Building Peace around water, land and food: Policy and practice for preventing conflict

Ellie Roberts and Lynn Finnegan
Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>BCP</td>
<td>Biocultural Community Protocol</td>
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<tr>
<td>CAC</td>
<td>Conversatorios of Citizen Action</td>
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<tr>
<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<tr>
<td>CEDAW</td>
<td>UN Committee on the Elimination of all Forms of Discrimination Against Women</td>
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<tr>
<td>CERD</td>
<td>UN Committee on the Elimination of all forms of Racial Discrimination</td>
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<tr>
<td>CFS</td>
<td>Committee on World Food Security</td>
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<td>CFJJ</td>
<td>Centre for Legal and Judicial Training (Mozambique)</td>
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<td>CGIAR</td>
<td>Consultative Group on International Agricultural Research</td>
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<td>CPWF</td>
<td>Challenge Program on Water and Food</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>FAO</td>
<td>Food and Agriculture Organisation of the UN</td>
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<td>FPIC</td>
<td>Free, Prior and Informed Consent</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>IIED</td>
<td>International Institute for Environment and Development</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<td>ILO No. 169</td>
<td>ILO Convention No. 169 on Indigenous and Tribal Peoples, 1989</td>
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<td>IWRM</td>
<td>Integrated Water Resource Management</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<td>MSP</td>
<td>Multi-Stakeholder Platforms</td>
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<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>NRM</td>
<td>Natural Resource Management</td>
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<td>REDD</td>
<td>Reducing Emissions from Deforestation and Degradation</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNDRIP</td>
<td>UN Declaration on the Rights of Indigenous Peoples, 2007</td>
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<td>UNECE</td>
<td>UN Economic Commission for Europe</td>
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<td>UNEP</td>
<td>UN Environment Programme</td>
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<td>WCD</td>
<td>World Commission on Dams</td>
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<td>UNFCCC</td>
<td>UN Framework Convention on Climate Change</td>
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<td>WWF</td>
<td>World Wildlife Fund</td>
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Acknowledgments

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Executive Summary

Water and land are two of the key natural resources that shape billions of peoples’ livelihoods, food security, wellbeing and identity. Developing management of water, land, and food that is equitable and peaceful is an increasingly challenging task due to a multitude of factors – such as resource degradation, population growth and violent conflict – that can fuel tensions and exacerbate vulnerabilities around natural resources. Increasing climate uncertainties now lend an additional urgency to the need to develop appropriate policy and practice at international, national and local levels in order to prevent destructive conflict around natural resources. The issues highlighted by this paper are not all directly affected by the impacts of climate change: climate change will, however, exacerbate tensions and vulnerabilities that already exist around water, land and food.

Policy and practice that facilitates improved collaboration among conflicting groups is essential for effective governance of natural resources. Peacebuilding methods such as locally led conflict analysis, facilitation of dialogue among groups with competing interests, and empowerment of vulnerable groups can help to build cooperative and trust-based relationships around natural resource management (NRM). It is not only technical skills that need to be strengthened, but the skills that enable stakeholders to engage with decision making, communicate effectively and address or mediate disputes constructively. Policy and practice needs to build capacity for these skills among actors at all levels - from government representatives, to stakeholders from the private sector, to local communities.

Policy that does not adequately take account of, or respond to, local needs and dynamics can exacerbate tensions around water, land and food. Equally, when civil society groups and local communities are not able to have a voice in resource management or hold decision makers accountable, implementable good policy frameworks often remain limited. This can result in management rules and practices that are unclear, contradictory or perceived as illegitimate by certain groups. It can also mean that typically vulnerable groups such as women, small-scale farmers and Indigenous peoples are excluded from decision making and resources, leaving them highly vulnerable. This increases the likelihood of destructive conflict and can in some cases mean that tensions escalate to violence.

Policy frameworks that do take these realities into account can facilitate constructive responses to natural resource conflicts. There are a number of existing international laws and guidelines that set out some of the elements needed for peaceful and equitable NRM. Many provide for inclusive consultation of, and participation by, local communities in decision making, as well as protection of vulnerable groups.

These frameworks can help to inform and shape good national policy and law for NRM. They can also be used to raise awareness of rights and good practices among local communities, helping them to engage constructively with other stakeholders. For Non-Governmental Organisations (NGOs) and other civil society groups, they provide a platform for initiating dialogue across sectors and levels, particularly when high level decision makers need to be involved.

However, these frameworks can only be useful tools when the links between policy and practice are strengthened from the bottom up as well as the top down. Good practices developed at the local level can help to inform good national and international policy, ensuring that it supports and builds on local needs and knowledge.

This paper looks at some of the elements of peaceful and equitable NRM, focusing particularly on the need to strengthen peacebuilding skills among actors at all levels. Chapter Two gives an overview of the international laws and guidelines that provide a framework for States and societies to develop and strengthen their governance of natural resources in order to prevent destructive conflict. Chapter Three looks at five case studies that have implemented some of these frameworks, providing examples of good practice for encouraging and facilitating dialogue among groups, empowering communities to understand and resolve conflict, and promoting legal rights and frameworks among government, private sector, judicial and community representatives. Chapter Four draws key lessons from these case studies, suggesting ways in which their experiences could help States and societies when developing and implementing principles for peaceful and equitable water, land and food management.

BOX 1: Use of Terms

Destructive Conflict
Conflict in itself is not negative. It is an inevitable part of life and can function as a motor for change and development in society if handled constructively. Conflict becomes destructive when it leads to a breakdown of communication among groups, damaging social relations and exacerbating tensions that can lead to violence.

Peacebuilding and Conflict Prevention
Peacebuilding is both the development of human and institutional capacity for resolving conflicts without violence, and the transformation of the conditions that generate destructive conflict. In this sense it is closely allied to the prevention of destructive conflict and is not only relevant to post-conflict settings.

Community empowerment
Community empowerment seeks to enable local people to play an active role in the decisions that affect their communities. It occurs when communities have access to relevant knowledge and develop the appropriate skills to analyse their situation, organise in an inclusive way and manage their different interests cooperatively. Thus the community becomes a confident and competent partner in dialogue and negotiations, whether with local or national authorities or outside investors.

Natural resources
Natural resources include a wide range of environmental components that are used by, or have a use for, people and communities. This paper focuses on water, land and food: water and land being two of the key natural resources that shape billions of people’s livelihoods, food security, wellbeing and identity. By ‘food’ we mean the genetic diversity used by humans for food and agriculture, which is closely linked to both water and land. Water, land and food all face increasing challenges and uncertainties from climate change. Although they are also important natural resources, extractives such as fossil fuels and minerals are not included in the scope of this paper.


Resource variability can create and exacerbate tensions. The likelihood of these tensions leading to violence and other forms of destructive conflict often depends on the strength and effectiveness of social systems and institutions. Effective governance plays a key role in promoting peaceful and equitable management of water, land and food. It is not just ‘physical scarcity’ but also weak and inequitable governance - or ‘social scarcity’ - that creates imbalances in access to, and distribution of, natural resources, increasing the vulnerability of certain groups.

Arrangements for sharing water, land and food that may seem cooperative can nevertheless leave vulnerable groups disproportionately burdened by the impacts of variability, while also excluding them from resource benefits. Typically vulnerable groups include small-scale farmers, fishing communities, women, Indigenous peoples and those facing social stigma due to characteristics such as race or ethnicity. Without a voice in natural resource management (NRM), these groups can become caught in destructive cycles of poverty, loss of livelihood and increasing social marginalisation.

