

Article

Fit-for-Purpose Land Administration in Violent Conflict Settings

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Abstract: According to the United Nations (UN) Refugee Agency, there were 79.5 million forcibly displaced people worldwide by the end of 2019. Evictions from homes and land are often linked to protracted violent conflict. Land administration (LA) can be a small part of UN peace-building programs addressing these conflicts. Through the lens of the UN and seven country cases, the problem being addressed is: what are the key features of fit-for-purpose land administration (FFP LA) in violent conflict contexts? FFP LA involves the same LA elements found in conventional LA and FFP LA, and LA in post conflict contexts, as it supports peace building and conflict resolution. However, in the contexts being examined, FFP LA also has novel features as well, such as extra-legal transitional justice mechanisms to protect people and their land rights and to address historical injustices and the politics of exclusion that are the root causes of conflict. In addition, there are land governance and power relations' implications, as FFP LA is part of larger UN peace-building programs. This impacts the FFP LA design. The cases discussed are from Darfur/Sudan, Democratic Republic of Congo, Honduras, Iraq, Jubaland/Somalia, Peru and South Sudan.

Keywords: fit-for-purpose land administration (FFP LA); violent conflict; United Nations; extra-legal; transitional justice; peace building; land governance; power relations



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1. Introduction

According to the United Nations Refugee Agency (UNHCR), there were 79.5 million forcibly displaced people worldwide by the end of 2019, of which 26 million were refugees and 45.7 million were internally displaced within their own countries [1]. The United Nations (UN) plays a major role in peace and security in these contexts as “saving future generations from the scourge of war was the main motivation for creating the UN . . . Since its creation, the UN has often been called upon to prevent disputes from escalating into war, or to help restore peace following the outbreak of armed conflict, and to promote lasting peace in societies emerging from wars [2].” Land is a major root cause of violent conflict [3] (p. 9). “The most common land-related human-rights abuses include violent disputes over land and territory, forced evictions from houses and land, the loss of access to livelihoods and natural resources, and the dispossession of land and houses [4] (p. 9).”

This paper focuses very narrowly on the land administration (LA) aspects of UN work in violent conflict contexts, which are often protracted. The seven country cases undertaken by the UN on land in violent conflict contexts reviewed in this paper overturn the conventional view that it is not possible to undertake LA interventions in these settings [5] (p. 5). The information comes from cases that UN-Habitat has been involved with, either through the process of supporting other UN agencies to document their work, or where UN-Habitat was directly involved. UN-Habitat facilitates the Global Land Tool Network (GLTN) [6] and much of this work is undertaken through this network.

The UN as a system started to sharpen its position on LA in these settings beginning in 2014 under the guidance of the Secretary-General's Office, led by UN-Habitat and

involving many other UN entities working in violent conflict settings. The UN undertook a scoping and status assessment of the land-related work it was undertaking in these settings. One of its recommendations was to “adopt the continuum of land rights and fit for purpose land administration approaches for a sustained and coherent engagement on land and conflict [7] (p. 33).” A Secretary-General’s Guidance Note on land and conflict was then developed that gives guidance for the UN system as a whole. This work was led by UN-Habitat and involved numerous UN entities working across the conflict cycle. The Note identifies 15 critical root causes of violent conflict one of which is weak LA. The Note describes this weakness as involving “weak state, land policies, laws and institutions, land administration, land management and land use planning systems, land governance structures and land dispute resolution capacity [3] (p. 9).” The Note recommends the use of “the ‘fit-for-purpose’ approach to support land administration, developed by the World Bank and UN [3] (p. 7).” This paper examines some of the UN’s work in the violent conflict contexts that are the focus of the Note. This paper shows how it accords with FFP LA approaches, but at the same time has its own specific characteristics because of the UN’s power and programming approaches.

Through the lens of the UN and seven country cases, the problem being addressed in this paper is: what are the key features of FFP LA in violent conflict contexts? Through a review of some of the LA and FFP LA, post conflict LA and land governance literature, we identify some of the major characteristics of UN-related FFP LA in these contexts. We demonstrate that the approach to transitional justice, (land) governance and power relations accompanying UN work in these settings contributes to the way the FFP LA is designed. This will also speak to the framing of a definition of ‘FFP LA’ and ‘land governance’ in these contexts.

Section 2 provides a review of the literature and gives key definitions. Section 3 describes the research methods used to acquire information that is largely based on the re-framing and re-analysis of seven UN case studies published in the grey literature of UN reports such as the UNHCR [1]. Section 4 presents the findings of the research with reference to the case studies, which in turn informs the novel definitions of FFP LA and land governance for violent conflict contexts, described in the discussion, Section 5. This latter section also draws the threads together, identifying the key characteristics of FFP LA in these settings. The conclusions are presented in Section 6. This paper can increase the understanding of how to undertake FFP LA in these settings in general, by the UN, as well as by national governments and other actors.

2. Literature Review and Definitions

The Secretary-General’s review of UN peace operations is used to describe the term ‘violent conflict contexts.’ The term ‘UN peace operations’ embraces a broad suite of tools managed by the UN Secretariat from special envoys and mediators, political missions (including peace building missions), regional preventative diplomacy offices, to small technical specialist missions, and multidisciplinary operations” [8] (p. 4). The Report of the High-Level Independent Panel on UN Peace Operations to the UN Security Council in 2015 outlines what this paper identifies as the key characteristics of violent conflict contexts through a UN lens. The report states that “UN peace operations meet the expectations of those whose lives are ravaged by armed conflict”; “the UN is today the largest provider of international peace operations”; “since the 1990s, the number and intensity of armed conflicts has declined”; however “the number of civil wars has increased in the last few years and attacks perpetrated by governments and armed groups against civilians have risen for the first time in a decade. This increase is compounded by the rise in violent extremism”; “in addition to indiscriminate killing, appalling abuses are perpetrated against civilians. Sexual violence remains a pervasive tactic of modern warfare.”; “many of today’s armed conflicts are more intractable and less conducive to political resolution.”; “notions of inter-state and intra-state conflict have blurred”; “at the same time, many conflicts are caused by bad governance, where the state is captured by elites who monopolize its levers

for power and enrichment in these contexts, efforts to sustain peace have foundered partly due to a failure to establish a fair sharing of resources"; "more often than not, root causes and conflict drivers are not effectively dressed." [8] (pp. 1–3). Violent conflict settings are usually termed by the UN 'emergency' or 'humanitarian' contexts. As indicated above, the Secretary-General has noted that land needs to be analyzed as a root cause of conflict, including weak land administration [3] (p. 7). FFP LA is needed to build peace in conflict contexts where land is identified as one of the root cause of the conflict. For example, in one of the case studies used here, from Jubaland/Somalia, land is specifically identified and analyzed as a root cause of its conflict [9].

The UN has defined transitional justice as "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation [10] (p. 3)." Drawing on Collins Dictionary definition of extra-legal, in terms of FFP LA, extra-legal transitional justice mechanisms are defined here as "not governed or regulated by law [11]," not governed by formal regulations and administrative procedures relating to the LAS, including the land use planning system.

