



Natural Resource Rights Framework: a practical guide for programme design

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**Working for
a just world.**

trōcaire

FRONT COVER: Aidan Gillen stands with members of the Rio Frio community in Guatemala who were forcibly evicted from their land to make way for biofuels.
Photo: Alan Whelan

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ACRONYMS

BRIC	Brazil, Russia, India, China
CBNRM	Community Based Natural Resource Management
CCO	Certificates of Customary Ownership
CDM	Clean Development Mechanism
ESIA	Environmental and Social Impact Assessment
FAO	Food and Agriculture Organisation
FDI	Foreign Direct Investment
FPIC	Free Prior Informed Consent
HRD	Human Rights Defender
IAASTD	The International Assessment of Agricultural Knowledge, Science and Technology for Development
ILC	International Land Coalition
ILO	International Labour Organisation
ILUC	Indirect Land Use Change
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
UPR	Universal Periodic Review
REDD	Reducing Emissions from Deforestation and forest Degradation in developing countries

GLOSSARY

Abiotic resources

Natural resources that are derived from the non-living world, such as land, water, air, mineral and energy resources

Biotic resources

Natural resources derived from the living world, such as genetic plant and animal resources

CDM

The Clean Development Mechanism was created under the Kyoto Protocol of the United Nations Framework Convention on Climate Change to facilitate emission reduction projects in developing countries that can be traded in emission trading schemes, enabling developed countries to meet emission reduction obligations through the purchase of carbon credits. Trócaire and other civil society organisations have concerns over the environmental and social impacts of CDM projects. See Trócaire internal brief: 'Climate Fact Sheet No. 1 CDM'¹

Green Grab

Term used to describe new demands for natural resources (in particular, land and forests) resulting from policies designed to respond to conservation and climate change mitigation.

IAASTD

The International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) evaluated the relevance, quality and effectiveness of agricultural knowledge, science, and technology (AKST). The three-year effort (2005 - 2007) assessed AKST in relation to meeting development and sustainability goals. It was launched as an intergovernmental process, with a multi-stakeholder Bureau, under the co-sponsorship of the FAO, GEF, UNDP, UNEP, UNESCO, the World Bank and WHO. It concluded that efforts need to focus primarily on small scale farmers in diverse eco-systems.

ILC

The International Land Coalition is a global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building. Trócaire joined the ILC in 2013, and aims to contribute to its work through sharing empirical evidence and critical reflections and collaborating on advocacy initiatives in Ireland and internationally.

REDD+

REDD (Reducing Emissions from Deforestation and forest Degradation in developing countries) is an initiative designed to avoid deforestation and forest degradation by placing a financial value on the carbon stored in forests. REDD was designed as part of a package of measures within the United Nations Framework Convention on climate change (UNFCCC).

It has become known as REDD+, since 2007 to reflect additional measures included in the initiative (such as enhancing carbon sinks, the role of conservation and sustainable management of forests). Concerns associated with the implementation of REDD+ include: communities' ability to maintain their access, use and control over forest resources, lack of consultation with local communities impacted by REDD+ activities, the definition of forests (there is no distinction made between areas of natural, bio diverse forest and industrial, monoculture-style plantations), the links to industrial agriculture, the lack of regulation and safeguards, the potential for heightened conflict between and within local communities and the low capacity of communities to win REDD+ projects. See Trócaire internal brief, Climate Fact Sheet No. 2: REDD.²

Introduction

Secure access to and control of natural resources is essential to the achievement of Trócaire's vision of a more just and sustainable world. Access to natural resources by the poorest people, and especially women and indigenous people enhances resilience, and is related to improvements in economic wellbeing, education, nutrition and food security, peace and security, and to a healthy living environment.³ Furthermore, access and control over natural resources is an essential element of self-determination and economic, cultural and social rights.

However, for many of the world's poorest people their rights to natural resources are under threat, and states are failing in their duty to protect resource rights. Each year up to 30 million hectares of farmland are lost due to environmental degradation, conversion to industrial use or urbanisation.⁴ Since 1990 at least 18 violent conflicts have been fuelled by the exploitation of natural resources such as timber, minerals, oil and gas.⁵

At a global level an estimated 20% of the population consume almost 80% of the world's resources,⁶ and at all levels women and indigenous people have particularly insecure access. Women face multiple barriers in accessing and benefiting from natural resource rights, including inadequate legal standards and implementation of laws as well as discriminatory social norms, attitudes, customs and traditions in relation to their role in decision-making. While 60-80% of food in many developing countries is produced by women, women own only a tiny amount of land (1% of titled land in Africa) and often lose their rights to land if they become widowed or divorced.⁷ As a result, women are less likely than men to have secure rights to natural resources, and face increased risk of losing their source of food, income and shelter. Indigenous peoples, estimated to represent approximately 5% of the world's population make up about one-third of the 900 million extremely poor people living in rural areas.⁸



Secure access to communally used land is crucial for family irrigation enterprises such as this village in Mangochi, Malawi. **Photo: Rose Hogan**

Their traditional territories have been submerged into nation-states that often do not respect their customary tenure systems, leading to historical and ongoing loss of control over lands, territories, and resources.

