are resolved, thousands of refugees will remain displaced.

from ethnic conflict, income inequality, inequitable land distribution, statutory policies conducive to land grabbing, and other such factors. Although they have similar causes, land conflicts are generally much more localized and specific than civil strife, but they may be just as violent and may lead to the more widespread phenomenon of civil strife. In Africa, examples of land conflicts can be found in Kenya, Tanzania, Mauritania, and Ghana.

In recent years, Kenya has been plagued by violence in rural areas against members of politically dominant ethnic groups who have acquired land through the nation's land market, the most active in Africa. In Tanzania, the rapid expansion of farming is producing intense conflicts between farming operations and pastoral communities. Sources within Mauritania indicate that land reform is a particular concern in the Senegal River Valley, which is precisely the area where thousands of black Mauritians were forcibly expelled from their homes. Land tenure issues in this area cannot be separated from human rights concerns. And, in Ghana, ethnic violence has become a crucial concern. At Weija, outside Accra, clashes are taking place over a land dispute between the people of Sempé in Accra central, who claim ownership of the area, and settlers from Weija. Land tenure systems in Ghana differ from the southern to northern portions of the nation, and this has led to clashes between settlers and the traditional

owners of the land they occupy.

Nations facing civil strife experience political or ethnic conflicts of which land disputes are a major or partial cause. Examples can be found in Somalia, Rwanda, Guatemala, and Mexico. One factor leading to the collapse of national coherence in Somalia was anger over unfairness in resource distribution, the marginalization of pastoralists, and the transfer of valuable urban or irrigated land into the hands of clans associated with the government. The head of the UN mission in Somalia, retired US Admiral Jonathan Howe, told a receptive crowd of hundreds of Somalis, "You must concentrate on disarming and restoring law and order in your land. You must use the mechanisms you have established to allow you to resolve property disputes and to live together again in peace as good neighbors." The problems in the area of Kismayu center around a complex property dispute between two clans, both of which lay claim to the same residences. Moreover, shifting clan borders may help to feed long-term disputes over land tenure.

Former Rwandan Prime Minister Faustin Twagiramungu has said that his nation faces "three major problems—refugees, security, and land—and all three are interlinked." In that country, property disputes are pitting some of the estimated 600,000 Tutsis against Hutus moving back from exodus two summers ago to find squat-

ters in their homes. This situation is giving rise to a whole new set of vendettas, directed by returning exiles against those who moved into their homes. Without a legal system prepared to address such concerns, these vendettas may end up being handled extralegally, perhaps violently. As Brian Atwood, Administrator of the US Agency for International Development (USAID), has stated, "in the case of Rwanda, you had land tenure problems where even Hutus were fighting among themselves over the distribution of land. The average plot of land that was owned by an individual kept getting smaller and smaller over the decades in Rwanda, and they were the source of great tension even between Hutus in the north and Hutus in the south, but obviously even greater tension between Tutsis and Hutus. So those are the conditions, it seems to me, that contribute to the growth of an extremist element and give those extremists the ability to further exploit a situation."

Between 1977 and 1994, Guatemala witnessed an accelerating concentration of wealth and resources in the hands of a few. According to the last land tenure survey in Guatemala, fewer than two percent of all landowners possess more than 65 percent of the total farmland; this constitutes the most uneven land tenure pattern in all of Latin America. Also, according to USAID, about one-third of the population lives on farms too small to support a family. And this is the most rural country in all of Latin America; some 75 percent of all Guatemalans still live off the land.

Argentina Cuevas of the Guatemalan Conference of Religious Workers claims that the biggest stumbling block to a final peace agreement is the issue of land tenure, "the root of the problem here in Guatemala." Fortunately, the recent peace accords between the Guatemalan government and the main guerrilla group, signed in Oslo on June 20, 1994, recognize the importance of that issue. The agreement addresses questions that includes the resettlement of uprooted people, human rights, education, and land tenure. The accords outline a comprehensive strategy for the resettlement of refugees and displaced persons, as well as guarantees relating to legal land tenure and reintegration of returning persons. However, the challenges of implementing that agreement and of addressing the land rights of indigenous peoples still remain.