FAO and UN-Habitat have defined land governance—it relates to power and political economy issues. There is a direct link between the power structure of society, governance, the way power is distributed in society and land tenure. Land tenure rules can entrench power relations within social groups. "(L)and governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed [12] (pp. 1, 2, 9)." In violent conflict contexts, the UN "has unmatched convening power and an ability to bring together disparate interests for common purposes, to elevate issues above sometimes paralyzing regional agendas and to identify and implement impartial strategies that can lead to political solutions [8] (p. 23)." The UN Security Council notes that in regard to peacekeeping operations, the "UN is a powerful presence [8] (p. 3)." One aspect of the way this power is used is through what is termed the 'good offices' of the UN. Good offices are third-party assistance given to conflicting parties to help find a solution to their problems [4] (p. 7)." The seven case studies [4,9,13] show that the UN's power, including good offices, is also used for land governance, and the cases demonstrate its key characteristics in violent conflict settings. The cases show that the definition of land governance given above can be adapted for these settings. This accords with Van der Haar and van Leeuwen, who argue that land governance issues are central in times of displacement during war and violence [5] (p. 8).

There is a paucity of literature, particularly journal articles, on FFP LA in violent conflict contexts through the lens of the UN. The Scopus database of journal articles was reviewed and gives evidence of this paucity. Different searches were applied with a range of results. "Land administration" AND "violent conflict" AND "United Nations" produced 0 results, with "United Nations" AND "violent conflict" AND "land" produced 6 results. "Land administration" AND "fit-for-purpose" AND "conflict" produced 3 results, with 0 results if "violent" was added to that string. "Land administration" AND "violent conflict" gave 5 results. "Land registration" AND "violent conflict" produced 1 result, with 47 results for "land registration" AND "conflict." "Land information" AND "violent conflict" produced 0 results, whereas there were 47 results if the word "violent" was excluded. Finally, there were 20 results on "United Nations" AND "land administration" but none of them were on violence or on conflict [14]. These search results demonstrate that FFP LA in violent conflict contexts as undertaken by the UN is an under researched journal topic. To address the paucity, the literature from conventional and post conflict settings is adapted to violent conflict settings, through an examination of the seven cases. The identification of the LA elements, including novel characteristics, in the cases is intended to help to fill this gap.

There are a number of reasons for this lack of UN-related literature examining these environments. Firstly, UN agencies are focused on dealing with the crisis and there is little

staff time dedicated to documenting conflict-related activities. Where documentation exists, it tends to be grey literature reports or information on the web [1]. This was recognized at the first Global Land Tool Network-hosted forum of the Land and Conflict Coalition [15,16]. At the forum, a road map for future work for the Coalition was developed to address this gap [15] (p. 22). A publication documenting the work of different UN entities on land in violent conflict settings was subsequently developed by a number of Coalition members, including UN entities, through a UN-Habitat/GLTN-led writeshop [4] (p. 9). Many of the case studies in this paper come from these documented case studies [4]. The second reason for paucity is that the literature on LA and conflict, including peer-reviewed literature, tends to focus on the post conflict phase rather than on the violent conflict phase [17–21].

Through a review of the literature and using evidence from the case studies (described below), an understanding and definition of FFP LA in violent conflict contexts is developed. This is performed through: (1) the identification of key elements of conventional LASs [22] (pp. 27–28); (2) a review of FFP LA [23–26]; (3) the examination of what happens to LASs during violent conflict adapted from the post conflict literature [18–21]; (4) a review of literature linking land governance to LA [27], and an adaptation of the FAO–UN-Habitat land governance definition to these contexts [12] (p. 9); and (5) adapting and expanding the gender-responsive land governance approach developed for FFP LA by Paradza et al. to violent conflict contexts [28] (p. 1). Finally, this approach frames two proposed novel definitions, one of FFP LA and the other of land governance in violent conflict settings.

3. Research Methodology and Methods

This paper's ontological frame is based on conventional LA elements [22] (pp. 27–28), their FFP forms [23–25] and the way LA manifests in post conflict contexts [18–21,29]. This paper's epistemological framework is based on the authors' of the seven cases authoritative knowledge, as well the authors of this paper's knowledge of these seven case studies [9,13,30–36]. This knowledge emanates from their role as staff in the particular UN entity, or through their support to the entity as a consultant. This paper is based on their knowledge and experience in the field in that country or in that particular project. This paper is also based on the knowledge that these authors had gathered from people in the know, books (UN reports), leaders of organizations" [37] (p. 27), and workshop presentations. The authors of this paper were involved with overseeing the documentation of the case studies, sometimes writing them, and were also present at the writeshop [4] (pp. viii, 9). This paper uses a seven-country case study series approach to gather its findings (see Table 1 below). The cases were chosen because: (1) the authors of this paper were involved in guiding and/or writing the documentation of all seven cases; (2) the documentation of six of the cases was undertaken after a global conference on land and conflict identified the lack of published knowledge on land-related activities in peace-building programs in violent conflict contexts, including through the lens of the UN. Six different UN entities (as well as 3 non UN entities not addressed here) then agreed to write up their knowledge on the subject, through a country program study, to support global capacity development; (3) the knowledge has only been published in grey literature [4] and needed re-framing and vigorous analysis using peer-reviewed literature, here FFP LA, to contribute to filling the gap identified in peer-reviewed literature (see above).

Under UN-Habitat staff guidance, UN staff at country level documented these six cases while working in their organizations' peace-building programs. This documentation included obtaining preparatory material, attending a writeshop to write it up and finalizing it afterwards, including getting approval from their organization to publish the material. UN-Habitat's work in Jubaland/Somalia, undertaken by the second author, is also used as an additional case study [9]. UN-Habitat has updated two of these case studies, namely Iraq [33] and Darfur/Sudan—where an extensive case study was undertaken of the land administration system (LAS) [13] by consultants working for UN-Habitat and UN staff, including authors of this paper. All these cases have been published in the grey literature. None of the case studies are exclusively focused on LA, except for the update

of Darfur/Sudan, which assesses the LA in terms of designing for the voluntary returns of displaced people. The LA FFP aspects have been extracted from the published grey literature, in this instance UN published reports, for the purposes of this paper. Here this material is examined to identify the major features of FFP LA in violent conflict contexts and to develop definitions for these contexts. Given space constraints, the full case studies are not summarized here and readers are referred to the source literature (see Table 1 below) for further information, such as geographic information (including maps), descriptions of the larger program, and details of the intervention by the UN entity.

Finally, the FFP LA features identified in these contexts are based on the analysis and comparison of multiple sites where the UN has been working in violent conflict. Hasse argues that working across multiple sites improves research because it shows that a (technical) design that works across several sites is better and will work “consistently across cases, sites, and variations [38] (p. 219)”. This paper examines seven countries across 3 global regions to identify common patterns in FFP LA in violent conflict contexts. Each country and ‘site’ includes the constant variables of violent conflict and a central role of the UN in peace building in these contexts. Cross-country comparison underpins the analysis, typology creation, definitions and the conclusions that show what FFP LA are likely to be found in other cases, sites and variations in similar violent conflict contexts in other countries.