Issues of inequitable access to water and land within and between societies are not new. There are a multitude of factors - such as population growth, resource degradation, violent conflict, and changing patterns of migration - that can exacerbate the impacts of resource variability, making effective governance more challenging. Large-scale agricultural or water investments can also deepen power imbalances around resource access, with local groups often not permitted, or not able, to have a voice in decision making. This can damage local water and food security, with agreements often failing to recognise community rights. Tension between customary tenure systems and national law can also make the development of equitable access and ownership rules more complex.

The impact of climate change on water and land, already visible in regions across the globe, is an exacerbating factor, and will greatly increase resource pressure in the future. Decreasing water storage in glaciers, salinisation of groundwater and soils in coastal areas as a result of sea level rise, and increased variability of rainfall with more extreme periods of drought and flooding, will mean that more people live in areas where land and water resources are severely stressed. The extent to which these changes are likely to lead to destructive conflict will often depend on the capacity of individuals, communities and institutions to respond to them in a positive way.

The link between climate change and conflict is not yet understood and has been widely debated. The relationship between the two, and the context in which this relationship plays out, are complex, meaning that the outcome will often be unpredictable. Changes in land and water availability can exacerbate tensions within and between societies, yet capacity for effective NRM at all levels can contribute to managing such resource conflicts peacefully.

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**BOX 2: Giving all groups a voice**

A water pipe project in Con Cuong, Vietnam, initiated by the Vietnamese government in 2001 with funding from the European Union (EU), highlights the importance of developing practices and principles that give all groups a voice in decision making and empower communities to address destructive conflict around water, land and food.

Two years after the pipes were constructed, it was discovered that the wealthiest households had been siphoning water from communal pipes for their own use, reducing the amount that reached the shared tank. The poorest groups were unwilling to raise the problem because they relied on wealthy households for supplies during times of hardship. Instead they were forced to tap into the water pipes themselves or take water from leakages in the pipes.

Eventually, the project broke down and the community returned to accessing water via streams. This example demonstrates the ineffectiveness of initiatives that do not take local power dynamics into account, often fuelling rather than mitigating social tensions.

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**BOX 3: Complex causality relating to natural resources**

![Image](image_url)
Prevention of destructive conflict around water and land must address both tensions within and between communities, and conflict that involves higher-level decision makers such as government and private sector representatives. Where conflicts need to be resolved at multiple levels, for example in the case of an investment agreement that will affect local access to water and land, facilitating community engagement with decision makers is essential. Communities are more able to respond positively to issues of resource access when all groups are able to articulate their needs, allowing competing interests to be managed in a way that reduces whole community vulnerability, particularly among the least advantaged groups.

The first annual report of the UN Independent Expert on Human Rights and Environment notes that the fulfillment of procedural rights, including effective public participation in decision making, contributes to ‘more transparent, better informed and more responsive’ environment policy. Community based management builds shared understanding and acceptance of resource sharing rules, while also building capacity for dialogue and negotiation, reducing the likelihood of destructive conflict. However, superficial or badly planned participation processes can exacerbate unequal access to and distribution of resources by severely disadvantaging groups with lower language and communication skills. They can also worsen social marginalisation by excluding traditionally vulnerable groups, who are often not readily accepted as legitimate participants in public decision making.

Peacebuilding methods can help to address these risks by promoting inclusive and trust based decision making around resource management. Locally led conflict analysis, facilitation of dialogue among groups with competing interests, and empowerment of vulnerable groups can help to build cooperative relationships, enabling individuals, communities and institutions to resolve conflict nonviolently (Box 3). Peacebuilding can therefore be relevant to any political context; both pre- and post-conflict societies, as well as settings where conflict is not visible but rather tensions continue to build beneath the surface, as with the water pipe project in Con Cuong, Vietnam (Box 2). The aim is not to avoid conflict, which is inevitable and can be necessary for positive social change, but to strengthen governance and to understand and address the root causes of conflict.

Constructive responses to the challenges outlined in this Chapter will be further explored in Chapter Three, which outlines five case studies that have drawn on peacebuilding methods to address water, land and food management. Each case study highlights different elements important to equitable and peaceful natural resource management. No case study is without its limitations; the aim is rather to highlight good practices and learn from efforts already being made at various levels.

The following Chapter outlines existing international laws and guidelines that include and support some of the principles and practices needed for peaceful and equitable natural resource management, ranging from consultation with stakeholders to stronger recognition of community ownership and user rights. It focuses on environmental and human rights law, highlighting their roles in informing and supporting States, communities and other actors when seeking to prevent destructive conflict around natural resources.

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**BOX 4: Peacebuilding initiatives and resilience**

In 2011 Mercy Corps conducted a study to examine if, and how, its peacebuilding programmes had strengthened resilience to drought conditions among pastoralist groups in the Somali-Oromiya area of Ethiopia. The Strengthening Institutions for Peace and Development (SIPED) programme worked with communities to form local committees and create dialogue leading to peace agreements and resource use plans.

SIPED projects also focused on strengthening the links between customary and government institutions. The study found that these peacebuilding initiatives had increased resilience, contributing to disaster risk reduction and mitigating the need for large scale humanitarian relief during droughts. Households involved were half as likely to face conflict over access to water for animals than they were before the project started, employing ‘adaptive strategies’ such as moving and livelihood diversification more frequently than ‘distressful strategies’ such as killing cattle.

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9 The Institution of Civil Engineers, Oxfirst Gil, Water Aid (2011) Managing Water Locally: An essential dimension of community water development, p. 50
11 The strengths and challenges of community-based management are considered in the ‘CBR’ (Community-Based Natural Resource Management) literature

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Smith, D and J. Vivekananda (2007) ... cited in footnote 3. p.10, 32
Chapter Two

International Legal Frameworks

There are a range of international legal frameworks that provide standards and guidelines for equitable and peaceful natural resource management (NRM). These can be used to support States, communities and individuals when responding to challenges around water, land and food, informing and shaping national laws and policies and providing an avenue for accountability and settlement of disputes.

International law and guidelines can play an important role in preventing destructive conflict around natural resources. For example, some provide standards for outside investment in water and land, helping to ensure conflict sensitive investment and enabling national decision makers to support constructive and equitable relationships between investors and local communities.

Some of the legal instruments are ‘hard’ law, which are legally binding for national governments that have ratified them and which have supervisory and oversight mechanisms at the international level. Other instruments are ‘soft’ law, which are not legally binding but provide guidelines or minimum standards for national governments. Several soft law instruments have come to be widely accepted as containing recognised principles within international law. Soft law instruments often lead to the development of binding hard law in the future, and so are good indicators of the direction that international legal frameworks may take. It is important to remember ‘(i)t is not whether or not an international instrument is mandatory or voluntary, what really matters in the end is the extent to which it is known, referred, and actually used’14.

The international frameworks relevant to NRM are fragmented, emerging from different international fora and institutions such as the UN Conference on Environment and Development, the UN Food and Agriculture Organization and UN Human Rights Treaties. Two main areas of relevant law are International Environmental Law and International Human Rights Law, which includes the rights of Indigenous peoples.

These laws and guidelines recognise the challenges faced in achieving sustainable, equitable and peaceful management of natural resources. Many recognise the need to include vulnerable groups in policies that shape water and food management. Some focus on groups that are directly dependent on natural resources for their livelihoods - such as small-scale farmers, fishing communities and Indigenous peoples - and are particularly affected by national policy and decision making that affects water, land and food.

