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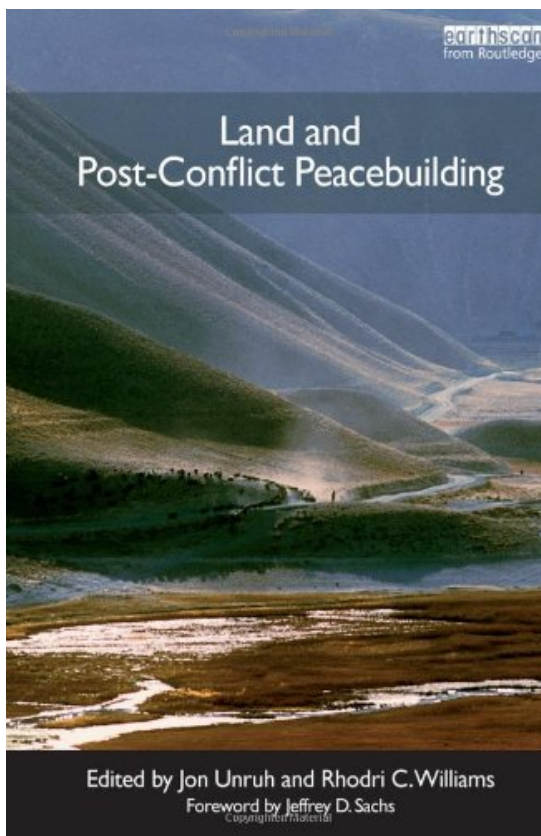
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Foreword to *Land and Post-Conflict Peacebuilding*
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Foreword

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There are few social issues as complex and vexing as land rights. From the dawn of humanity, land has been a matter of individual survival, community well-being, cultural inheritance, political power, religious doctrine, and economic prospect. Disputes over land are among both the key causes and consequences of violent conflicts. Peacebuilding, as this superb book makes clear, involves difficult choices in building a post-conflict land settlement, the success of which will affect the quality and durability of the peace itself.

Even in peacetime, land requires an economic category of its own. Land is never simply just another interchangeable commodity bought and sold in a competitive market. Each land parcel is unique, defined by its specific location; its place in natural ecosystems; its relation to specific communities, infrastructure, cultural artifacts and traditions; and of course to neighboring land.

Even in a well-defined and functioning legal system, a landowner therefore has limited and complex rights to the land. The owner will generally have tightly circumscribed rights regarding how the land can be used: for example, what kinds of limits are placed on the height of buildings, their design, and their commercial use; whether surface water or groundwater can be taken for agricultural purposes; whether fences and other barriers can be built; whether outsiders have rights to use the land, such as for grazing animals or crossing the land; which animal and plant species must be protected; how dangerous chemicals must be avoided; and how the fruits of the land must be shared with others in the community.

The Western freehold model of land rights, in which land is individually owned and used according to a single owner's prerogatives, is therefore a purely theoretical case that rarely applies in practice. Land rights and claims must be regulated to balance household, community, national, and ecosystem needs in an efficient and equitable manner. Zoning, eminent domain, environmental regulation, public use of private land, and other doctrines are reflections in Western law of the inherent complexities of land use.

Of course no society gets these issues right all of the time, or perhaps even most of the time. Land rights are heavily contested and subject to rampant failures and conflicts. Private landowners (or nonowners as the case may be) frequently

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overhunt, overfish, or overharvest their lands, or intrude on common lands of the community. And of course politically powerful individuals, enterprises, and governments may mobilize force to dispossess weaker communities of their valued lands, as colonial powers have done throughout the ages.

Land pressures and conflicts are escalating in many parts of the world as a result of growing populations, the depletion of natural resources, increasing land degradation, encroaching water scarcity, and the onset of human-induced climate change. Communities therefore fight for access to natural resources—such as forests, pasturelands, and water supplies—and the ecosystem services they provide, and these fights often spill over into open conflict. In several parts of the world, populations hard-hit by scarcity or violence are forced to migrate, and thereby come into conflict when they impinge on the traditional lands of other communities.

This book picks up these complex themes at the next stage: after full-fledged conflict has engulfed a region and the fragile shoots of peace have begun to appear. Peace may bring the cessation of violent conflict, but also the continuation or even initiation of new cultural, ethnic, and economic conflicts. And land is likely to feature centrally in those new disputes. The preceding war will have displaced thousands, possibly even millions, of people. These internally displaced persons (IDPs) will want to return to their original homes in order to grow food and begin a new crop season. Yet when the IDPs return home, squatters or other IDP communities may now occupy their lands. Or the lands may have been damaged or irreparably destroyed by war, neglect, or plunder.

This fascinating set of case studies and powerful syntheses return again and again to the one overarching truth about land and peacebuilding: complexity. There are no off-the-shelf answers to questions of property restitution, redistribution of claims, individual versus community needs, evidence and titling, legal versus social norms, or competing legal systems that might apply. Since even a well-functioning legal system can barely cope with the various dimensions of efficient and equitable land use, it is hardly surprising that a post-conflict environment characterized by humanitarian urgency, competing political claims, destroyed land records, displaced populations, and multiple political forces (including outside powers and donor agencies) should have a very hard time coping with land disputes.

These detailed and insightful analyses will inform the work of every aid worker and peacebuilder, providing an invaluable set of experiences and options for managing land rights and disputes. Yet there are as many case studies of failure as of success, and even the successes are only provisional successes: cases of “so far, so good” in preserving a fragile peace and enabling a local economy to get back on its feet. The failures seem often to involve international donors who try to apply simplistic ideas about land rights to highly complex and contested circumstances. Americans, for example, tend to favor land titling for individual households, and tend to overlook community land rights and needs. European donors have tended to favor the restitution of land to former owners

over other ethical and practical claims. Western legal systems have tended to neglect or shun other legal systems that may be operating in the region, such as land-law systems based on Islamic principles.

If there is one common truth in this highly varied experience it is that being open to complexity is vital for success, especially on the part of external actors (such as international donors and nongovernmental organizations) who will typically not appreciate all of the complex challenges facing local communities and national governments. Community participation also reveals itself to be vital in case after case. Participatory approaches may indeed be time consuming, but the societal payoffs are great in that community participation builds long-term legitimacy and a lasting sense of fairness.

The editors Jon Unruh and Rhodri C. Williams have assembled an outstanding group of contributors who tell their complicated stories with clarity and deep insight. This book will have an important positive impact on peacebuilding efforts. As local and international actors address the roiling challenges in places as diverse as Haiti, the Horn of Africa, and Central Asia, and as new tensions inevitably build in regions beset by demographic pressures and environmental shocks, development practitioners and policy makers will be empowered by this book to help keep the peace and contribute to the rebuilding of fair and resilient communities.