FFP LA as Part of Larger UN Programs

None of the seven cases being examined here (see above) were standalone LAS programs intended to modernize the LAS, often found in post conflict settings [17]. All the LA cases were instead embedded in some form of larger UN peace-building program. A number of the cases concerned the voluntary returns of refugees and IDP to their countries or areas of origin from where they had been displaced. In Iraq, this was central to the program [33] (p. 61). Honduras was about preparation for future returns [32] (p. 45), along the lines proposed by Unruh when recommending instituting “techniques for deriving, protecting and using forms of evidence attesting to (housing, land and property) HLP claims early in a conflict, as opposed to subsequent to a conflict” [39] (p. 111). Some of the returnees were in IDP camps (Iraq [33] (p. 64), Darfur/Sudan [30] (p. 83) and others were displaced and living outside of camps (Honduras [32] (p. 43)). The Darfur/Sudan activities involved both looking after the current 2.6 million IDP, some of them living in 174 IDP camps in Darfur [30] (p. 80), as well as assessing the current LAS and its ability to respond to voluntary returns [13]. The Iraq program was also focused on the rehabilitation of 17 Yazidi villages to facilitate people returning to the homes that the Islamic State of Iraq and Levant (ISIL/ISIS) had occupied and destroyed [33] (p. 62), [36] (pp. 71–74).

Three of the cases were UN peacekeeping missions involving UN peace keepers set up by the UN Security Council (Darfur/Sudan—UNAMID [30] (pp. 81–82), DR Congo—MONUSCO [31] (pp. 52–53), South Sudan—UNMISS [35] (p. 88)). The focus of these missions was on keeping the peace between different parties in violent conflict, including armed groups. Governments were often party to the conflict. The Peru case was about conflict between mining companies and indigenous peoples. The mining sector contributed 19% of total income tax during the period in question. UNDP supported the government to lead a wide-ranging set of dialogues that led to land-related agreements between the parties in conflict and the transfer of USD 3.3 billion to regional and local governments to fund local infrastructure.

Table 1. Seven country cases [4] (pp. 13, 71), [9,30–35,40,41].

Country	UN Entity	Conflicting Parties	Internally Displaced Persons/Conflicts	Approach
Darfur/Sudan	UN-African Union Hybrid Operation in Darfur (UNAMID)-peacekeeping mission UN-Habitat	Host community Internally Displaced People (IDP)	2.6 million	Good offices agreements for access to land, technical assistance
Democratic Republic of Congo (DR Congo)	UN Organization Stabilization mission in the DR Congo (MONUSCO)-peacekeeping mission	Big farmers Customary owners	4.49 million; Masisi territory case study 4600	Good offices, human rights, protection of civilians
Honduras	UN High Commissioner for Refugees (UNHCR)	Criminal gangs Displaced people	174,000 20 urban municipalities (2004–2014)	Documenting forcibly abandoned houses
Iraq	UN-Habitat	Different ethnic/religious groups	3.3 million; 250,000 Yazidi from case study	Land certificates, GIS, house rehabilitation
Peru	UN Development Program (UNDP)	Extractive industry indigenous people	200 conflicts a year (2006–2016), 70% linked to extractives	Territorial development agreement
Somalia	UN-Habitat	Pastoralists, farmers, urban residents, owners and occupants	1.1 million for the whole of Somalia; at least 44,000 for case study area	Land policy process, LA recommendations
South Sudan	UN Mission in South Sudan (UNMISS)-peacekeeping mission	Cattle owners, farmers, cross border	1.94 million South Sudan; 250,406 IDP Upper Nile case study	Territorial agreement

(rural electrification, hospitals, schools, etc.) and poverty reduction programs [34] (p. 95). The UN mission in Somalia (UNSOM) commissioned the Jubaland/Somalia conflict assessment. The purpose was to better understand how to address the land-related root causes of conflict and mitigate their consequences, including through improving LA [42]. That is, in all seven case studies, LA was only a small part of a larger peace-building program, even for the specific study performed on LA for voluntary returns in Darfur/Sudan.

4. Findings

Through a review of some of the LA, FFP LA, post conflict, and land governance literature, the seven case studies from Darfur/Sudan [13,30], DR Congo [31], Honduras [32], Iraq [33,36], Jubaland/Somalia [9], South Sudan [35], and Peru [34] are examined to identify their FFP LA elements in violent conflict contexts. This section shows, through this examination, that FFP LA in these contexts accords with the LA elements found across conventional LASs and with the FFP approaches associated with such LASs. FFP LA also corresponds with post conflict LAS assessment and design, and the more recent approaches of incorporating land governance as part of LA, including the gender-responsive aspects. However, this section will also argue that the work of the UN in these contexts introduces novel transitional justice FFP LA features associated with its peace-building role and the power dynamics associated with it.

4.1. Building on Land Administration Frameworks

Williamson et al. [22] (p. 27) (quoting the UN Economic Commission for Europe (UNECE) Land Administration guidelines [43]) describe what constitutes LA. They state that “land administration (is): the processes of recording and disseminating information about ownership, value, and use of land when implementing land management policies.” The use of the term ‘ownership’ has been outdated by a move to “the continuum of land rights” [44] (p. 13) that takes into account all forms of “legitimate land rights” [45] (p. 3), not just ownership rights. Williamson et al. then go on to outline ways of seeing the constituent parts of LA, such as “procedures by which land rights are allocated and recognized; the definition and delimitation of boundaries between parcels; the recording of information about land rights, rights holders, and parcels; procedures governing transactions in land, including sales; the resolution of uncertainty of adjudication of disputes concerning land rights and boundaries; institutions and processes for planning, controlling, and monitoring of land use [22] (pp. 27–28).” These constituent parts resonate with the FFFP LA features in the seven cases.

All the cases involved some form of recognition and protection of land rights by the UN, in most cases of legitimate land rights (South Sudan—customary [35] (p. 94), Peru—indigenous [34] (p. 96), Jubaland/Somalia—customary and IDP/informal settlement [9] (p. 48) rather than ownership rights. All the designs to strengthen security of tenure were part of extra-legal transitional justice mechanisms, as were the administrative procedures, the land information creation and recordation, and the land use planning. In DR Congo, peacekeepers intervened in a dispute that could have led to the eviction of customary occupants by security forces [31] (pp. 53–55). In Peru and South Sudan, territorial planning, not based on land parcels, plots or sites, was undertaken to manage conflict between identity groups, mining companies and indigenous peoples, respectively; and pastoralists and settled farmers [34] (p. 96), [35] (pp. 88–90). In Peru, territorial agreements were intended to address the geographical gaps in the way government funding, generated by mining tax dollars in indigenous areas, was allocated for development in the areas of indigenous groups [34] (p. 13). In South Sudan, the territorial agreement involved agreements across international borders between Sudan and South Sudan; and between pastoralists and their livestock migration routes and areas of settled farmers in South Sudan [35] (see map in Figure 1 below). In Iraq, the land information on the rights and boundaries in the villages was recorded on a GIS run by UN-Habitat [33] (p. 62). This was because there was a lack of capacity of the local government and the rehabilitation of the villages and the houses was performed outside of the national legal framework [33] (pp. 62–65). These examples also show that the institutions involved in the processes of planning, controlling and monitoring land use were often UN institutions, sometimes working alongside government bodies other than the LAS entities.