International law promotes good practices and general principles for NRM, ranging from consultation with stakeholders to recognition of community ownership and user rights. There are, however, major obstacles to effectively implementing such international instruments. They are not all ratified by national governments, and even if they are written into national policy there are many political, practical and institutional challenges to implementing them effectively. The case studies presented in the following chapter provide examples of local initiatives that are supported by national and international law and guidelines. These initiatives aim to implement and apply guidelines effectively in local contexts, or to raise awareness of useful legal principles to empower local communities in NRM.

This chapter summarises some of the relevant international frameworks relating to environment and human rights, including Indigenous peoples (Box 4). The Annex contains a more comprehensive list of legal instruments and their relevant provisions, including frameworks such as the Hyogo Framework for Action for resilience to disasters.

BOX 4: Relevant international laws and standards (see Annex for more detail)

**International Environmental Law**
- 1992 Rio Declaration on Environment and Development
- 1992 Convention on Biological Diversity (CBD)
- 1992 UN Framework Convention on Climate Change (UNFCCC)
- 2001 FAO International Treaty on Plant Genetic Resources for Food and Agriculture
- 2010 Nagoya Protocol on Access and Benefit Sharing
- 2012 CFS Voluntary Guidelines on the Responsible Governance of Tenure

**International Human Rights Law**
- 1966 International Covenant on Economic Social and Cultural Rights (ICESCR)
- 1989 ILO Convention No. 169 on Indigenous and Tribal Peoples
- 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP)
- 2011 UN Guiding Principles on Business

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15 Principle 25 of the Rio Declaration affirms that “peace, development and environmental protection are interdependent and indivisible”

16 Rio Declaration on Environment and Development, UN GAOR, 51/16 June 1992, Annex 1, UN Doc. A/CONF.151/26 (vol. 1)

17 The Dublin Principles, presented at the Earth Summit in Rio de Janeiro in 1992, principle 2 and 3 respectively
Involvement of ‘users’ includes groups that may not have clear user rights in formal law, in particular women, farmers and pastoralists.  

IWRM has become an accepted framework in many river basin organisations, as well as in the International Watercourses Convention, the World Commission on Dams (WCD) and the work of the UN Economic Commission for Europe (UNECE).

For management of genetic resources for food, the Convention on Biological Diversity (CBD) and the UN Food and Agriculture Organization’s (FAO) International Treaty on Plant Genetic Resources for Food and Agriculture (known as the ‘FAO International Treaty’) both address plant genetic resources for food and agriculture. Agreements recognise that biodiversity - including plant genetic diversity - culture and traditional knowledge are closely linked. Policy and practice that consider and support these linkages help achieve fair and equitable use of plant genetic resources. Ongoing negotiations within the Convention on Biological Diversity call for more recognition of local communities’ knowledge, innovations and practices as a vital contribution to sustainable management of biodiversity.

Equitable sharing of plant genetic resources and farmers’ rights are addressed by the Convention on Biological Diversity’s 2010 Nagoya Protocol and the 2001 FAO International Treaty on Plant Genetic Resources for Food and Agriculture. The FAO International Treaty also recognises farmers’ rights to save, use or exchange seeds – such practices are essential to helping maintain resilient plant breeding that responds to changing climates.

Some of the case studies in Chapter Three will consider the strengths of community protocols that, especially when supported by national policy, can be used to ensure equitable management of plant genetic resources and provide a mechanism for managing conflicts constructively.  

Public participation in decision making

Numerous international standards oblige governments to consult with stakeholders in decisions and policies relating to natural resources. One comprehensive agreement is the 1998 Aarhus Convention of the UN Economic Commission for Europe, which has around 50 European country parties but is open to accession by non-ECE countries subject to approval by the Meeting of the Parties. The Convention clearly defines three pillars of public participation in environmental matters: access to information, participation in decision making and access to justice in environmental matters. Governments must provide information on the potential impact of proposed activities and alternatives, informing the public in an adequate, timely and effective manner. Governments should also provide an independent grievance mechanism, and implement national policy without discrimination to citizenship, nationality or domicile.

A number of legal frameworks reflect a stronger approach to ‘participation’ in environmental matters by supporting the obligations of governments to meaningfully consult local communities and uphold free, prior and informed consent where initiatives affect communities’ natural resources. The principle of Free Prior and Informed Consent (FPIC) requires States to consult with communities directly affected by a proposed project, that no decision be taken without their informed consent given freely, without coercion, intimidation or manipulation. FPIC provisions are seen particularly in laws and standards relating to Indigenous peoples, as groups who traditionally have a close relationship with their lands and territories.

FPIC is also affirmed in the context of forests by guidelines produced by the UN-REDD Programme, outlining a policy framework for seeking and obtaining FPIC in the context of efforts to reduce emissions from deforestation and degradation (REDD). A 2010 agreement under the Framework Convention on Climate Change (UNFCCC) urged States to respect the knowledge and rights of Indigenous peoples and members of local communities, although these relate to forest projects they nonetheless indicate the emerging recognition of FPIC as an international legal principle.

Ownership of, and access to, natural resources

A further important issue is ownership of land and natural resources and how such ownership is defined in customary and formal law. Absence of clear rights over natural resources is often a barrier to community participation in decisions related to water and food. In many countries land, forests, fisheries and other natural resources belong to the State, and there may not be a legal requirement to consult with local communities before national decisions are taken. This can be a major barrier to equitable natural resource management and to the prevention of destructive conflict over natural resources.

Responsible governance of tenure was not explicitly addressed in UN fora until 2012. In May 2012 the UN Committee on World Food Security (CFS) adopted Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security. The CFS Voluntary Guidelines provide the first international standards for recognition of customary tenure systems, urging governments to recognise, respect and protect the customary land, forest and fishery rights of Indigenous peoples and other communities, even if not protected under formal law. The Voluntary Guidelines specify that such policies should particularly work to protect women and vulnerable groups who hold subsidiary tenure or use rights such as gathering rights.

An important element of preventing conflict around natural resources is adequate access to justice and compensation. The Voluntary Guidelines on Tenure address this, as well as looking specifically at the governance of tenure in the context of climate change and conflict. They call on States to ensure the protection of legitimate tenure rights of farmers, small-scale food producers, and vulnerable and marginalised people, in order to allow them to respond to the effects of climate change. All parties should take steps to prevent and eliminate issues of tenure of land, fisheries and forests as a cause of conflict and should ensure that aspects of tenure are addressed before, during and after conflict. States should also provide access to justice and appropriate compensation when people believe their tenure rights are not recognised, through timely, affordable and effective resolving of disputes by a competent and impartial body.

24 For a useful outline of sources of international law affirming FPIC, see: UN-REDD Programme (January 2013) Legal Companion to the UN-REDD Programme Guidelines on Free, Prior and Informed Consent (FPIC), International Law and Jurisprudence affirming the requirement of FPIC, UN-REDD Programme, Geneva
25 Article 8.2
26 Article 7.1
27 Article 23
28 Article 25.1
29 Article 21
International Human Rights Law

International human rights law provides another legal framework with important links to equitable and peaceful natural resource management. Human rights law sets out both substantive and procedural obligations for national governments to respect, protect and fulfil basic human rights. Human rights are universal, with an explicit emphasis on the responsibility of governments to focus on vulnerable groups. Rights include the right to water and food, as well as access to information, public participation and access to justice.

