Pre-workshop Background Paper for

Land and the Quest for Gender-Equitable, Sustainable Peace
A Feminist Roadmap for Sustainable Peace Project Workshop

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Note: Given that workshop participants come from different backgrounds with different kinds of expertise, we have included a glossary at the end of the document. It reflects some of the most common meanings of terms associated with discussions of land tenure regimes, although we recognize they are not always used the same way in all contexts and discourses. Like this paper itself, it is simply meant to give us a common jumping-off point.

How do different land tenure regimes function to contribute to or diminish gender-equitable sustainable peacebuilding in the aftermath of war?

This is our central question. It requires some unpacking. Here are a few of our key starting points and underlying assumptions:

1) Women's and local communities'[1] access and control over land and territory is valuable in and of itself, for their livelihoods, power, dignity, identity, and ways of life. Full stop. *Additionally*, we think their access and control is critical for gender-equitable sustainable peace *and* valuable for addressing climate breakdown and environmental-collapse. How so?

- First, we understand the transformation of underlying inequalities as essential to gender-equitable sustainable peace, and that is not going to happen without transformation in who has access to and control over land. In many post-war settings, however, what happens is not the widening of access, but the opposite: greater concentration of land ownership, ongoing dispossession, and inequitable and/or ineffective restitution and reform policies.

- Second, we understand the transformation of how we produce food, how we treat our forests and how we use our natural resources as essential to preventing climate breakdown and environmental collapse, and that also is not going to happen without transformation in who has access to and control over land and its uses.

As gender-equitable sustainable peace requires that we prevent climate and environmental breakdown, the two points are intimately connected.

2) In framing "gender-equitable sustainable peace" as the goal, one of our main motivating concerns is women – their security and their rights. This entails not treating "women" as a homogenous category, but instead recognizing that all women are not the same; they are all embedded in different, often multiple, intersecting communities, such as indigenous, pastoral, urban or forest, as well as various

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[1] We'll be using "communities" or "local communities" to reference, *inter alia*, indigenous communities, peasant communities, racial and ethnic minority communities, forest communities, pastoral communities, and other marginalized communities that have long lived on, worked and stewarded the land.

religious, ethnic, racial, class and gender and sexual expression hierarchies, as well as their local, national or regional context. Our framing of the problem of how to build gender-equitable sustainable peace also encompasses the ways that different groups of men can be marginalized by post-war processes, and the necessity of tackling hierarchies amongst men as well as between men and women. Our aim is to use a gender lens to expose and address inequalities along all vectors of identity, rather than to solely focus on women.

3) Our specific context for the Feminist Roadmap for Sustainable Peace (FRSP) project, and for this workshop, is post-war. This is in large part because our central motivation is to learn more about how to build peace that is sustainable for both people and planet. But it is also because the post-war moment offers a short window of transformational possibility, while simultaneously being a time of vulnerability and risk, which makes it worth our focused attention. It is when many of the phenomena we are looking at in the FRSP – such as this workshop's focus on land tenure regimes – are being addressed in the open, whether as part of peace talks, constitutional reform processes, or post-war development plans. It is also when many of these same components are most at danger, as countries with relatively new or weakened institutions are confronted by the power of international financial institutions, national actors with transnational ambitions, and global corporations seeking new resources and markets to exploit.

All that said about our post-war emphasis, it is also true that many of the problems we address in the FRSP are not simply post-war challenges, but challenges of "development" more generally. And many of the histories and experiences relevant to our deliberations will come from countries or periods which would not be classified as immediately "post-war."

4) The workshop will interrogate which threats and opportunities regarding access to and control over land and territory are commonplace, even universal, in post-war settings, and which are specific to particular times and places. Of course, we assume that many fall somewhere in between: large scale trends and dynamics can have their similar origins, and play out differently in different places; colonial histories, decolonization processes, and neoliberal development models, for example, play out in distinctly different ways in different countries and regions.

This approach – drawing on both context-specific lessons and analysis of global trends and dynamics – will be critical for our overall aim, the development of a set of recommendations as to how land should be treated in post-war recovery processes. Some policies might be useful cross-regionally, some might be useful in just one place, and being able to specify this will add to the utility to the roadmap.

Aims and Approach:

The workshop will aim to think through in detail what needs to happen for land tenure regimes to be able to contribute to gender-equitable sustainable peace, and then translate that into recommendations for key actors. For example, if gender-equitable sustainable peace includes, as it must, support for sustainable livelihoods, then we need to think about not just how you prevent people from being dispossessed, but the kind of things you have to do to make the land best work for them (such as improving rural infrastructure so it is easier for smallholder farmers to market their produce, or guaranteeing access to clean water). These are the kinds of questions for which the workshop will seek to provide answers.