4.2. Building on Fit-for-Purpose Land Administration Frameworks

Enemark et al. state that FFP LA is about directly aligning with country specific needs, affordability, and flexibility in accommodating different tenure types and “for shaping the legal and institutional frameworks.” It is also about the ability to upgrade when opportunities arise and “it is highly participatory, can be implemented quickly and provides security of tenure” [23] (pp. vii–viii). The Framework for Effective Land Administration (FELA) states in regard to fit-for purpose LA, that “an effective LA and management system in conflict contexts prevents land-related conflict, stabilizes situations and fosters peaceful, just and inclusive societies [46] (p. 11).” We show that FFP LA in violent conflict contexts shares the same characteristics of FFP LA in conventional contexts. In Honduras, gangs have evicted people from their properties. The UNHCR, together with the land registry, developed procedures and land information using the knowledge of local Catholic parishes about the land rights of the people who have been evicted. Information will be placed on the title deeds of registered properties so that they cannot be sold [32] (pp. 43, 44, 46, 50). This implies a new procedure for land rights recognition and a new way

of recording information on title deeds about evicted land rights holders' rights. This is also a new way of governing transactions in land, including sales and a way of adjudicating future disputes over rights.

In Iraq, ISIL/ISIS evicted 250,000 Yazidi people. UN-Habitat, working with local communities and with the local government, created new extra-legal LA planning, documentation and land information management procedures for 17 villages for returnees [33] (pp. 60–65). These cases show the type of country contexts that need to be aligned to in violent conflict settings. They show what flexibility means in terms of different types of extra-legal tenures, non-standard procedures in a land registry, and the shaping of non-statutory legal and institutional arrangements that can evolve with political processes. They also demonstrate the features of security of tenure in these contexts and the role of the UN in terms of good offices.

Groenendijk et al. [25] (p. 29) and Bennett and Alemie [26] have identified capacity development as a key FFP LA element. FAO also notes that there is likely to be limited government capacity in post conflict environments [18] (p. 14). This resonates with all of the seven cases [4] (pp. 2–27), [9,13]. Often areas that have been in protracted conflict for long periods have very weak LAS and capacity [19] (pp. 27–30). Darfur/Sudan has less than 1 percent registered land rights and there is insufficient capacity to support planning for voluntary returns. There is only one computer in each Land Department in each of the five states. Land cannot be planned for development without first being surveyed. There is no master plan covering the region or the cities. In regard to customary tenure areas, currently outside of the LAS, the witness system is used and involves the customary authorities, neighbors and relatives. Land information is in the memories of elders and traditional leaders [13] (pp. 9, 53–56). Yet the Doha peace agreement (2011) for the region states that, “individuals in the local communities may register their customarily owned land as their own lands [13] (p. 68).” Against this background, to support the Darfur Land Commission to plan for the return of 2.6 million people, the UN developed a number of FFP LA recommendations to build the capacity required. The recommendations were based on “a fit-for-purpose approach applicable to humanitarian settings focus(ed) on a particular purpose (e.g., records for returnees, regional planning for returns), flexible and capable of incremental improvement [13] (p. 81).” The FFP LA recommendations to support the voluntary returns of millions of people include

- Incremental building on existing capacity and legal frameworks. Focusing on adjusting regulations as much as possible as new laws can take years.
- Rapid identification and use of government-owned land for rapid delivery of security of tenure to returnees.
- Reducing planning standards and undertaking one stop planning for rapid planning approvals. This is vital for upgrading informal settlements and IDP camps.
- Reducing surveying and registration requirements. This includes allocating unplanned non-surveyed land, called Grade IV in the state-level statutory system, thereby excluding the final registration step in the Judiciary at national level. Using group areas instead of individual plots. For example, the allocation by customary authorities of land for villages for returnees can be registered as a community based right (Plot 1), where instead only the outside boundary of the village is registered.
- Legalizing the customary land management system.
- Delivering serviced land rapidly in urban areas by increasing the amount of serviced land by minimizing the time taken to deliver the services, while ensuring minimum standards.
- Improving information management to track large-scale returns and developing strategic plans for the overall management of returns, including through regional planning, land management and for conflict analysis.
- Identifying a range of dispute resolution mechanisms based on the assessment of possible return areas and conflict hot spots, and the tenure and land document types found in these areas. Using land-dispute resolution tools such as mediation, territory-

wide land use agreements, and dispute resolution at the plot and territory levels [13] (pp. 9, 19, 30, 52–55, 79–84).

While targeted capacity development of major actors linked to the LAS is important, the Darfur/Sudan examples given above, of potential FFP LA interventions for voluntary returns, go beyond this. They demonstrate that FFP LA in these contexts is also about filling capacity gaps by using and adapting existing systems and options, including through altering norms and standards. That is, capacity development is not just about training and knowledge development but also about adjusting the LAS system, using FFP LA approaches, to achieve tenure security results and scale for the most vulnerable by matching approaches and procedures better with existing capacity.

Another example of weak capacity is South Sudan. Ten million cattle cross from Sudan annually and there has been protracted violent conflict between pastoralists and farmers. The UN has built conflict management capacity in the parties to the conflict and facilitated territorial agreements that cross the international boundary with Sudan, using land use zoning agreements between different identity groups to address and prevent conflict. This involved inclusive decision-making around the mapping and designation of territories [35] (pp. 88–92). The areas involved and cross-border cattle migration routes are shown in Figure 1 below. In DR Congo, the UN has built capacity in local communities. Its Civil Affairs Section “monitors areas affected by eviction through its extensive community alert network in order to prevent the escalation of the situation and to respond to incidents.” Local people contact the UN mission when threatened [31] (pp. 52, 55).