The right to food recognises the fundamental right of everyone to be free from hunger. The human right to water acknowledges 'sufficient, safe, acceptable and physically accessible and affordable' water as essential to leading a life in human dignity. The UN Special Rapporteur on the Right to Food - currently Olivier De Schutter - clearly argues that the right to food is inseparable from access to productive resources. Security of land tenure and control over plant genetic resources is essential for long term food security.

A 2012 study by the Human Rights Council Advisory Committee identifies small-scale farmers, landless workers, fisher-folk, hunters and gatherers as among the most discriminated and vulnerable people in many parts of the world with thousands of peasant farmers becoming victims of forced evictions from land every year.

Business and human rights

The recent UN agenda around business and human rights responds to the urgent need to improve accountability of businesses and private sector activities in relation to human rights. In 2011, after five years of consultations, the UN Human Rights Council adopted the Guiding Principles on Business and Human Rights. The Guiding Principles call for States to protect against human rights abuse by third parties, including business enterprises. Businesses have an obligation to respect human rights of others and address adverse impacts on human rights as a consequence of their business activities. The Guiding Principles also state that businesses should identify and assess possible human rights impacts, which involves meaningful consultation with potentially affected groups and other relevant stakeholders as well as continued feedback and monitoring. In May 2011, the Human Rights Council was also presented with ‘Principles for responsible contracts’, providing guidelines for community engagement in contract negotiations between governments and businesses and grievance mechanisms that should be accessible to all affected groups. Both sets of principles can help shape business activities relating to natural resources - such as large-scale agricultural investments or water developments - that respect local ownership of, and access to, water, land and food.

Rights of Indigenous peoples

Many international standards relating to Indigenous peoples focus on Indigenous peoples’ rights over natural resources, lands and territories they have traditionally occupied or otherwise acquired. Indigenous peoples are recognised as ‘peoples’ in international law, bringing a fundamental right to self-determination, to exert sovereignty over their lands and natural resources. These trends tend to be soft law, providing non-binding guidelines for national governments.

Minimum standards, however, are clearly set out in the United Nations Declaration on the Rights of Indigenous Peoples (UNDPR) adopted by the UN General Assembly in 2007. UNDRP addresses the most pressing concerns of the 370 million Indigenous people worldwide. It recognises the right of Indigenous peoples to self determination, to exert sovereignty over their lands and natural resources. These principles and rights are effective mechanisms for redress if FPIC is not respected. These principles and rights are affirmed by the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the UN Permanent Forum on Indigenous Issues.

One of the few legally binding treaties concerning Indigenous peoples is the 1989 ILO Convention No. 169 on Indigenous and Tribal Peoples (known as ‘ILO Convention 169’). It states that governments shall recognise Indigenous ownership of lands they traditionally occupy, including land used for subsistence, nomadic and traditional activities. Indigenous peoples have the right to participate in the use, management and conservation of their resources; and governments are required to consult with Indigenous communities concerned when giving consideration to measures that may affect them directly. The Convention, however, only has 22 signatories, the majority of which are Latin American.

These international laws and guidelines provide useful frameworks from which to consider prevention of conflict around natural resources. Much work is needed to bring these principles to other fora within and outside the UN.

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States must not forcibly remove Indigenous peoples from their lands or territories, and shall provide effective mechanisms for redress if FPIC is not respected. These principles and rights are affirmed by the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the UN Permanent Forum on Indigenous Issues.

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These international laws and guidelines provide useful frameworks from which to consider prevention of conflict around natural resources. Much work is needed to bring these principles to other fora within and outside the UN. Several of the instruments offer opportunities for States to share information, resources and recommendations, or provide opportunities to receive capacity building and technical assistance from UN agencies. These mechanisms are available for States and should be used fully. Many of the laws and guidelines are also useful for awareness raising at local level and can be part of the empowerment process that leads to local groups being effective partners in natural resource management.

31 1966 International Covenant on Economic Social and Cultural Rights (ICESCR) Article 11
32 UN Committee on Economic, Social and Cultural Rights (November 2002) General Comment No. 15 ‘The right to water’, United Nations General Assembly (July 2010) Resolution A/RES/64/292
34 UN Human Rights Council (February 2012) Final study of the Human Rights Council Advisory Committee on the advancement of the rights of peasants and other people working in rural areas, Nineteenth session, Agenda item 5 (A/HRC/19/75)
36 Article 14
37 Article 11
38 Article 18 and 20
40 Principle 7
41 Principle 9
43 Article 3
44 Articles 18, 19, 29 and 32
This Chapter presents examples of local initiatives in Colombia, the Mekong river basin, the Democratic Republic of the Congo (DRC), Mozambique and Peru. They focus on empowering communities to peacefully manage water, land and food through legal empowerment and peacebuilding initiatives such as capacity building, dialogue and conflict resolution training. Many of them are supported and strengthened by national and international law and policy, demonstrating the effectiveness of natural resource management (NRM) that works across different levels of governance.

CASE STUDY ONE: Empowering communities through capacity building: Conversatorios of Citizen Action (CACs) in Colombia

Conversatorios of Citizen Action (CACs) empower local communities to participate in NRM, working particularly with marginalised and vulnerable groups such as women. The CAC methodology consists of three phases: preparation, negotiation and follow-up.

During the preparatory stage, stakeholder capacity and interest is strengthened through workshops and other activities that aim to: increase understanding of environmental issues; raise awareness of legal rights; help participants to identify, analyse and resolve conflicts; and develop communication skills for formulating questions and arguments when speaking in public. Negotiation is then carried out through a formal Conversatorio or meeting, where government, institutional and private sector representatives come together with members of the public to discuss and make formal commitments for NRM. Follow-up committees are responsible for ensuring that these commitments are fulfilled.

CACs were first developed in Colombia by Asociación del Deporte Solidario (ASDES) and World Wide Fund for Nature (WWF) in response to the provisions for public participation in the 1991 Colombian Constitution. Between 2005 and 2007 the CAC methodology led to 76 commitments to improve social welfare and resource management.

The 1991 Colombian constitution redefined public participation in NRM, which had previously been limited to the political and social elite. The Constitution, and subsequent national legislation, set out the right to democratic participation in decision making, public access to decision making spaces and national support for citizen's committees to monitor the use of public resources. However, implementation of this law remained limited due to low capacity among many communities, with commercial, armed and illegal interests continuing to exert influence.

The provisions made in the Constitution reflect Colombia’s international obligations, as the government has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and ILO Convention 169 and endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2009. The government has ratified the Convention on Biological Diversity (CBD) but not its 2010 Nagoya Protocol (see Chapter Two).

The Nariño CAC demonstrates how the Conversatorio process can enable positive social change; a CAC’s long-term commitment to building capacity among vulnerable groups - often over a period of several years - can result in wider attitudinal shifts, contributing towards more equitable and effective resource management.

Some of the poorest and most marginalised female pianguero workers came to be perceived by many as legitimate community leaders.

Good law and policy: National legislation for community participation

The CAC methodology led to 76 commitments to improve social welfare and resource management.

Impact

During the Conversatorio meeting, female pianguero workers became the first women from their communities to speak publicly in a decision making process. The majority of these women reported feeling more able to stand up for their rights and articulate their needs after the CAC. Many said they were able to apply the skills they had learnt to other areas of their life, with some going on to study and take out small loans to improve their livelihoods. Some of the poorest and most marginalised female pianguero workers came to be perceived by many as legitimate community leaders. However, some women were prevented from attending training workshops because of needing to work long hours and look after their children.