To help us get there, the workshop sessions will focus on:
- Identifying and describing common post-war dynamics, processes and actors we see as key in shaping the opportunities and challenges of land tenure reform that could improve the prospects for gender-equitable sustainable peacebuilding; analyze their impacts on gender relations and other structural inequalities;
- analyzing where and how these processes are driven;
- mapping where decision making regarding these processes take place, identifying both critical leverage points and key actors to try to impact;
- providing policy recommendations which aim for transformative change.

Ultimately, the goal is to produce something that will be useful for a wide range of actors, from those designing post-war economic recovery from within the UN, World Bank or post-war government, to civil society organizations advocating for women's, rural communities' or indigenous peoples' rights.

The issues and questions discussed below will be central foci of the workshop.

1) The relationship between land tenure regimes and building gender-equitable sustainable peace

In the aftermath of war, if governments and the donor community seek to achieve gender-equitable sustainable peace, their challenge can be seen as two-fold. The first part is to address the many substantial harms of war to people, property, land, infrastructure and so on, and the second is to address the underlying inequalities and injustices that drove war in the first place. Taking both these tasks seriously necessitates land tenure regimes that will enable sustainable livelihoods and promote equality and justice.

The achievement of such land tenure regimes is complicated by several interconnected legacies of war and challenges of peacebuilding. Regarding the legacies of war, land will likely have been stolen, land may have been contaminated, and people will have been dispossessed of their land or will have fled, leading to calls for land restitution or restoration. Further complicating things, these war-related legacies are often overlays of older contestations over land resulting from colonialism or decolonization. While the history, precise nature of the conflict, and the ways in which the conflict is resolved are relevant to how peacebuilding can address land conflicts, there is broad agreement with the sentiment expressed by Unruh and Williams that: "In the wake of armed conflict, especially prolonged civil conflict, a significant proportion of affected populations will seek access to new land or restitution of abandoned property; both actions can present profound challenges to countries and governments recovering from conflict, particularly in light of the weakening or disintegration of both formal and customary institutions that are crucial to the administration of land-based resources" (Unruh and Williams 2013, 3). This eroding of institutions (both formal and informal) has serious implications for the mediation of post-war tensions over land resettlement, restitution, and reform.

Common post-war processes create additional challenges for the attempt to construct and implement just land tenure regimes. In the aftermath of war, International Financial Institutions (IFIs) and other development agencies will move in with their ideas of an ideal economic recovery model, one which is focused around extracting and exporting whatever natural resources are considered high-value in global markets, in order to maximize GDP growth. Transnational Corporations (TNCs), Sovereign Wealth Funds, and investment banks will be looking for investment opportunities, and also often focus on the potential of natural resources (where post-war countries offer the few remaining unexploited territories), or the development of arable land for staple crops for export or for biofuels. These actors have their own ideas about what forms of land tenure suit their aims. For example, investing companies may have an interest in formalized land rights to facilitate increased investment opportunities, and investing companies may benefit from ties to statebuilding interventions. It is essential to consider how these dynamics may influence reform of land tenure regimes, and how different actors may stand to lose or gain from investment processes that follow.

There will also be local, state or regional actors who will be searching for opportunities to benefit economically from the transition from war to peace, through acquiring land or influencing the land tenure regime. These include politicians acting as partners in joint ventures with foreign investors or acting on their own, or military commanders, securing land grabbed during the war, or attempting to capture more.

Finally, attempting to bring about transformations to the land tenure regime will be complicated by cultural norms, and the ways they have variously shifted and/or been reinforced during war time. This can be particularly intense regarding gender norms (although war's impacts on age hierarchies can also be intense). War can both disrupt and reinforce gender roles and relations; it can enable women to take on new roles, earning more money and respect, but it can also reinforce patriarchal attitudes, behaviors and norms. And for many men – having either gained power during the war, or had it taken away or threatened – post-war will be a period when they are struggling to (re)establish power hierarchies.

It is in this extremely complicated set of contexts and challenges that, as part of wider post-war 'gender equality' reforms, women's rights to land are sometimes made part of peacebuilding efforts. It is well-established that women have less secure access to and control over land than men, and that this contributes to their subordinate position in political, economic and social life. However, post-war reforms addressing women's land security can be over-simplified to a focus on women's land rights without a clear analysis of the structural violence that may keep women from accessing those rights. These wider structural issues may be similar to barriers women face in contexts not emerging from conflict, but they are typically also complicated by post-war dynamics such as those outlined above. In this sense, gender-equitable land reforms in post-war contexts are doubly challenging – firstly because of the dynamics that influence any gender-equitable land reform, and secondly, because of the additional dynamics introduced when emerging from violent conflict.

Key questions:
- Given all these complicating factors, what land tenure regimes best enable women and men to use land in ways that support livelihoods and thus enable people to recover from war?
- What kinds of tenure regimes and land use practices promote equality and justice, and thus address some of the factors that caused war in the first place?
- Are there trade-offs between peacebuilding goals and progressing equality and justice for women and local communities?