Trends such as climate change and a new scramble for resources driven by agricultural investment, geopolitical shifts and 'green grab' are further undermining people's already insecure access, and undermining their resilience. Despite the importance of smallholder agriculture to environmental sustainability trends favour an ongoing shift towards agribusiness and away from individual smallholders. In practice this limits people's free access to seeds and to maintaining agro-biodiversity, rights to communal resources such as fuel, medicines and wild food, as well as a resource base which is being degraded by monocultures and extractives for export markets.

In many countries working on resource rights poses a significant risk to the lives of individuals and partners working in this area. Activists seeking to protect people's rights to land and natural resources have come under increasing attack, with at least 908 people killed trying to defend the environment and land rights since 2002 according to a recent report by Global Witness.⁹ Such contestation over natural resources was identified as one of the five key trends shaping the future of development in *Trócaire's Leading Edge 2020* report.¹⁰

Trócaire has significant experience built up over 40 years working on natural resource rights issues and in recognition of the importance of resource rights to achieving our vision, Trócaire's *Strategic Framework 2012 – 2016* identifies securing the rights of citizens to resources as a distinctive Trócaire competency. Trócaire's commitment is outlined in Outcome 3 of the Sustainable Livelihoods and Environmental Justice Programme: '*People have realised and protected their resource rights (especially land for women)*'.

An analysis of Trócaire's work on land and access to natural resources has identified that the following are needed in order to deliver on the organisational commitment to Natural Resource Rights including:

- a definition and common language around natural resource rights;
- consistent analysis of the drivers of contestation over natural resources across all programmes;
- a more comprehensive analysis of the drivers of contestation across programmes;
- more comprehensive programmatic response to drivers across all levels, local, national to international.

The purpose of this paper is to develop a Natural Resource Rights Framework that:

- **Outlines an operational definition of Natural Resource Rights for Trócaire** to support a common understanding.
- Explores the **context and trends behind contestation** over natural resources in order to support country offices in their analysis of programme context.
- Outlines **strategies and opportunities to achieve natural resource rights** in order to support country offices, country Programme Officers and organisational Programme Teams to design comprehensive programmatic responses from local, national to international levels.

The primary audience for the paper is Programme Officers working on natural resource rights. The paper may also be useful to Country Directors and Programme Managers as a resource for the development of Country Strategic Plans. Given the risks involved in some locations of working on resource rights, careful consideration should be given to committing to programming in this area.

1.

An operational definition of Natural Resources and Natural Resource Rights for Trócaire

1.1 Defining Natural Resources

At the broadest level, natural resources can be understood to be ‘materials or substances occurring in nature’. Resources may be classified as *biotic* (derived from the living world such as genetic plant and animal resources) or *abiotic* (derived from the non-living world, such as land, water, air, mineral and energy resources) and *renewable* or *non-renewable* (natural resource that exists in a fixed amount that cannot be re-made, re-grown or regenerated as fast as it is consumed and used up). While many resources are technically renewable (e.g. forests), for practical purposes this relies upon proper management. With mismanagement and overuse they become extinct.

Land, which plays a particularly important function in facilitating access to other resources (including, water, forests, mineral and energy resources), is the main focus of this framework. An important aspect of natural resources is their inherent value (e.g. clean water to drink) as well as the benefits that may be derived from a natural resource (e.g. livelihoods that may be derived from land such as agriculture; or the financial benefits derived from minerals exploited by extractive industries).

1.2 Defining Natural Resource Rights

Peoples’ legitimate access to natural resources is a necessary precondition to meeting a broad range of human rights, such as the right to food, to property, shelter and the right to life, all of which are protected in international human rights instruments.

The nature of peoples’ rights to natural resources shapes their access to basic physical survival needs (food, water, fuel, and shelter), economic opportunities, and resilience to shocks, as-well as their social status, political power, and decision-making within their communities. Power, economics, politics, culture and the impacts of environmental degradation and climate change all shape the context in which such rights can be achieved.