The CAC also helped change attitudes between the communities and institutions involved. Community members said they had more confidence in dealing with institutions, while also perceiving them to be more transparent. Private and public sector institutions reported seeing community groups as constructive partners where they had previously perceived them as ‘hostile and uninformed’.

The Nariño CAC demonstrates how the Conversatorio process can enable positive social change; a CAC’s long-term commitment to building capacity among vulnerable groups - often over a period of several years - can result in wider attitudinal shifts, contributing towards more equitable and effective resource management.

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49 Candelo, Carmen Reina What has facilitated women impact and participation in Coelio, Tolima (Colombia), WWF Colombia, p. 1
CASE STUDY TWO Negotiating community resource rights: Biocultural Community Protocols in Peru

Biocultural Community Protocols are an instrument used by communities to agree and set out how they own, use and manage natural resources. Biocultural Community Protocols have two main elements. The first is a tool for dialogue, helping to bring together groups within and between communities. The second is an expression of customary rights, rules and responsibilities around natural resources and their relationship with national and international policy. A Biocultural Community Protocol can set out the process necessary to obtain FPIC within a certain community, and so be used to shape external dialogue with higher level policy, and investors and other outside groups.  

Good law and policy: National ratification of international frameworks by Peru

The Convention on Biological Diversity (CBD) and the FAO International Treaty urge States to fully recognise and engage with customary practices of local communities around natural resources, in particular genetic resources used for food and agriculture. Article 12 of the CBD’s 2010 Nagoya Protocol recognises Community Protocols in the context of traditional knowledge and genetic resources. Biocultural Community Protocols therefore provide an opportunity for communities to constructively engage with national legal frameworks as national governments work to ensure their CBD commitments.

Peru has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and ILO Convention 169 and endorsed the UN Declaration on the Rights of Indigenous Peoples. All of these affirm the requirement to obtain Free Prior and Informed Consent (FPIC) for projects that will impact Indigenous and local communities (see Chapter Two). The government has ratified the CBD but not its 2010 Nagoya Protocol. However, Peru’s national policy framework supports FPIC as a requirement to access communities’ knowledge around seeds for food and agriculture.

Good Implementation: A BCP in the Potato Park, Peru

A Biocultural Community Protocol in the Potato Park in the Cusco Region of Peru represents an intercommunity agreement around the use of agricultural biodiversity. The intercommunity biocultural protocol was developed over 15 months among the six Quechua communities (approximately 6000 residents overall) that make up the Potato Park. The Park covers around 9,000 hectares and is governed by the Association of Communities of the Potato Park, preserving over 1,000 varieties of potato and acting as a genetic reserve within the region. The drafting process for the Biocultural Community Protocol was supported by two NGOs - ANDES and IIED - who trained 14 Indigenous researchers (seven male and seven female) chosen by the six community assemblies for their leadership skills and knowledge relating to customary laws and practices.

The in-depth drafting was led by the community, taking place over two to three years. The first draft was produced through thematic working groups, study groups and mapping exercises which focused on Quechua principles, including willingness, exchange of labour and mutual assistance. Participation was then broadened out to 30 consultation groups who met four times a month to produce the second draft of the Protocol. After this, the draft was brought to women and youth groups, elders, shamans, micro-enterprises and the Board of Directors of the Association of Communities of the Potato Park. The Protocol was presented, discussed, voted on and approved in each of the community assemblies.

Impact

The Biocultural Community Protocol articulates customary laws and practices concerning traditional resources, including rules governing reciprocity, knowledge sharing and seed exchange.

These responsibilities help keep poorer social groups’ food and nutrition secure. The Protocol guides how the benefits from natural resources are shared among the Quechua communities, including the income from and repatriation of seeds and genetic resources. The Protocol also sets out conflict resolution mechanisms in keeping with Quechua traditions.

The Potato Park intercommunity biocultural protocol is recognised by the Cusco regional government, but Biocultural Community Protocols in general can be limited by a lack of recognition at higher policy level. The Potato Park example demonstrates the value of a Biocultural Community Protocol both as an end product and as a process. The Protocol is now seen as a foundation for equitable natural resource management and a way to continue collective decision making, good governance and effective conflict resolution among the six Quechua communities involved.

58 Above footnote, p. 16
59 Republic of Peru ‘Law No. 27811 of 24 July 2002 introducing a Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources’, article 6
60 ANDES (Peru), the Potato Park Communities and IIED (2011) Community Biocultural Protocols: Building Mechanisms for Access and Benefit Sharing among the Communities of the Potato Park based on Customary Quechua Norms, Series ‘Protecting Community Rights over Traditional Knowledge: Implications of customary laws and practices’, ANDES (Peru), the Potato Park Communities and IIED
62 Above footnote
63 ANDES (Peru), the Potato Park Communities and IIED (2011) … cited in footnote 63
64 Above footnote, p. 19

Participatory mapping with members of the Potato Park communities

photo credit: Asociación ANDES
CASE STUDY THREE Increasing dialogue around dam developments: Multi-Stakeholder Platforms in the Mekong river basin

Multi-Stakeholder Platforms bring different groups together for dialogue and decision making around resource management. They range in scale from the international to local levels; some bring together national governments with actors from civil society and the private sector while others focus on opening dialogue within or between communities. This case study demonstrates how Multi-Stakeholder Platforms can help to increase participation in decision making around dam constructions. By bringing different stakeholder groups together at a national and regional scale, Platforms in the Mekong region have helped to improve dialogue between dam developers and other stakeholders, demonstrating how they could be used to shape outside investments in water and land.

Good law and policy: International frameworks for community participation

Several international legal frameworks set out requirements for community consultation, Free, Prior and Informed Consent (FPIC), and public participation in decision making, including the ICESCR, UNDRIP and ILO Convention 169 (see chapter two). Cambodia, Laos, Thailand and Vietnam have all ratified the ICESCR and endorsed UNDRIP; however, none are parties to ILO Convention 169.

In addition, the World Commission on Dams (WCD) sets out specific requirements for community participation in dam planning. It outlines participatory decision making and accountability as core values for dam developments, and recommends developments be guided by FPIC when projects have the potential to impact Indigenous and tribal peoples. Integrated Water Resource Management (IWRM) sets out a coordinated approach to water and land management through cooperation between the local, national, regional and international levels. IWRM aims to bring in multiple voices to decision making, where “[t]he diversity of perceptions ... is hoped to hold the key to more integrated and sustainable outcomes”.

Good Implementation: Multi-Stakeholder Platforms for dam decision making in the Mekong

Multi-Stakeholder Platforms have been developed in the Mekong by the CGIAR Challenge Programme on Water and Food (CPWF) to diversify participation in decision making around dam constructions, as projects can often be agreed in back-room discussions between government representatives and dam developers. Five target groups were identified to participate in the platforms: dam developers; governments and international organisations; NGOs and civil society; research organisations; and dam financiers. Due to minimal communication and high levels of suspicion between these groups, CPWF first engaged with each group separately to build trust before initiating a cross-sectorial dialogue. The Hydropower Sustainability Assessment Protocols developed by the International Hydropower Association provided a tool for initiating engagement with these groups by making hydropower management and sustainability more of a priority.

Different ‘languages’, such as technical or political, were used with each group to increase understanding and interest. These groups were then brought together for dialogue at national and regional levels.