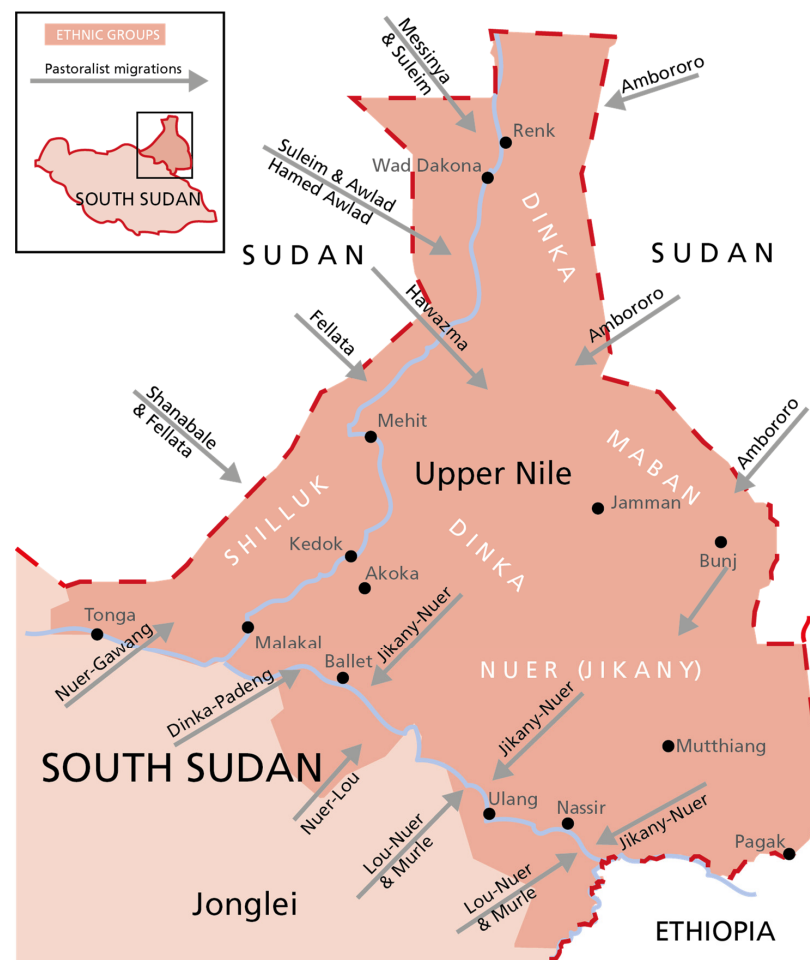


Figure 1. Migration of pastoralists in the former Upper Nile State of South Sudan [35], (p. 89); copyright UNMISS.

4.3. Building on Post Conflict Land Administration Approaches

Todorovski et al. [20], Jossam et al. [21], UN-Habitat [19], and Augustinus and Barry [29] describe LASs during post conflict. We show that these frameworks also have explanatory power when applied to violent conflict contexts. The key characteristics they identify are firstly, the land management and LAS is likely to be largely dysfunctional as it has either been destroyed [20] (pp. 76–77), [21] (p. 237), [19] (p. 9), or did not exist in the first place as it is a customary area. This latter can be found in DR Congo [31] (pp. 53–54) and Darfur/Sudan [30] (p. 83) [13] (pp. 8, 47, 50, 68) cases where the LAS was very weak in the areas of conflict.

Secondly, the rule of law has broken down. This can mean land dealings outside of a legal framework or routine technical process and powerful actors grabbing both public and private land [20] (p. 73), [21] (p. 238), [19] (p. 7). In Honduras, gangs grabbed houses [32] (p. 44). In DR Congo, “land documents are not properly registered but can be fraudulently acquired and traded. Private interests repeatedly use security institutions and sideline or co-opt the justice system to protect and further their own goals [31] (p. 51).” The cases show that a very “common rule of law issue is the eviction of people from their homes and land” [4] (p. ix). In Peru, indigenous groups’ land rights were threatened by investors [34] (p. 96). Eviction is often also linked to the destruction of housing, such as in Iraq [33] (p. 61), [18] (p. 14). Another rule of law issue relates to overlapping rights and claims, or secondary rights, on the same piece of land, also identified by Todorovski et al. [20] (p. 76), Jossam et al. [21] (pp. 233, 241), and Van der Haar and van Leeuwen [5] (p. 3). In Darfur/Sudan, pastoralists have claimed the land of customary farming communities [30] (p. 80), [47]. In Kismayo, in Jubaland/Somalia, there are overlapping rights and claims between pastoralists, farmers and urban residents vying for rights over the same land; and between absentee owners of registered land and occupants, between government and urban residents and between IDP and host communities (see Figure 2 below) [9] (p. 48).

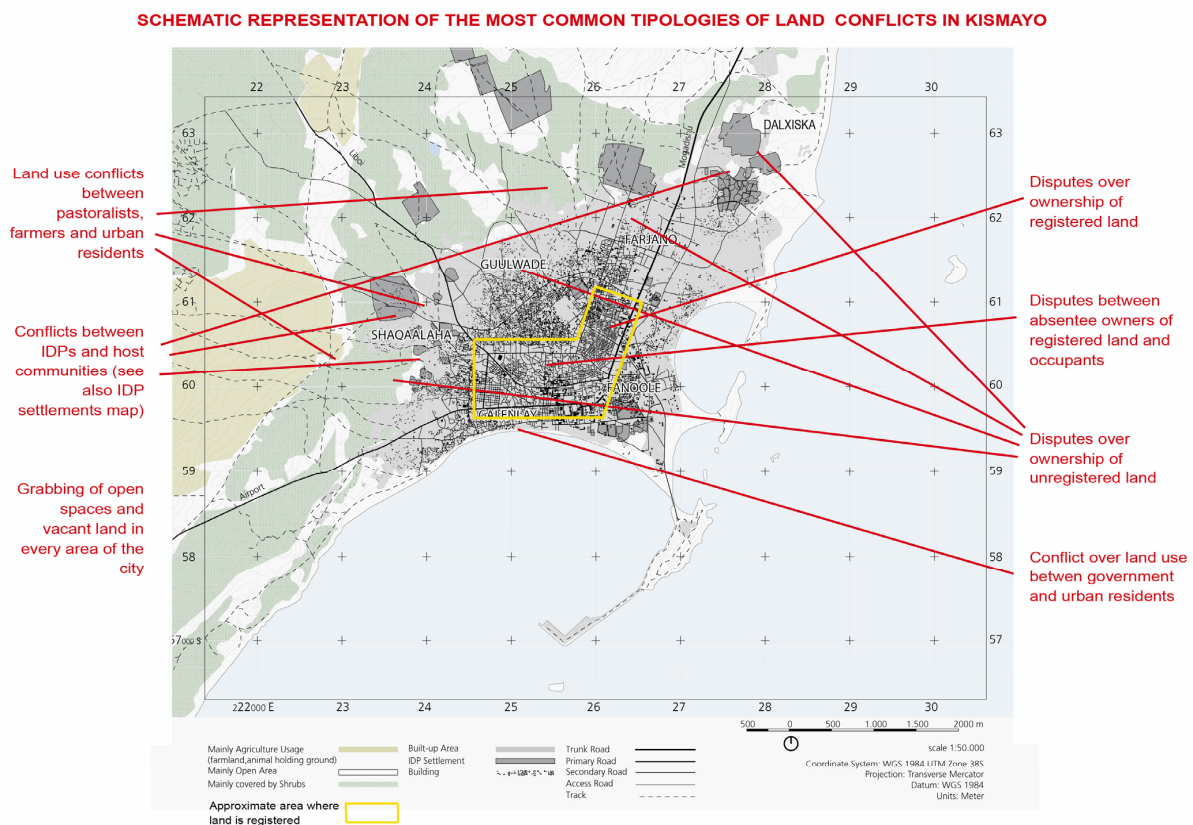


Figure 2. Analysis of the land-related root causes of conflict in Jubaland [9], (p. 48); copyright UN-Habitat.