2) Land, the climate and nature

If we are to build gender-equitable sustainable peace, we do not only need to think about the preceding questions of supporting livelihoods and promoting equality and justice, we need to think about how post-war land policies can protect the eco-systems upon which humanity depends. The IPCC has made clear the urgent changes required in how we produce our food, how we produce and consume energy, how we travel and work, and so on, if we are to avoid catastrophic climate collapse and mitigate the impacts already being felt across the world. Land tenure regimes play an important part in this, in particular because of impact they have on how food and energy are produced, as well as on how (much) carbon is sequestered.

It is increasingly recognised that sustainable land management starts with, and is maintained by, local communities, and that this requires that they be empowered to make decisions over their resources. There is evidence to suggest that this is more likely when land management and planning is relatively de-centralized and where there are secure land and resource rights (Oxfam et al 2016). Secure tenure can lead to increased soil conservation practices (such as terracing and soil bunds, fallowing, and crop rotation), and to the restoration and sustainable management of forests, which restore degraded land, increase carbon sequestration, and strengthen food security (Rights and Resources Initiative 2015). Yet currently, the world's indigenous peoples and local communities – up to 2.5 billion women and men – possess formal ownership rights to just one-fifth of the land of which they have long had customary use (Rights and Resources Initiative 2016)

There are a number of ways in which gender has been said to figure in the relationship of land-use to climate and ecological breakdown. Many researchers focus on the gendered impacts of these crises, noting that because women often are assigned responsibility for sustaining families and communities, they suffer in distinct ways when land and water are under pressure. Others highlight that women often use land, water and other natural resources in ways that are environmentally sustaining – although this has led some feminist critics to worry about a "women as sustainability saviors" discourse (see e.g. Arora-Jonsson 2011). A third, promising, avenue of enquiry is to focus on the way that approaches to the land that have been detrimental to the climate and biodiversity are associated with white settler masculinist ideas around man's dominion over the earth and entitlement to extract 'natural resources' (MacGregor 2010; also see Merchant 2015). Consideration of these gendered dynamics is important in the development of land tenure regimes that could contribute to preventing and mitigating climate and environmental collapse.

Likewise, indigenous communities and their perspectives need to be at the center of our discussion. As an alternative to the white settler masculinist approach of domination of nature, many indigenous activists argue for a new economy based on living in balance with natural systems. Rather

than seeing land in terms of personal property, they see humans as stewards of the land. Many advocate a Rights of Nature or Rights of Mother Earth approach, which seeks equal legal rights for ecosystems to exist, flourish, and regenerate their natural capacities, arguing that: "Recognizing these rights places obligations on humans to live within, not above, the natural world, of which we are only one part, and to protect and replenish the ecosystems upon which our mutual wellbeing depends" (Biggs et al 2017: 19.) Rights of nature have been written into law in Bolivia, Colombia, Ecuador, New Zealand and beyond. But questions remain about its impact in practice and the ability of such radical alternatives to disrupt the status quo.

Key questions:
- What tenure regimes and land use practices would be most effective in slowing climate disruption and environmental destruction and enabling people to thrive despite it?
  - What are the best ways of supporting the smallholder multi-cropping and intercropping practices in which women frequently engage?
  - Given the ecological, livelihoods, food security and inequalities consequences of agribusiness monocropping for export, what policy responses might be desirable and feasible?
  - How are indigenous peoples' perspectives regarding land tenure and use, about the meaning of land, and humanity's relationship to it, situated in the project of building gender-equitable sustainable peace?
  - What are the strengths and weaknesses of rights of nature approaches to land, and to rights-based approaches in general?

3) The *implementation* of land reform policies

As with many aspects of attempting to build peace after war, it is one thing to be able to decide upon an approach, but quite another to see it implemented. When it comes to the focus of our workshop – land and gender-equitable sustainable peace – the challenges to effective implementation come in intersecting layers: the challenges any land reform might face (whether in a conflict-affected setting or not); the challenges gender reforms in particular face; and challenges faced in post-war contexts specifically. While cataloging all these challenges is beyond the scope and scale of this background paper, we would just highlight a few issues here:
- Even the best land tenure reforms can (and typically do) face resistance and may not be implemented at all;
- Even when the laws are strong and implementation mechanisms are in place and adequately funded, gender and other cultural norms and structures can undermine implementation. For example, reforming land tenure often requires changing the laws governing inheritance and that can be slow and meet much resistance;
- Where there are plural legal regimes and regimes of authority, implementation can be difficult. For example:
  - In Colombia, there are landless peasants, victims of armed conflict, internally displaced people (as a result of war, 'natural disasters' and economic insecurity) and more, all competing for land – all with different bodies of law applying to them. Further complicating matters, this is occurring in a state that does not know how much land it owns, and which is under pressure to comply with environmental regulations as well, which do not necessarily harmonize with peasants' needs (Lina Céspedes).
  - In Burundi, people call upon more 'regimes' of authority than customary and statutory to make rights based claims – for example, they may also make claims through religious regimes of authority. These regimes can sometimes overlap, and people will make rights claims/lean on different regimes at different moments depending on which is most likely to act in their interest (Rosine Tchatchoua-Djomo).
- In post-war contexts, there may be increased competition between national, sub-national, and local elites which can influence not only the type of land reforms that get put on the table, but also how they are implemented, as groups battle for authority and legitimacy.