While the Platforms provide a space for different actors to engage with dam planning, facilitating community engagement has been more difficult. Decision makers tend to have a negative attitude towards engaging with local communities, perceiving dialogue with poor people to be uncomfortable and potentially threatening to their position, while many community groups lack the confidence to participate. While Farmer Water User Groups, Fisher Cooperatives and local NGOs have to some extent been brought into the dialogue, bridging the gap between local civil society groups and local communities has been challenging. However, Multi-Stakeholder Platforms in the Mekong do demonstrate how participation in dam planning can be broadened beyond high-level representation, and could in the future help to bridge the gap between local communities and decision making processes.

68 Information from interview with Kim Geheb, CPWF-Mekong Basin Leader, CGIAR Challenge Programme on Water and Food, April 2013
CASE STUDY FOUR Legal empowerment in Mozambique

Another element of peacebuilding in the context of natural resources is legal empowerment, especially among groups vulnerable to losing their access to water, land and food. Empowering local groups by helping them understand and use their legal rights can create significant improvements in access to water and food, helping to prevent destructive conflict. A training programme in Mozambique illustrates a legal empowerment approach that addresses the lack of knowledge among rural communities of their legal rights to land and natural resources.

Good law and policy: Mozambique’s National Land Law

The Mozambique Land Law was adopted in 1997 after a long process of negotiation. It aimed to incorporate customary land access and management systems into the national legal framework. The law provides guidance for managing the relationship between local farming communities, their land and production systems, and new investors wanting access to land and natural resources. In terms of international obligations, Mozambique has endorsed UNDRIP but has not ratified ICESCR or ILO Convention 169 (see Chapter Two).

Good implementation: Legal empowerment by the Centre for Legal and Judicial Training (CFJJ)

It was clear after the adoption of the 1997 Land Law that a lot of progress would be needed for it to be successfully implemented. Investors were applying to lease or buy large areas of land, while bitter disputes among stakeholders were still being reported. Additionally, the consultations carried out by many new investors were inadequate. One example in Maputo province involved a 500 hectare agricultural investment where the investor visited with ‘two friends’ to talk to the community leader who said they should come back to talk to the whole community. Apparently the signatures of the ‘local inhabitants’ later appeared on the required document, but the local community deny that a consultation ever took place. A Centre for Legal and Judicial Training (CFJJ) Food and Agriculture Organization (FAO) study of natural resource conflicts showed that locals often did not know how to use their community rights during consultations and rarely had access to justice or judicial processes to resolve conflicts. Public agencies often sided with land-applicants and failed to correctly apply the community rights provided in national law.

Empowering local groups by helping them to understand and use their legal rights can create significant improvements in access to water and food.

Since 2001, the CFJJ has provided training for paralegals to build practical support, legal advice and education around land and natural resources for civilians at a community level. Paralegal training includes one week of classroom training, one week of field work, and interactive assessments. Paralegals then work with local communities to give practical legal advice on the Land Law and explain what judges and prosecutors can do to defend local rights. They are trained in community consultation, the equality of women’s rights in formal law and strategies for dealing with conflict, from mediation to court processes.

Alongside paralegal training, the CFJJ also runs seminars for district level officers including administrators, judges, public prosecutors, police chiefs and directors of economic affairs. These seminars reinforce community work by bringing together district officers in areas where conflicts over resources are likely and where new land investments are planned. They are educated in what the law actually says, how to implement it, what practices are legal and illegal and what they can do when approached by citizens about a specific conflict.

Impacts

By 2007 152 paralegals had been trained and 77 district officers had participated in seminars. In areas where the Land Law is understood well by both investors and local people there has been a clear social and human development impact, with visible differences in how people view their rights to their land and natural resources and the relationship between locals and outsiders. Paralegals have played an important role in linking citizens with the agencies that provide legal support, especially in rural areas. This legal empowerment work does not happen quickly, but the CFJJ projects have fostered changing attitudes amongst district officials towards rural farming communities as well as community perceptions about what the law can achieve.

The CFJJ case shows the importance of legal empowerment as part of a proactive approach to preventing conflict over land and natural resources. National obligations to carry out ‘community consultations’ and other community rights have little effect if local people are not aware of their local rights and so tend to give in too quickly to outside investors, often losing access to and control over water and land. Such imbalances in access to and distribution of natural resources damage local food security and can exacerbate vulnerability rather than building community resilience.

71 Cotula, L. and P. Mathews, (eds)(2008), Legal Empowerment in Practice: Using Legal Tools to Secure Local Land Rights in Africa, UN Food and Agriculture Organization (FAO) and International Institute for Environment and Development (IIED), p. 64
72 FAO, Tanner et al. (2006) ... cited in footnote 70. p. 2
73 Cotula, L. and P. Mathews, (eds)(2008) ... cited in footnote 71. p. 64
74 Cotula, L., and P. Mathews, (eds)(2008) ... cited in footnote 71. p. 66
75 Tanner, C. (2002) ... cited in footnote 70. p. 49
CASE STUDY FIVE Managing natural resources in post-conflict peacebuilding: Land mediation centres in the Democratic Republic of Congo (DRC)

The return of internally displaced persons (IDPs) and refugees in Democratic Republic of Congo (DRC), as outlined in the Goma Peace Agreement, has fuelled tensions around ownership of, and access to, natural resources. Land mediation centres have been set up in Kitchanga, Ituri and Kiwanja in Eastern DRC by UN-Habitat to help resolve land disputes. Returning IDPs and refugees can have stronger rights than host communities, particularly when local land rights are based on customary laws that are not sufficiently recognised by the State. Increasing numbers of State-given land concessions in areas primarily governed by customary tenure have also created land disputes. This case demonstrates the important role that water and land management can play in post-conflict settings.

Good law and policy: Incorporating community rights into national land law

Despite criticism that the 1973 DRC Land Tenure Law does not outline a formal role for customary institutions and has led to State control of land, it does provide legislation for community participation in land concessions. Section 5 of the Land Law obligates the State to carry out community consultations before giving a land concession, requiring them to identify whether the requested land is being used and whether there are local objections. However, awareness of this Law in rural areas remains low, making it difficult for local communities to claim their rights in cases of land concessions.

Good Implementation: Land mediation and legal training

The mediation centres in Kitchanga, Ituri and Kiwanja provide mediation services to peacefully address competing land claims. They also serve as local access points for information on land law, rights and disputes. The centres run training workshops to strengthen skills for conflict resolution, targeting groups such as returning displaced persons and those affected by land concessions. The workshops provide information on land issues, approaches to mediation and how to register grievances and disputes, as well as offering potential ways to resolve conflicts. The programme has also trained 300 customary authorities, 200 local authorities, and judiciary representatives on Alternative Dispute Resolution (ADR) methods.

In the Ituri centre local people are identified by local authorities and customary leaders and trained as mediators. This is important for the effectiveness of the program, as mediators who are rooted within local communities and chosen by local representatives tend to be in a better position to resolve local conflicts.

Women face cultural barriers to engaging with land debates, a problem exacerbated by the continued presence of male-dominated militias and violence against women. The mediation centres have, however, found it difficult to reach women. Women face cultural barriers to engaging with land debates, a problem exacerbated by the continued presence of male-dominated militias and violence against women. There has been some engagement by women; two of seven local mediators at the Kitchanga centre are female, while 17% of conflicts registered at the Kitchanga centre were reported by women. Yet women struggle to participate in training workshops, particularly those that span several days and require them to stay in a different town or village away from home. There is even evidence that their travelling away from home has led to domestic violence in some cases. It is possible that mediators could play a greater role in bridging the gap between local land authorities and women, or that gender balanced mediation teams could help to include women in debates over land ownership.