Thirdly, there is likely to be large-scale ambiguity and gaps in the land-related regulatory framework [29] (p. 671), [21] (p. 246), [19] (p. 7). Some of the cases demonstrate this ambiguity and fluidity of the land-related institutional landscape. In Iraq, the extra-legal LAS created by UN-Habitat became politicized when the Iraq Federal Government army took back the area from the Kurdish state government control in 2018. For a while, it was unclear as to whether the extra-legal LAS and its land certificates (see Figure 3 below) that UN-Habitat and the local government had put in place for Yazidi returnees were going to be accepted by the national government. They were accepted by the Prime Minister's office and is in the process of being extended to the whole of the Governorate of Ninewah [36] (pp. 73–74). The ambiguity and gaps in the land-related regulatory framework, be it through the statutory, customary or religious systems, undermine the weak land right claims of women [19] (p. 71). In Jubaland/Somalia, there has been forty years of civil war. The LAS was only embryonically developed when the state collapsed and the decades-long civil war has added further challenges for the formal, legal and institutional LAS. LA functions are undertaken by a mixture of practices inspired by religious, customary and statutory laws, with the last based on laws that existed before the current federal nature of Somalia was set up [9] (pp. 26, 32–37).

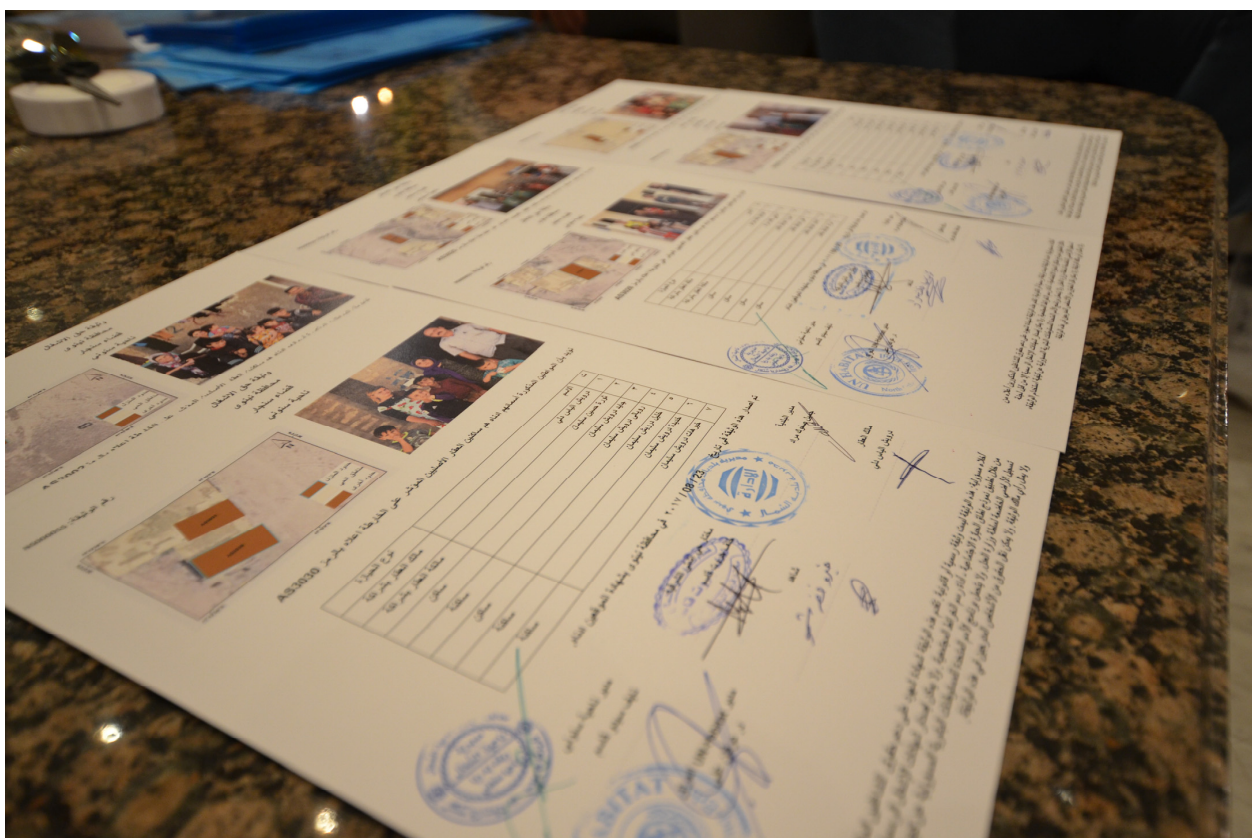


Figure 3. Certificate of occupancy for Yazidi village [33], (p. 62); copyright UN-Habitat.

Augustinus and Barry, in their analysis of post conflict contexts, argue that LAS design for these contexts needs to include a number of specific elements. These elements are also found in the design of the LASs in the cases. The LAS elements or “constituent parts” prioritized for action should contribute to the higher macro-environmental objectives of the system [29] (p. 676), such as dispute resolution. Dispute resolution is central to violent conflict settings [19] (p. 22). Territorial dispute resolution is found as a primary objective in the case of Peru [34] (p. 95) and South Sudan [35] (p. 88). DR Congo demonstrates the use of security assets by the UN, in the form of peacekeeping patrols, to address disputes [31] (p. 53). Another goal for LAS design can be political or peace building. van der Haar

and van Leeuwen argue that “technical solutions need to be connected to a strong moral compass [5] (p. 9).” All three of the UN missions in Darfur/Sudan, DR Congo and South Sudan were peacekeeping missions mandated by the UN Security Council, with all three involved in some form of LAS (see above).

Augustinus and Barry also argue that the LAS elements prioritized for strengthening should assist with conflict resolution and reconciliation [29] (p. 680). Iraq [33] is an example of where the UN supports people who have been evicted to return to their homes and land. DR Congo [31] (pp. 53–55) is an example of where the UN prevents people from being evicted from their homes or land. The adjudication of rights, including land records with overlapping rights and claims, is vital for conflict resolution [21] (p. 239), [18] (pp. 27–28), [19] (pp. 50, 52, 53). The cases show this to be true for parcels and territories. In Iraq, UN-Habitat supported village communities to demarcate their land parcels during the rehabilitation of the village and their homes [33] (pp. 62–65). The UN supported identity groups to adjudicate or demarcate territorial boundaries in Peru, through territorial development plans [34] (p. 98); and in South Sudan, through migration route planning [35] (pp. 89–93).

It is likely that new institutions will be set up and/or existing ones re-purposed [19] (pp. 58, 59). These situations are extremely fluid “with a lack of clarity about where land functions are placed in government with gaps, ambiguities around the law and policy, and large scale opportunistic behavior it is necessary to position the land administration functions within this fluid environment [29] (p. 679).” This accords with the findings of FAO [18] (p. 28). This can be seen in the Iraq case, where UN-Habitat and the local government set up the village LAS, even though LAS was a national function; and its endurance was in doubt when the national government reasserted control over the area [33]. In South Sudan, extra-legal territorial planning was used to manage conflict and, while the UN wanted the approach to be formalized, it was unclear whether and when this would happen because of the weakness of the South Sudan state [35] (p. 91). Jubaland/Somalia support is being provided to the newly established Land Commission [42].