- o Also in Burundi, the land reforms included in the 2000 Arusha Peace Agreement eased some individual disputes, but created wider problems in relation to institutional proliferation and competition. In post-war contexts, land reforms may: "fuel the proliferation of new rules and institutions, and induce competition among land-governing actors, and even (re-) activate questions of identity and ethnic belonging" (Tchatchoua-Djomo 2018, 32).
- Some understandings of land and territory do not fit well with the language of 'implementation' or 'policies' at all, e.g. those that see land as something that cannot be owned but as a living relative, ancestor, place of origin or a combination thereof.

What these few points (and many others) make clear is that whatever the form of land tenure reform, implementation cannot be seen as a technical exercise, but rather as a political project with a complex array of actors and competing interests. "The work required to secure land rights for women is one that requires contestation on social, political, and institutional fronts, including households, markets and governments" (Collins 2018, 7). Land reform that takes place in wider contexts of decentralization and institutional multiplicity needs to consider the negotiation, both formal and informal, that takes place over authority, norms, and institutions (Kobusingye, Van Leeuwen, and Van Dijk 2016). This is true for all elements of land reform, but for provisions related to gender-based reforms, the contestation and negotiation during decentralization can make it easier for gender-reforms to be subverted or ignored. As such, processes of land reform implementation need to consider how socially embedded rights are mediated/negotiated during processes of transformation (Whitehead and Tsikata 2003). In this sense, context is crucial for understanding the processes of contestation, as well as for understanding how particular people or groups may lose out (Berry 2017). One factor which may really matter is access to land institutions – that if women have no access to land institutions (be they local or national, formal or informal), then it makes very little difference what kind of system of land tenure is in place (Kobusingye, Van Leeuwen, and Van Dijk 2016). This is particularly true in post-war contexts, where the state may not have the political will or capacity to mediate these competing interests in the wake of wider post-war concerns.

Key question:
- What are the challenges related to implementing gender-equitable land reforms in post-war contexts, and how can they be addressed?
  - o How, for example, can governments resist big financial players who want to acquire land for the extraction of natural resources or agribusiness?
  - o How do post-war (often indebted, often global south) countries obtain the finance to resource land reform that would contribute to gender-equitable sustainable peace and to mitigating climate and ecological breakdown?
  - o How do we overcome patriarchal attitudes and norms that stymie or distort implementation?
  - o How can indigenous perspectives on land as something that cannot be owned be made recognizable by the law?
  - o Following the long-standing principle in social justice movements – 'no decisions about us without us' – it has long been recognized that for effectiveness and justice, people need to be included in the design and implementation of policies that affect their lives. Where are women, indigenous people and other marginalized voices in design of land tenure regimes?

Land, Gender and Peacebuilding: The conversations which shape the context

When thinking about what kinds of land tenure might contribute to gender-equitable sustainable peace, and engaging the topics and questions laid out above, it feels important to acknowledge that debates over land tenure are far from new. In this section, we sketch out some of the conversations that have been happening over recent decades regarding the land. This is by no means meant to be a comprehensive history, but rather an acknowledgment and brief sketch of the land rights

/ land tenure policy and activist discussions which are an important context within which our questions arise and our conversation takes place.

The most important thing to acknowledge, perhaps, is the trend towards the formalization of land tenure over the past five decades. Driven by the assumption that it is weak land governance that is the primary problem preventing many states from making great strides in economic development, the World Bank, FAO, IFAD, and UNCTAD, and other development institutions have recommended the process of land titling (Collins and Mitchell 2018). Land titling is viewed as necessary for investment, productivity and economic growth. During the 1970s, 80s and 90s, the dominant Bank practice was to recommend the conversion of communally held land to individual land titles, but, during the last two decades, the Bank has moved to acknowledge the strengths of communal and customary land tenure regimes (Van Leeuwen 2014; Chombowu and Woodhouse 2006). But what has not changed in this shift to embrace group rights and local governance is the assumption that formalization is "the answer," nor the focus on enabling communities to "realize the economic potential of their agricultural and natural resources" (Collins and Mitchell 2018: 115). Land formalization, for individuals and groups, has risen up the agenda recently, resulting in an emphasis on 'Responsible Investment in Agriculture' (FAO et al 2010), which, although it was a reaction to the large scale-landgrabbing that accelerated in the wake of the Global Financial Crisis, is also firmly wedded to view that large scale investment is required in order to make that land productive and a route for economic growth (Dwyer 2015).