Mediators who are rooted within local communities tend to be in a better position to resolve local conflicts.

77 UN-Habitat Focus on land: Addressing land in the peacebuilding perspective, UN-Habitat, p. 1
79 UN-Habitat. . . cited in footnote 77. p. 2, 3
81 Above footnote, p. 17
82 Above footnote, p. 30-34
83 Above footnote, p.13
84 Above footnote, p. 31, 48
Chapter Four
Conclusions and Lessons Learned

Developing natural resource management (NRM) that is effective, equitable and peaceful is not a new concept. Much has been researched and tried in this area, but much still remains to be done. While challenges around NRM have been faced throughout history, climate change lends a new urgency, adding to a number of factors that could make destructive conflict around natural resources more likely now and in the future.

By improving governance at national, local and community levels, and strengthening the links between these levels, States, other decision makers and practitioners can create the conditions needed to prevent destructive conflict around water, land and food. Given that climate change will cause more frequent and extreme periods of resource scarcity and variability, States and societies will have to find ways to respond in ways that do not further exacerbate social, economic and political tensions that may lead to destructive conflict. This must become a priority for all States.

Prevention of destructive conflict around natural resources, including escalation to violence, can be understood as a process of peacebuilding - creating the personal and institutional capacities needed to handle conflict constructively and addressing the root causes that lead to destructive conflict such as inequality and marginalisation. Here we use the term peacebuilding to indicate a positive approach that builds on capacities and addresses the power dynamics needed to achieve equitable and effective management. To make positive progress can be made in conflict management through policy responses that improve governance at the local level.86

Both States and societies can make use of what is already available at the international level in terms of ‘hard’ and ‘soft’ law relating to natural resource management. These frameworks can help to inform national responses to natural resource management, and States that have had positive experiences of implementing them can provide valuable examples of how to translate these frameworks into nationally relevant law and policy. They can also be used to raise awareness of rights and good practices among local communities, helping them to engage constructively with other stakeholders. For NGOs and other civil society groups, they provide a platform for initiating dialogue across sectors and levels, particularly when high level decision makers need to be involved.

These frameworks can only be useful tools when the links between policy and practice are strengthened from the bottom up as well as the top down. Good practices developed at the local level can help to inform good national and international policy, ensuring that it supports and builds on local needs and knowledge.

No one benefits from destructive conflict over natural resources - local groups can lose their access to water, land and food, while outside investors and government representatives have to deal with increasingly untenable contexts. Addressing resource conflict constructively not only helps to prevent violence but can also facilitate wider social change, building sustainable peace by bridging divides and changing attitudes between groups.

Lessons Learned

From the good practices outlined in the case studies, we have drawn the following lessons:

States should make use of the international legal frameworks available. Many ‘soft’ and ‘hard’ law instruments offer opportunities for States to share information, resources and recommendations, such as the UNECE Aarhus Convention87 and the Convention on Biological Diversity. Others provide opportunities to receive capacity building and technical assistance from UN agencies, such as the CFS Voluntary Guidelines on Responsible Governance of Tenure and ILO Convention No. 169. Other UN mandates are supported by a Working Group that visits countries on request, such as the UN agenda on Business and Human Rights. These mechanisms are available for States and should be used fully.

An inclusive approach to natural resource management requires capacity building at various levels, with the consequent financial and time investment that this implies. Capacity building should not be seen as limited to local communities, although it is essential for local groups to gain confidence through developing conflict analysis, conflict handling, communication and negotiation skills. Officials, too, require capacity building to develop new skills associated with facilitation, exploration and planning, rather than implementation of pre-conceived directives. These skills are central to the shift towards participatory natural resource management and adequate conflict management; it is clear that ‘[this] change is not a minor retooling: it involves a fundamental paradigm shift’.88 The UN and the EU have collaborated to produce a useful toolkit, guidance and online training for preventing and managing land and natural resource conflicts89

Improved dialogue between civil society groups, private sector actors, national policy makers and other State employees is essential. Improved dialogue helps participants better understand their own and each other’s positions, and adopt a more constructive approach to tackling conflicts in a way that benefits all. Multi-Stakeholder Platforms, such as those introduced by CPWF in the Mekong region, provide an example of this, contributing to the long term attitudinal changes that are necessary to ensure inclusion.

Ongoing efforts to bring in excluded groups are essential for good policy and practice around natural resources. In many cases it is not easy to reach all community groups, particularly the most marginalised. Often the groups that are being excluded only become apparent later during the course of a project or initiative: more creative project planning can build in the flexibility needed to respond and adapt to these needs.89 The Conversatorios of Citizen Action in


86 The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters has around 50 European and Central Asian parties but is open to accession by non-UNEC countries subject to approval by the Meeting of the Parties.


88 UN-EU Toolkit and Guidance for Preventing and Managing Land And Natural Resources Conflict, Capacity Inventory contains information, methods and tools related to natural resources and conflict management www.un.org/en/events/landconflict/ toolkit-toolkit-land-natural-resources.pdf

89 For a useful resource, targeted for humanitarian contexts, see the IASC’s (Inter-Agency Standing Committee) Commitments on Accountability to Affected Populations (CAAPs), December 2011, accessed at: www.humanitarianinfo.org/iasc/queledadrepuse/content/subtlc-comemos-default.db#V20
south west Colombia demonstrated how working with vulnerable groups, who had not previously been part of decision making around natural resources, helped them to identify, analyse and resolve conflicts, develop communication skills, and to use their knowledge of their natural resource rights to be competent partners in natural resource management.

Raising awareness of legal rights and responsibilities among communities, government representatives and private sector representatives leads to more legitimate and peaceful natural resource management. Legal education and empowerment may have significant financial costs, but these are outweighed by the long term benefits. When rights and responsibilities are known and understood by all parties, resource management will be clearer and more legitimate. Raising awareness of rights can also help local groups to engage and negotiate more constructively with higher level decision makers and outside investors, as true partners. National initiatives - such as Mozambique's paralegal training scheme - can make a significant contribution to improving local understanding of national land laws and the rights and responsibilities of different groups. More targeted efforts by governments to improve communication about natural resource decisions and policies is a prerequisite for meaningful public participation in decision making.

 Developing natural resource management that is equitable, sustainable and peaceful requires long term engagement from all parties. Creating and implementing effective policies to prevent natural resource conflicts requires sustained commitment and investment. However, the costs of failure are even higher. Nearly all the good practices explored in this paper have shown the years of preparatory work needed to build the trust, and find the language, needed to engage across the different levels and groups involved. The attitudinal changes within and between groups necessary to improve natural resource management take place over a long period of time, particularly when there are existing tensions around water, land and food. It will be a learning process; adaptive policy and practice that incorporate ongoing reflection and evaluation will be more effective in helping to prevent destructive conflict over natural resources.

**Peacebuilding approaches in post-conflict settings must prioritise natural resources.** Natural resources may have been a contributing cause of the conflict, a means to fuel the conflict or directly affected by the conflict. In all cases, how they are managed helps determine whether destructive conflict simmers with the danger of re-erupting into violence. This paper has not dealt in detail with post-conflict settings but the example from the Democratic Republic of Congo illustrates that peacebuilding approaches in post-conflict settings must prioritise natural resources, from peace agreements to recovery and development of the society and economy. The UN Environment Programme (UNEP) has coordinated useful analyses on post-conflict peacemaking and natural resource management, including management of land and water90.