4.4. Land Governance and the UN in Violent Conflict Contexts

LA is not just made up of the constituent parts identified by Williamson et al. [22] (pp. 27–28). Land governance has also increasingly come to be seen as core to LA, particularly with the development of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security [45]. The connection between them has been strengthened by the World Bank’s Land Governance Assessment Framework (LGAF). LGAF helps countries to examine their land governance status against global good practice in regard to “land rights recognition, land use planning, management and taxation, expropriation, public provision of land information, and conflict resolution” [27] (p. 76). That is, land governance is closely associated with the LA constituent parts originally identified by Williamson et al. [22], which as we have shown match LA elements also found in violent conflict contexts (see above). Alemie et al. also demonstrate this connection between LA and land governance and unpack some of its characteristics further by identifying the key roles of the cadastre in supporting urban land governance. They identify these as: improving tenure security; improving transparency and participation; providing easy access to information; improving the governments’ and citizens’ decision making and efficiency; reducing corruption; and improving equity [24] (p. 57). The case studies show that the UN plays many land governance roles in violent conflict settings, both in urban and rural areas, and that they have distinct UN-related features (see below).

The case studies describe how the UN uses its convening power in violent conflict contexts, including good offices to bring parties in conflict together, to strengthen land governance, as defined by FAO and UN-Habitat [12], based on the parameters described by Deininger et al. [27] and Alemie et al. [24]. In South Sudan [35] (pp. 88–92), Jubaland/Somalia [9] (pp. 70–71), Darfur/Sudan [30] (pp. 81–85), Peru [34] (p. 97) and DR

Congo [31] (pp. 54–55), because of the good offices of the UN and its power to engage in these settings, new “rules, processes and structures” were put in place “through which decisions are made about access to land and its use [12] (p. 9).” The UN used its power, including its security assets, good offices and convening power, to introduce extra-legal tenure types (Iraq [33] (pp. 64–65)) and territorial/land use planning (South Sudan [35] (pp. 89–90)), negotiate access to land by getting agreement between IDP and areas controlled by armed groups (Darfur/Sudan [30] (p. 83)), and get agreement between (sub-)national government, mining companies and indigenous people about territorial land uses and access (Peru [34] (pp. 97–99)), and enforced customary rights against the security establishment (DR Congo [31] (pp. 52–53)). The UN also used its technical assistance capacity such as in Darfur/Sudan—re-thinking the LAS system [13]; in Iraq—development of a GIS which recorded the extra-legal tenures [33] (pp. 62–3); in Honduras—development of a land information system based on evidence supplied by local churches [32] (p. 46); and in DR Congo—re-establishment of three surveying and land registration teams (cadastral brigades) [31] (p. 56). In Peru, the UN supported the government to lead a wide-ranging set of dialogues that led to territorial agreements between the parties in conflict and the transfer of USD 3.3 billion to regional and local governments to fund local infrastructure and poverty reduction programs [34] (p. 95).

The in-depth case study of LAS for voluntary returns in Darfur/Sudan [13] gives further details of the range of land governance instruments that are useful in these contexts. These include

- The targeted clarifying and coordinating of LAS government functions across national, state and local levels for a specific humanitarian purpose such as voluntary returns.
- Amending regulations rather than developing new laws.
- Ensuring due diligence and minimum standards to protect people and their land rights.
- By using land information management, tracking trends of people returning to their areas of origin or other areas, conflict and dispute resolution patterns, and to identify areas that need additional land-related peace-building interventions. This also requires early warning systems at the community level and along migratory routes.
- Strengthening the Land Commission to “perform its function and mandate to arbitrate between willing contending parties on land claims, (and) assess appropriate land compensation” [13] (pp. 82–85).

Gender-responsive activities are a vital aspect of land governance in these environments. “Conflict worsens discrimination against women regarding land. Women are particularly vulnerable to losing their land rights, and they are more likely than men to be forcibly displaced or evicted [4] (p. 28).” This resonates with the findings of FAO [18] (p. 26) and the World Bank [48]. “Conflict should be used as an opportunity to empower women. Women should be involved in land interventions both as beneficiaries and as partners [4] (pp. 28–29).” The UN often promotes gender responsiveness, because of its adherence to human rights principles and practices, and a number of the cases demonstrate this.

Paradza et al. [28] outline crucial features of land governance and women’s land rights in customary settings. A number of the features that they identify are found in the Darfur/Sudan [13] and Jubaland/Somalia [9] extended case studies. This indicates that Paradza et al.’s approach can also be adapted to other areas in violent conflict contexts. Paradza et al. argue that “mapping initiatives generate opportunities, innovations, and novel spaces for securing women’s access to land in customary areas which include increasing awareness of women’s interests, providing opportunities for women to participate in decision-making forums [28] (p. 1)”. In Darfur/Sudan, a range of land-related activities were recommended to support women’s land rights during voluntary returns. These include awareness raising regarding women-headed household land rights under statutory law, Islamic law (dower or *mahar*, inheritance or *mirath*) and strengthening of local norms; civil society organizations being encouraged to increase their “knowledge and understanding of women’s land rights, their importance and how to promote them in practical and culture/context specific manner,” with special attention being given to

empowering women leaders in playing a bigger role in land-related discussions; and the creation of information support centers to support women to understand what options are available to them [13] (pp. 73, 85, 86). The Puntland/Somalia and Iraq case studies also demonstrate a similar accord with Paradza et al. [28] findings. In Puntland/Somalia, dialogues and training are provided to increase the understanding of the importance of protecting women's housing, land and property rights and how to achieve it [9] (pp. xi, 10). The Iraq case study demonstrates that innovative mapping creates a novel space for securing women's land rights as "the project placed a strong emphasis on gender, including during the selection of beneficiaries. Female-headed households, including widows and households with young pregnant women, were given priority [33] (p. 66)."

Additional gender-responsive land governance features for violent conflict settings are identified by Abukashawa et al. [13] and Tempira [9]. These include

- Ensuring the processes for addressing housing, land and property challenges in a humanitarian setting do not discriminate against women [9] (p. 70).
- Supporting women's access to land and tenure security across the full range of tenure types and the identification of the most viable tenure options that can reach the greatest number of women in the shortest time [13] (pp. 68, 73), as well as support to their access to justice mechanisms [9] (p. 70).
- Providing special provisions for women, particularly widows and women-headed families of returnees, in customary areas where their legal status needs to be protected. Women-headed households and widows should be considered as heads of households in the customary system with a right to access land [13] (pp. 75, 79, 84). This may also involve support for the provision of civil documentation [9] (p. 70).