Meanwhile, there are other conversations that have taken place, emerging from different communities and perspectives, that are also relevant for our workshop. And, since they are happening at the same time as this macro-trend towards formalization, they collide with it in a variety of ways. The first concerns women's land rights, the second, indigenous land, and the third, the place of land in peacebuilding.

Women's Land Rights: Feminists in international development and women activists have long identified access to and control over land as crucial for women, particularly for those in rural areas. It is important in and of itself – as source of identity, culture, security. And although the evidence-base around causal links is patchy (Meinzein Dick et al. 2017), few dispute that access to land enables women to sustain livelihoods, families, and engage in economic activity. Lack of access to and control over land can undermine women's ability to exercise their rights, and contributes to women's poverty and exclusion. Lack of ownership undermines women's ability to benefit from the other advantages that land ownership generates, such as legal recognition, decision-making power, status in the community, access to public services and social protection programs (United Nations 2013). Of particular interest in terms of our specific focus, lack of access to land can also exacerbate the gendered harms of war, including loss of livelihoods, increased care burdens, and gender-based violence. Women's lack of formal rights to own or inherit land has been a major issue in many post-war settings, where women whose husbands do not return from war are often dispossessed of the land they have for years worked to sustain themselves and their families (Cohn 2013). Thus, if peace is to be inclusive and sustainable, any peacebuilding strategy must pay attention to women's access to and control over land.

In many policy venues, the discussions relating to gender and land have had a relatively narrow frame. For a long time, there was a focus on securing women's formal rights to land, due to a widely-held assumption that the problem for women was lack of land ownership. While it is undoubtable that women own less land than men, and that women face numerous structural barriers to land ownership, the frequently cited claim that women own 'less than 2% of land' fails to account for a complex array of potential tenure systems, such as systems of communal or family tenure, systems of joint ownership, or systems where women enjoy strong use and decision-making rights even when they are not the ultimate owners (Doss et al. 2008). Recognition of this complexity on the ground led to calls for a complication to the 2% claim. This is not meant to diminish the claim that women are frequently excluded from secure land rights, and decision-making power over land. Instead, it is meant to highlight a need for more nuanced, accurate, and contextualized understandings about how different women in different places access land, how secure those rights are, how those rights are bound up in other bundles of rights, how women interact in their families, communities and homes based on those rights, and what changes to those systems might mean for different women.

That the policy 'solution' to the problem of women's lack of access and control over land was assumed to be formalization of women's rights to land was in a sense pre-ordained, because of the policy community's overwhelming emphasis on land formalization. But while recognition of women's

rights to own land in formalization processes might look like a solution, feminists examining it have often found it problematic.

First, land formalization in the 1970s, 80s and 90s often involved titling by household, which could severely disadvantage women, as husbands could take advantage of their wives' labour and or evict them with ease (Deere and Leon 2001; Razavi 2009). Shifting toward individual or joint titling, however, has had its own drawbacks for women; small privately owned plots are not on their own a route to economic security in a neoliberal market context (Atahuene 2007; Meertens 2019, Razavi 2009,). And the formalization of communal or customary ownership, while in some ways promising, is not a pancea, especially given that community practices often exclude women, 'strangers' or youth from decision-making power, and often preclude women from inheriting land. As Peters (2009, 1319) writes: "the mounting evidence on pervasive competition and conflict over land calls into serious question the image of relatively open, negotiable, and adaptive customary systems of landholding and land use and, instead, reveal processes of exclusion, deepening social divisions, and class formation". She goes on: "many existing customary or local sets of land tenure embody considerable inequality, intra and inter-group conflict, illegal sales by traditional leaders, and appropriation for private use by representatives of the state" (Peters 2009, 1319).

Beyond highlighting these issues around the specific ways different types of land formalization have undermined women's rights, some feminists also question the underlying assumptions of the formalization approach and the framing to which it gives rise: "women's land rights as a route to women's economic empowerment."[2] The assumption that land is one of the assets women need in order to be productive economic agents reduces empowerment from its original sense – of women challenging the economic, political and cultural structures which oppressed them – to a much narrower conception found throughout the Bank's gender work, which positions women as individuals who should be given a few more tools to engage in a (fundamentally unchanged) economic system which is rigged against their chances of emerging from poverty.

Indigenous and Community Lands: In some ways parallel and in some ways intersecting the discussion of women and land, indigenous people have drawn attention to the fact that less than one-fifth of the land traditionally held by indigenous peoples is currently under community ownership. Despite the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which stresses that the collective right "to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired... constitute(s) the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world," governments, mining companies, speculators, agribusinesses and powerful local elites have been appropriating forests, pastures, shores and other community-held resources at an ever-increasing rate.