<table>
<thead>
<tr>
<th>International Environmental Law</th>
<th>CONTEXT</th>
<th>MAIN POINTS</th>
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<tr>
<td><strong>1992 Rio Declaration on Environment and Development</strong></td>
<td>Adopted at the 1992 UN Rio Conference on Environment and Development</td>
<td>Principle 10 recognises that environmental issues are best handled with the participation of all concerned citizens, with appropriate access to information and the opportunity to participate in decision making processes. Principle 20 and 22 explicitly highlight the vital role of women and Indigenous peoples in environmental management, calling governments to support their full participation in decision making.</td>
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<td><strong>1992 Dublin Principles</strong></td>
<td>Adopted at the 1992 UN Rio Conference on Environment and Development</td>
<td>Recognises the principles of Integrated Water Resources Management (IWRM), and participatory approaches that involve users, planners and policy makers at all levels (Principle 2 and 3).</td>
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<td><strong>1992 Convention on Biological Diversity (CBD)</strong></td>
<td>Adopted at the 1992 UN Rio Conference on Environment and Development</td>
<td>The Convention aims to achieve fair, equitable and sustainable use of biodiversity, recognising the interdependence of biodiversity, culture and traditional knowledge. Article 8(j) calls on governments to ‘respect, preserve and maintain Indigenous Peoples’ and local communities’ knowledges, innovations and practices for the conservation and sustainable use of biological diversity.</td>
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<td><strong>2010 Nagoya Protocol on Access to Genetic Resources and Benefit Sharing</strong></td>
<td>Adopted by the Conference of the Parties to the CBD</td>
<td>Urges States to recognise community knowledge around genetic resources, including for food and agriculture. Article 12 notes that States should consider ‘customary laws, community protocols and procedures’ with respect to traditional knowledge associated with genetic resources’.</td>
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<tr>
<td><strong>2001 FAO International Treaty on Plant Genetic Resources for Food and Agriculture</strong></td>
<td>Adopted at the 2001 Conference of the UN Food and Agriculture Organization (FAO)</td>
<td>Its goal is the conservation and sustainable use of plant genetic resources. Article 9 provides for farmers rights, recognising the contribution Indigenous peoples and local communities have made to the preservation and maintenance of agricultural biodiversity.</td>
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* We aim to highlight some of the instruments relevant to considering prevention of destructive conflict around natural resources. It is not intended to be an exhaustive list.
In 2010 safeguards were agreed under REDD+ urging States to respect the knowledge and rights of Indigenous peoples and members of local communities. In January 2013 the UN-REDD Programme launched Guidelines on FPIC, outlining a policy framework for seeking and obtaining FPIC in the context of REDD+.

1998 Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Adopted by the UN Economic Commission for Europe (UNECE)

Sets out national obligations on access to information, public participation in decision making and access to justice in environmental matters. Governments shall assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters. They should also provide information on the potential impact of proposed activities and alternatives, informing the public in an adequate, timely and effective manner and clearly communicating the opportunities for engagement in decision making with reasonable timeframes for input. The State also has a duty to provide a review mechanism for the settlement of grievances by a legal court or independent body (article 9).

2012 Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries

World Committee on Food Security, hosted by the UN FAO, the International Fund for Agricultural Development (IFAD) and the UN World Food Programme (WFP)

States are urged to recognise, respect and protect the customary land, forest and fishery rights of Indigenous peoples and other communities (article 8). States should establish safeguards to avoid infringing on or extinguishing tenure rights of others, including legitimate tenure rights that are not currently protected by law (article 7). In particular, safeguards should protect women and the vulnerable who hold subsidiary tenure rights, such as gathering rights. States should also provide access to justice when people believe their tenure rights are not recognised, through timely, affordable and effective of resolving disputes by a competent and impartial body (article 21).

International Human Rights Law

UN Committee on Economic, Social and Cultural Rights General Comment No. 21 (2009) on the Right of everyone to take part in cultural life

The monitoring body for the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by UN General Assembly in 1966

Considers Indigenous peoples as a particularly vulnerable group in relation to natural resources. It affirms the need for States to respect FPIC of Indigenous peoples and requires States to ‘take measures to recognise and protect the rights of Indigenous peoples to own, develop, control and use their communal lands, territories and resources’.

2011 UN Guiding Principles on Business and Human Rights

Adopted by the UN Human Rights Council in 2011

Article 1 calls for States to protect against human rights abuse by third parties, including business enterprises. Article 11 provides that businesses have an obligation to respect human rights of others and address adverse human rights impacts with which they are involved. This involves meaningful consultation with potentially affected groups and other relevant stakeholders, as well as continued feedback and monitoring (article 18 and 20).

Principles for responsible contracts: integrating the management of human rights risks into State-investor contract negotiations

Presented by UN Special Representative on human rights and transnational corporations and other business enterprises, John Ruggie, May 2011

Principle 7 provides guidelines for community engagement in contract negotiations between governments and businesses. Principle 9 states grievance mechanisms should be accessible to all affected groups.

2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

Adopted by the UN General Assembly in 2007

Article 3 recognises the right of Indigenous peoples to self-determination. Articles 18, 19, 29 and 32 call States to consult and cooperate with Indigenous peoples to obtain their FPIC before adopting and implementing measures that may affect them, particularly with respect to projects involving the development, use or exploitation of natural resources. Article 11 and 28 call States to provide effective mechanisms for redress developed in conjunction with Indigenous peoples, when their lands, territories and resources have been confiscated, taken, occupied, used or damaged without their FPIC.

1989 ILO Convention No. 169 on Indigenous and Tribal Peoples

International Labour Organization (ILO)

Article 14 states ‘Indigenous ownership over lands they traditionally occupy shall be recognised, including land used for subsistence and traditional activities, such as by nomadic peoples and shifting cultivators. Article 6 requires governments to consult – in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent - with Indigenous communities concerned when giving consideration to measures that may affect them directly. Article 15 states ‘The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.’

Hyogo Framework for Action: Building the Resilience of Nations and Communities to Disasters

The 2005 World Conference on Disaster Reduction (A/CONF.206/6)

The Hyogo Framework looks at prioritising disaster risk reduction to build resilience to disasters, including climate variability and climate change. Priorities for action include education and training in risk assessment and disaster preparedness and reducing the underlying risk factors. This includes the encouragement of sustainable use and management of ecosystems to reduce risk and vulnerabilities (para. 19(a)).
The Quaker United Nations Office

The Quaker United Nations Office, located in Geneva and New York, represents Friends World Committee for Consultation (Quakers), an international non-governmental organisation with General Consultative Status at the UN.

QUNO works to promote the peace and justice concerns of Friends (Quakers) from around the world at the UN and other global institutions. It is supported by the American Friends Service Committee, Britain Yearly Meeting, the worldwide community of Friends, other groups and individuals.

Building Peace around water, land and food: Policy and practice for preventing conflict

Water and land are two of the key natural resources that shape billions of people's livelihoods, food security, wellbeing and identity. While challenges around governing natural resources have been faced throughout history, climate change now lends an additional urgency to the need to develop appropriate policy and practice in order to prevent destructive conflict around water, land and food.

This paper looks at some of the elements of peaceful and equitable natural resource management, focusing particularly on the need to strengthen peacebuilding skills among actors at all levels. It explores the international laws and guidelines that can help to prevent destructive conflict around water, land and food by promoting good approaches to natural resource management. It further presents initiatives that have implemented such approaches, drawing lessons from their experiences.