In Mexico, conflicts over land tenure have been at the heart of the recent Zapatista uprising and of the decades-old struggles in the southern state of Chiapas. According to one analyst, the potential of the revolt in Chiapas to destabilize the nation as a whole is rooted in two of Mexico's most significant problems: the decline of the traditional land-tenure system and the corruption of the Mexican government. In Chiapas and in some other parts of Mexico, there are long-standing conflicts over land tenure and use of natural resources. In Chiapas more than anywhere else, those conflicts are often resolved or suppressed through abuse of governmental power. Disputes over land are resolved by force, and social and political organizations formed to represent peasants are ruthlessly persecuted.

As in Guatemala, land tenure issues in Mexico are

slowly but surely being addressed. According to US Congressional testimony, recent reforms in Mexican law—specifically, the privatization of *ejidos* (communal lands), decentralization of forest management, and the strengthening of indigenous rights in the state of Chihuahua's constitution—offer an unprecedented opportunity for indigenous people to break entrenched patterns of exploitation and corruption where land questions are concerned.

Reconciliation

States undergoing the process of reconciliation often find that reform of land policy is both necessary and wise in the wake of civil conflict. Examples of such countries include Nicaragua, El Salvador, Zimbabwe, Uganda, South Africa, and Mozambique.

The UN General Assembly has called on the Secretary General to provide Nicaragua with assistance in such areas as the settlement of displaced persons and refugees, as well as land ownership and tenure in rural areas. Acting without a vote, the General Assembly called for such steps to support the consolidation of peace and the "process of sustained economic and social recovery and development that will render the peace and democracy achieved irreversible." A land-tenure study concluded that 40 percent of dwellings in Nicaragua are either completely unregistered or face legal disputes over their ownership. The United States continues to press the government of Nicaragua to resolve US citizens' property claims more expeditiously.

Another UN mission that has been involved in reforming land policy in nations recovering from civil conflict is the UN Observer Mission in El Salvador, which has been verifying the implementation of all negotiated agreements since 1991. These agreements involve not only a cease-fire and related measures, but also reform in the many economic and social issues, including those related to land tenure.

In Zimbabwe, which is still working admirably to overcome a past marked by racial injustice, the biggest threat to continued peace and success is economic. It is in the economic sphere that the legacy of racial inequality lingers most stubbornly. The most emotional issue in Zimbabwean politics is land, which evokes violent racial solidarity even after 14 years of otherwise peaceful black-white relations. The Lancaster House Accords of 1980 put off for a decade the explosive issue of how to redistribute farmland out of the hands of a tiny minority of whites and into the hands of the black majority. The constitutional constraint expired in 1990, but the current government has moved slowly on the land question, aware that white commercial farmers still form the backbone of Zimbabwe's economy. Some 60 percent of Zimbabwe's productive land is still held by about 4,500 white farmers. More sweeping land redistribution through confiscation of properties has been attempted periodically, but this process has been delayed by court challenges. A new land tenure commission has been set up to find a solution to the ownership question.

Uganda has been devastated in past decades by ethnic

conflicts, and such conflict continues in the north. Current negotiations are haunted and delayed by persistent questions of which ethnic groups should gain which benefits from much-needed land reform. And, in South Africa, land tenure and land distribution are sensitive subjects; the African National Congress is attempting to steer the country toward a more participatory economic system, in which all enjoy equal rights to participation in all sectors of a market economy, including the land market.

In Mozambique after the signing of the 1992 Peace Accord, the government has allowed, and occasionally facilitated, massive land grabs. Prime land is being hastily distributed by the state to private interests and individuals, both Mozambican and foreign. The new tenure system is creating a new class of postwar displaced persons and is causing tension between government and civil society, as well as among the different classes of Mozambican society. This tension may well lead to continued conflict.