The issue of indigenous peoples' exclusion, marginalization and dispossession has in recent years increasingly been linked to the issues of climate breakdown and biodiversity collapse. Evidence is mounting that where communities and indigenous people have secure tenure, they are often the most capable custodians of the planet's natural capital. And so ensuring indigenous peoples' and local communities' rights to land is increasingly a demand when we think about how to mitigate and prevent further environmental collapse. Indeed, the Paris Agreement recognizes 'the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change'.

As with women's rights, the question of how that is to be accomplished has somewhat been determined by the dominant framework of formalization. And again, significant concerns have been raised about formalization as a solution. One issue concerns similar sorts of power dynamics that can undermine the potential of formal land rights for women; the community may not be united. Formal ownership transforms what can be thought of as "a web of interests, with many different parties having a right to use, regulate, or manage the resource" (Meinzen-Dick 2009, 1) to more exclusive forms of rights over the resource. Second, providing a community with documentation for its land rights without ensuring intra-community mechanisms to hold leaders accountable may, in some instances, enable land grabbing (Oxfam et al. 2016). Third, and perhaps most critically, many indigenous communities argue that ownership of land fundamentally misunderstands what land is. It denies the cultural associations of land and territory, and the complexity of social, political, cultural, and religious relations tied up in land. They argue that rather than thinking of nature as a resource, or

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[2] https://www.worldbank.org/en/news/press-release/2019/03/25/women-in-half-the-world-still-denied-land-property-rights-despite-laws

even something that we need to protect, we need to "recognize that as much as every other life form on Earth, we are nature" (Biggs et al. 2016).

Land and Peacebuilding: A third conversation relevant to our workshop concerns the place of land in peacebuilding. There is a growing body of law around the rights of people to return to land they may have been displaced from or had to abandon during war. This right to restitution builds on the right within the UDHR not to be deprived of property arbitrarily, and has come to be recognized as a new principle in international law, based on provisions from international human rights, refugee and humanitarian law and related standards. These provisions are set out in the Pinheiro Principles (COHRE 2005), endorsed by the United Nations Sub-Commission on the Promotion and Protection of Human Rights on 11 August 2005. Attention to gender is built into these rights; the Pinherio Principles state that "states should ensure that housing, land and property restitution programmes, policies and practices recognise the joint ownership rights of both male and female heads of the household" (principle 4.2), and that equality between men and women must be assured regarding "legal security of tenure, property ownership, equal access to inheritance, as well as the use, control of and access to housing, land and property" (principle 4.1). But, again, scholars and activists have identified problems. The return of displaced populations is politically contentious and socially complex (Meertens 2019), and many of the dynamics identified in the debates about women's and indigenous and community land rights complicate the extent to which land restitution post-war can contribute to gender-equitable sustainable peace.

Finally, there is one trend that does not qualify as a 'debate' or 'conversation,' but which is critical to acknowledge as a deeply disturbing part of the context within which our deliberations take place. The NGO Global Witness has catalogued a rising tide of murders of land rights activists and environmentalists, with almost 1,000 documented deaths between 2002 and 2014 (Global Witness 2014). By 2018, around four land and environmental defenders were being killed every week somewhere on the planet (The Guardian 2018). As Global Witness puts it, there has never been a deadlier time to defend one's community, way of life, or environment. It is in the context of this stark reality, and the debates above, that our workshop takes place.

Glossary of terms

Common resource rights – rights to access and use 'commons' resources or areas such as water, forests, places for foraging, hunting, tree crops held in 'commons' etc. Use rights may be regulated by formal or informal rules (such as taking only for personal use) (Elizabeth Daley and Englert 2010; C. R. Doss 2018)

Communal rights – common rights held by a group of people that can be defined geographically (such as a village) or by a social group (such as a farming collective) Communal rights can be customary or statutory. They can be ownership rights or use rights.

Customary rights – rights to land that derive their authority from practice or custom rather than statute. These rights are generally 'vernacular' in nature, and can be for rights to use and/or ownership. They can be individual, collective, or based on membership in a particular group (such as membership in a land-owning clan or family) See (Van Leeuwen 2014; Peters 2004; Whitehead and Tsikata 2003)

Formalization of customary rights – the process of turning customary rights into statutory rights. This can include formalization of communal, family or individual rights. It often focuses on processes of issuing formal documentation, such as titles/deeds, as well as processes of boundary harmonization and demarcation. See (Tchatchoua-Djomo 2018; Chimhowu and Woodhouse 2006)

Family rights/clan rights – common rights held by a descent group. The boundaries of the group can vary from context to context, and can include a large or small number of households. Family/clan rights are often derived through patrilineal descent, but there are variations to this, such as where women can claim rights through their fathers or through their matrilineal uncles. Rights can be for ownership or use. See (Peters 2004; Berry 2017; Richards 2005)

Land administration – institutions (formal or informal) used to apply land tenure regimes.