5. Discussion

The findings, using the case study material, show that LA in violent conflict settings involves the same key elements found generally in LASs, not dissimilar elements. They serve the same purposes, even while they seem unfamiliar. All the cases involved some form of protection of land rights, in most cases legitimate land rights rather than ownership rights. The designs to strengthen security of tenure were part of extra-legal transitional justice mechanisms outside of the formal LAS, as were the administrative procedures, the land information and the land use planning, control and enforcement. The land use planning had conflict management between identity groups at its core, using territorial approaches not based on land parcels, plots or sites. Extra-legal transitional justice procedures even governed sales transactions procedures in the land registry. That is, extra-legal transitional justice LA rule making and keeping, which was FFP, was central to the UN's role in these contexts. However, capacity development for FFP LA in these settings is also about achieving security of tenure objectives rapidly through altering LAS norms, standards and objectives such as the rapid identification and use of government-owned (state) land for the settlement of displaced people; the delivery of the maximum amount of land in the shortest possible time, with due diligence and minimum standards, and services in urban areas and villages; lowering planning standards, particularly relating to site size, and using innovative territorial planning both statutory and extra-legal; moving away from registered land ownership as the only option to using other forms of tenure along the continuum innovatively, such as statutory group rights, unregistered rights, customary tenure, including through the reduction in surveying requirements and registered outside boundaries for villages, as well as extra-legal land certificates; and using land information management for large-scale overall human settlement management for humanitarian purposes.

When comparing the post conflict impact on LASs with that of violent conflict settings found in the case studies, we find that they correspond. The shared characteristics include a breakdown in the rule of law, fluid institutional environments and ambiguity, dysfunctional LAS, overlapping (secondary) rights and claims. Further, the types of LA designs proposed for post conflict settings match those used by the UN in violent conflict contexts. These

include political or peace-building goals rather than purely technical goals, prioritization of dispute and conflict resolution and reconciliation, mechanisms for the adjudication of 'suspect' land rights.

The cases show that land is part of larger UN peace-building programs. In some cases, land is part of a voluntary returns program, such as a housing and/or settlement rehabilitation program, encouraging people to return after being evicted, or is part of a program to protect their future right to return. In other cases, it is part of conflict management by the UN between parties in conflict at the territorial level rather than the level of individual land rights, something not commonly dealt with by LASs. The cases show how the UN sets up FFP LA extra-legal transitional justice mechanisms to protect people's tenure security to address historical injustices and the politics of exclusion, as part of its larger peace-building programs. These extra-legal mechanisms include tenure types, creation and recordation of land information, LAS administrative procedures, land use and territorial planning, and land governance, including around women's land rights.

Sometimes these mechanisms are not part of any discussion with national governments, as these governments are parties to the conflict [30] or too fragile [36]. Sometimes these mechanisms are part of government [34] or there is a process of trying to formalize them into government [35]. Based on this, we can conclude that in discussing FFP LA as used by the UN in violent conflict settings, and as argued by Lengoiboni et al., we also need to "ask not only fit-for-what purpose, but for whose purposes and at what point in time?" Whose responsibility is it to upgrade the resulting documents to official recognized tenure certificates? (Or, as in the case of South Sudan, the territorial plans [35]). What procedures should be followed? [49] (p. 29). The cases show that upgrading the resulting documents is not guaranteed even when the UN is intentionally trying to support such an upgrade, such as in Iraq with the land certificates [33]. The cases also show that if the UN supports the re-purposing of formal territorial planning or an operating land registry from the outset like in Peru [34] and Honduras [32], formalization of the new conflict management features is more likely. However, where there is no state capacity to manage violent conflict, like in South Sudan with the territorial planning [35], and the UN fills the role for peace-building purposes, LAS state building is required prior to the handover of the function from the UN to the newly reconstituted state.

Just as in conventional settings, land governance is a key part of LA in violent conflict settings, including through improving tenure security, equity, transparency and participation, and the governments' and citizens decision making and efficiency; providing easy access to information; and reducing corruption. However, in these settings, it has novel traits. The UN uses its power to address multilevel power dynamics through its good offices, convening power and security assets to strengthen land governance and manage power relations. The UN does this by introducing a wide range of extra-legal FFP LA transitional justice mechanisms to protect and defend vulnerable and displaced people's land rights. These mechanisms include norms and standards that fit humanitarian purposes; ensuring land-related human rights practices; using land information management to track displacement, conflict and dispute resolution patterns and trends; and to identify areas that need additional land-related peace-building interventions. In regard to human rights, this is particularly important in regard to women's land rights because conflict worsens discrimination for women. The UN uses its power to open new spaces for women's land rights through awareness raising, mapping, rapid engagement and special land-related provisions for women and transitional justice mechanisms that address discrimination. Some aspects of these are the same as those found in conventional settings. Some are specific to violent conflict environments.

Through a UN lens, we have shown that FFP LA in violent conflict contexts involves the same LA elements found in conventional LA and FFP LA contexts. At the same time, it shares the same features as LA in post conflict contexts, as it supports peace building and conflict resolution. FFP LA also has other novel characteristics that shape its design. FFP LA has distinctive characteristics that relate to the role of the UN in these contexts. FFP LA

in violent conflict contexts often (1) involves extra-legal transitional justice mechanisms to protect people (particularly women) and their land rights to start addressing some of the historical injustices and the politics of exclusion that are some of the root causes of conflict, as part of the UN's peacekeeping and peace-building programs; and (2) it is only a small part of these much larger programs and this has important power relations implications for land governance in these contexts. These power relations are linked to the UN's convening power, good offices, and in some situations security assets, and in others its technical assistance. We also adapt the FAO and UN-Habitat definition of land governance [12] (p. 9) to these contexts. This paper has argued that the role of the UN in land governance in violent conflict contexts concerns: the FFP LA extra-legal rules, processes and new and re-purposed structures through which decisions are made by the UN and other parties about access to land and its use; the manner in which the decisions are implemented and enforced (including through good offices); and the way that competing interests in land are managed (including through negotiating between parties in conflict and security assets). Just like in other settings, land governance is key, but it has novel features because of the power dynamics associated with the UN in these settings.

6. Conclusions

The UN was created from the outset to build peace in violent conflict contexts. As acknowledged by the Secretary-General's Guidance Note on land and conflict [3], land is a major root cause of conflict and hence of interest to the UN in its peace building. We have examined the types of FFP LA-related activities that the UN has undertaken in seven different countries. The FFP LA it used is the same as that found in conventional settings, but it has novel characteristics. They range from peacekeeping missions protecting people and their access to land and legitimate land rights, to technical assistance to plan for large-scale voluntary returns of people who have been displaced. The cases demonstrate how the UN has used what we have shown to be FFP LA extra-legal transitional justice mechanisms, as part of larger peace-building programs, to start addressing land-related historical injustices and the politics of exclusion, which are some of the root causes of conflict. In these contexts, land governance is of particular importance because of the way the land-related power dynamics play out across the conflict cycle. The cases demonstrate that the UN uses its power and capacity to strengthen land governance, including around women's land rights. The UN does this by using its good offices and convening power and security assets. This is a critical component of the FFP LA design in these settings. In the seven country cases, the UN's power was used to manage the competing interests in land. Its power was an important contributory factor concerning which FFP LA rules and processes were used, and the manner in which FFP LA was implemented. The cases also give early insights into how the UN's convening power and good offices' roles can be used to move transitional justice FFP LA mechanisms into more formal LAS arrangements.

Finally, the type of FFP LA approaches described here, found across multiple countries and sites, give practical options to support peace-building operations by the UN and other stakeholders. The cases overturn the view that it is not possible to undertake LA interventions in violent conflict settings. On the contrary, FFP LA approaches are a critical component of peace building and are often designed to serve as a basis for future work on LA in the post conflict and development phases.

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