Land Tenure Reform in Conflict Resolution

As the United States, Canada, Great Britain, Germany, and Japan cut back on foreign assistance, the challenge is to direct increasingly scarce resources toward those activities that can have the biggest positive impact on global stability. Certainly, US national security interests, and the interests of all other nations, are served by a stable world economy and the prevalence of democratic governance. By addressing the underlying, fundamental causes of social conflict, foreign assistance can promote peace while also achieving the aims of sustainable, equitable development. Strategic military and commercial objectives can be served by the direction of foreign aid into investments in land resource tenure methodologies that promote conflict resolution, normalization, and equity.

Still, governments often have a hard time integrating the sort of aid that promotes land tenure reform into larger, tactical peacekeeping decisions. Meanwhile, the linkages between land tenure and peacemaking are not well defined in much of the existing literature on both topics. Similarly, and perhaps most importantly, practical policy guidance for the United Nations and the United States in this important area is scarce. Clearly, much more research and theoretical work is required to enhance the capacity of the United States and international organizations to make the promotion of efficient and equitable land tenure reform into a crucial and well-integrated facet of the peacemaking and peacekeeping process.

One proposal for the international community to consider might be a Tenure and Peacekeeping Initiative designed to bridge the gap between short-term peacemaking and longer-term development in the critical area of land tenure. Specifically, the initiative could create a response team of experts designed to provide immediate assistance, informed advice, and policy guidance on existing crises as well as early warning on those that have not yet developed, and to go beyond identification and analysis to implement steps toward the resolution of existing conflicts and the prevention of potential conflicts.

Creation of a response team would give policymakers ready access to some of the best land tenure experts in the world. It would also give host countries access to technical approaches for resolving disputes. Often, governments lack any such frame of reference. Decisions are consequently based on political rather than technical considerations. Offering solutions to conflicts based on technical expertise will thus reduce political tensions and can lead to a less problematic transition to peace.

Recent work in Mozambique is an example of how such a tenure and peacemaking team might function. That initiative performed two major roles in the peacekeeping process. First, a US university team advised USAID, the United Nations, and other donors on questions regarding land access and refugee reintegration and the relationship between reintegration, conflict, and political stability. That informed policy dialogue has now begun to make concrete recommendations for longer-term, sustainable development that incorporates land tenure and legal reform, thus addressing underlying causes of social conflict.

Second, the team forged connections with local academic experts to provide a diagnosis of the current land-related conflict. Using surveys, the team identified and classified property disputes. Results of the study indicate that land disputes in the key area of Maputo are partly caused by people flocking into the city, haphazardly occupying previously demarcated parcels of property. Although nationalization of land was intended to improve living conditions, most people surveyed blamed land nationalization policies for their problems, and many land disputes reflected the imprecision, inconsistency, and unenforceability of land law. Armed with this data, researchers suggested more practical ways to reduce land conflicts and settle disputes more effectively.

Other work shows the importance of addressing land tenure issues and the price society pays for not addressing the underlying concerns. In Somalia, research conducted before the outbreak of civil conflict indicated that tenure was a major problem which could potentially lead to social unrest. Unfortunately, these warnings were not heard and preventative actions were not taken, with later loss of life and the need for US military involvement as a result. Such evidence makes it apparent that the time has come to take a fresh look at the role that property disputes play in the development of social tension.

As the new challenges of the post-Cold War era become apparent, civil conflict, and international responses to it, has come to constitute one of the most crucial issues in international relations. Success and failure of past efforts point to land tenure issues as a major cause of such problems, and recent initiatives testify to the role that the resolution of such issues can play in their solutions. The relatively low degree of attention paid to these issues in the recent past also indicates the necessity of further research and of technical, informed discussion. In this light, we can expect the analysis of land tenure policy to play an increasingly significant role in the resolution of violent conflict and the elimination of the social conflict that is one of its underlying causes. •