Land grabs – taking of land from its rightful owners or users without legitimate and meaningful processes of Free, Prior and Informed Consent. Land is usually for the purpose of investment projects, or speculative investment, and usually involves taking large tracts of land. Land grabbing transactions can through lease or sale. Land grabbing involves dispossession, and sometimes includes violence and displacement. (FAO 2012; Elizabeth Daley and Pallas 2014)

Land rights – can be formal or informal, and can include a range of rights, including the right to own, manage, and/or use land. See (C. Doss et al. 2015)

Large-scale land acquisition - as with land grabbing, this involves the acquisition of large- tracts of land for investment or speculative investment, but unlike land grabbing, there is some process (though perhaps imperfect) of gaining the consent of the rightful landowners/users. It is less likely to involve wholesale dispossession and should not involve violence or involuntary displacement. (E. Daley 2011; FAO 2012)

Land tenure regimes – refers to the one or overlapping set of rules and practices that determine the distribution and regulation of land rights, as well as the formal and informal land administration institutions that have authority to manage and make decisions about land rights. For example, a localized, customary land tenure regime can coexist within a national, statuary land tenure regime, wherein there are different or sometimes overlapping sets of rights, sources of authority to determine those rights, and institutions to manage them. See (Peters 2004; Whitehead and Tsikata 2003)

Land tenure reform – refers broadly to efforts to make changes to existing tenure regimes. This can include harmonization of customary and statutory laws, formalization of customary rights, expansion of rights to women and other marginalized groups, changes to the legal status of parcels of land or rights to those parcels, institutional reforms to manage and administer land tenure, and/or changes to judicial processes for adjudicating land disputes. See (Jacobs 2002; Van Leeuwen 2014)

Pluralistic legal systems – legal systems where statutory and customary law exist in parallel.

Post-war – we use this term rather than 'post-conflict' to acknowledge that various forms of violence and conflict can continue after formal ceasefires and peace agreements. See (Bergeron, Cohn, and Duncanson 2017)

Statebuilding – a broad set of processes and practices directed at reforming institutions, legal systems and economies after war. See (Mac Ginty 2011)

Statutory rights – rights to land that derive their authority from statute. They can be individual, communal, or based on membership in a particular group. See (Ossome 2014)

References

Arora-Jonsson, Seema. 2011. "Virtue and vulnerability: Discourses on women, gender and climate change." *Global environmental change* 21.2: 744-751.

Atuahene, Bernadette. 2014. *We Want What's Ours: Learning from South Africa's Land Restitution Program*. OUP Oxford.

Bergeron, Suzanne, Carol Cohn, and Claire Duncanson. 2017. "Rebuilding Bridges: Toward a Feminist Research Agenda for Postwar Reconstruction." *Politics and Gender* 13 (4): 715–721.

Berry, Sara. 2017. "Struggles over Land and Authority in Africa." *African Studies Review* 60 (3): 1–21.

Biggs, S., T. Goldtooth, and O. Lake. 2017. "Rights of Nature and Mother Earth: Rights-Based Law for Systemic Change."

Chimhowu, Admos, and Phil Woodhouse. 2006. "Customary vs. Private Property Rights? Dynamics and Trajectories Vernacular Land Markets in Sub-Saharan Africa." *Journal of Agrarian Change* 6 (3): 346–371.

Cohn, Carol. 2013. Women and wars: Toward a conceptual framework." *Women and wars* Polity Press

COHRE, 2005. *The Pinheiro Principles: United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons.*

Collins, Andrea, and Matthew I. Mitchell. 2018. "Revisiting the World Bank's land law reform agenda in Africa: The promise and perils of customary practices." *Journal of agrarian change* 18.1: 112-131.

Daley, E. 2011. *Gendered Impacts of Commercial Pressures on Land*. Rome: International Land Coalition. http://www.landcoalition.org/en/resources/gendered-impacts-commercial-pressures-land.

Daley, Elizabeth, and Birgit Englert. 2010. "Securing Land Rights for Women." *Journal of Eastern African Studies* 4 (1): 91–113.

Daley, Elizabeth, and S. Pallas. 2014. "Women and Land Deals in Africa and Asia: Weighing the Implications and Changing the Game." *Feminist Econonmics* 20 (1): 178–201.

Deere, Carmen Diana, and Magdalena León. 2001. "Who owns the land? Gender and land-titling programmes in Latin America." *Journal of Agrarian Change* 1.3: 440-467.

Deininger, K. W. 2003. *Land policies for growth and poverty reduction*. Washington, DC: The World Bank/Oxford: Oxford University Press.

Doss, Cheryl, Chiara Kovarik, Amber Peterman, Agnes Quisumbing, and Mara van den Bold. 2015. *Gender Inequalities in Ownership and Control of Land in Africa: Myth and Reality*. Vol. 46. 3.

Doss, Cheryl R. 2018. "Women and Agricultural Productivity: Reframing the Issues." *Development Policy Review* 36 (1): 35–50.

Dwyer, Michael B. 2015 "The formalization fix? Land titling, land concessions and the politics of spatial transparency in Cambodia." *The Journal of Peasant Studies* 42.5: 903-928.

FAO, IFAD, UNCTAD and the World Bank Group. 2010. Principles for responsible agricultural investment that respects rights, livelihoods and resources (extended version): A discussion note prepared by FAO, IFAD, UNCTAD and the World Bank Group to contribute to an ongoing global dialogue. 25 January.

FAO. 2012. "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security." Food and Agricultural Organization.

Global Witness. 2014. *Deadly environment: The dramatic rise in killings of environmental and land defenders*. London: Global Witness Limited.

Guardian, The, 2018. The Defenders. Available at: https://www.theguardian.com/environment/ng-interactive/2018/feb/27/the-defenders-recording-the-deaths-of-environmental-defenders-around-the-world

Jacobs, Susie. 2002. "Land Reform: Still a Goal Worth Pursuing for Rural Women?" *Journal of International Development* 14 (6): 887–898.

Kobusingye, Doreen Nancy, Mathijs Van Leeuwen, and Han Van Dijk. 2016. "Where Do I Report My Land Dispute? The Impact of Institutional Proliferation on Land Governance in Post-Conflict Northern Uganda." *Journal of Legal Pluralism and Unofficial Law* 48 (2): 238–255.

Li, Tania. 2014. *Land's End: Capitalist Relations on an Indigenous Frontier*. Durham ; London: Duke University Press.

Mac Ginty, Roger. 2011. *International Peacebuilding and Local Resistance: Hybrid Forms of Peace*. London: Palgrave.

MacGregor, Sherilyn. 2010. "'Gender and climate change': from impacts to discourses." *Journal of the Indian Ocean Region* 6.2: 223-238.

Meertens, Donny. 2019 *Elusive Justice: Women, Land Rights, and Colombia's Transition to Peace*. University of Wisconsin Press,

Meinzen-Dick, Ruth, and Esther Mwangi, 2009 "Cutting the web of interests: Pitfalls of formalizing property rights." Land Use Policy 26.1: 36-43.

Meinzen-Dick, Ruth, et al. 2017 "Women's land rights as a pathway to poverty reduction: Framework and review of available evidence." *Agricultural Systems* 172: 72-82

Merchant, Carolyn 2010. "Environmentalism: From the Control of Nature to Partnership," *Bernard Moses Lecture*, University of California, Berkeley, May 2010.

Ossome, Lyn. 2014. "Can the Law Secure Women's Rights to Land in Africa? Revisiting Tensions Between Culture and Land Commercialization." *Feminist Economics* 20 (1): 155–177.

Oxfam, International Land Coalition, Rights and Resources Initiative. 2016. *Common Ground. Securing Land Rights and Safeguarding the Earth*. Oxford: Oxfam.

Peters, Pauline E. 2004. "Inequality and Social Conflict over Land in Africa." *Journal of Agrarian Change* 4 (3): 269–314.

Peters, Pauline E. 2009 "Challenges in land tenure and land reform in Africa: Anthropological contributions." *World Development* 37.8: 1317-1325.

Razavi, Shahra. 2009. "Engendering the political economy of agrarian change." *The Journal of Peasant Studies* 36.1: 197-226.

Richards, Paul. 2005. "To Fight or to Farm? Agrarian Dimensions of the Mano River Conflicts (Liberia and Sierra Leone)." *African Affairs* 104 (417): 571–590.

Rights and Resources Initiative. 2015. Who Owns the World's Land? Washington, D.C: RRI.

Rights and Resources Initiative. 2016 "Toward a Global Baseline of Carbon Storage in Collective Lands: An updated analysis of Indigenous Peoples' and local communities' contributions to climate change mitigation." Washington, DC: RRI.

Tchatchoua-Djomo, Rosine. 2018. "Improving Local Land Governance? Exploring the Linkages between Land Governance Reforms, Institutional Pluralism and Tenure Security in Burundi." *The Journal of Legal Pluralism and Unofficial Law* 50 (1): 31–55.

United Nations. Office of the High Commissioner for Human Rights, and UN Women. 2013. *Realizing Women's Rights to Land and Other Productive Resources*.

Unruh, Jon Darrel, and Rhodri C. Williams, eds. 2013. *Land and Post-Conflict Peacebuilding*. Peacebuilding and Natural Resources 2. London; New York: Earthscan.

Van Leeuwen, Mathijs. 2014. "Renegotiating Customary Tenure Reform - Land Governance Reform and Tenure Security in Uganda." *Land Use Policy* 39: 292–300.

Whitehead, A, and D Tsikata. 2003. "Policy Discourses on Women's Land Rights in Sub-Saharan Africa : The Implications of the Re-Turn to the Customary." *Journal of Agrarian Change* 3 (1): 67–112..