Community control of water resources has enhanced survival and livelihood opportunities around this dam at Tharaka Nithi County, Kenya.
Photo: Rose Hogan

Any legal system requires three essential elements to work well: the right to do or have something: a *substantive right*; a process that supports the claim to a right: *procedural rights*; and detailed *institutional responsibilities*. In the context of resource rights:

- *Substantive rights* include the right to own, use, access, control, transfer, exclude, inherit and otherwise make decisions about land and related resources
- *Procedural rights* include the right to obtain information about decisions (e.g. by the government or others) that might impact on land or resource rights; the right to participate in a process to determine land ownership or the right to be consulted and to give or withhold free, prior and informed consent before action is taken that will impact on resource rights, and the right to complain and to have it heard and resolved fairly
- *Institutional responsibilities* include for example institutions and procedures to settle land disputes, such as a court or customary law tribunal.¹¹

When they are secure, these rights are clearly defined, long-term, enforceable, appropriately transferable, and legally and socially legitimate, and for women, exercising these rights should not require consultation or approval beyond that required of men.¹²

As an agency guided by Catholic Social Teaching, our understanding of natural resource rights draws in particular on the principle of 'Stewardship of Creation'. This principle teaches that the goods of earth are gifts from God intended for the benefit of all, not just the few. It emphasises that humans are not the owners of these goods and therefore must respect and act as stewards of these goods, ensuring their continuation for future generations.¹³

In summary, the following are essential elements of Trócaire's approach to natural resource rights: the equitable access to and control over natural resources (especially for women), their sustainable use and management, and the right to participate (especially by women) in decision-making over the use and benefits derived from use of natural resources whether by state or private actors.

Tips BOX 1¹⁴

In your programme rationale, emphasise that by strengthening land tenure rights countries can:

- ✓ Reduce conflict and the risk of conflict
- ✓ Improve resource security including for food, water and land, and increase resilience
- ✓ Secure and maintain natural resource wealth and biodiversity for future generations through sustainable resource management
- ✓ Better ensure that investments benefit communities and the country at the same time
- ✓ Fulfil rule of law and international legal commitments

In your programme development, consider:

- ✓ The communities' substantive rights to land and other natural resource ownership, control and management, but also their procedural rights (such as rights to information, participation and consent) that enable them to claim and enjoy their substantive rights to land and resources
- ✓ Who has regulatory responsibility for implementing and enforcing the substantive and procedural rights?
- ✓ Will the programme ensure that these rights are implemented?
- ✓ The importance of the sustainable use and management of natural resources as well as accessing and participating in decisions over natural resources

2.

Dimensions of Contestation: Context and trends undermining Resource Rights

How people own and manage natural resources is defined and regulated by resource tenure systems, which may be based on written policies and laws, unwritten customs and practices or a mixture of both. Customary resource rights, the most common system of resource rights in Africa, have not been adequately recognised or protected by national laws.

Vulnerable groups, in particular women and indigenous peoples have traditionally had insecure access to and control over resources. This is reflected in unequal patterns of access, ownership, control and ability to derive benefit from natural resources, and ongoing processes of discrimination that result in further losses by vulnerable groups.

Newer drivers of contestation, including increasing consumption patterns and climate change, population growth, geo-political shifts and policies that are arising in response to these (including trade and agricultural investment, intellectual property policies, energy policies, and 'green grab') further intensify the insecurity of tenure of vulnerable people, and have contributed to conflicts over natural resources. These trends illustrate a 'new scramble' for natural resources. This new scramble is happening within contexts where restrictions on civil society space and the increasing danger faced by Human Rights Defenders, in particular people speaking out about land and other resources, severely undermines the freedom of activists to secure and protect natural resource rights.¹⁵

2.1 Local level

At a local level people may be unaware of, lack the capacity to, or otherwise be prevented from claiming their rights to natural resources. Local level disputes over natural resources may be driven by boundary disputes, relational feuds, inheritance issues, vacancy or long absences from holdings, unclear terms of gifts as well as population pressures and increasingly capital rich investors, which may fuel conflicts.



Mildred Akello Orech, harvesting ground nuts in Apac village, Uganda. Mildred was supported by Trócaire to protect her land from being taken over by a neighbour after her husband died. **Photo: Jeannie O'Brien**

Such contestation is nothing new; however overlaying increasing pressure for land and other resources arising from the national and international levels (discussed below) on already insecure tenure puts vulnerable groups at even greater risk.

Women, in particular unmarried, divorced, separated and widowed women are most at risk. For example under customary land systems in Northern Uganda, divorced women and unmarried women may be denied land by their brothers, or widows may be denied land by their in-laws. In countries with higher rates of HIV prevalence, HIV has complicated and contributed further to women's alienation from their traditional natural resource rights. Generalised misconceptions about indigenous peoples' land and resource use, perceived as environmentally harmful or outdated similarly leads to discrimination against indigenous peoples' occupations and traditional livelihood strategies, such as shifting cultivation and Pastoralism.

2.2 National level

2.2.1 National economic and development policies and the broad model of development being pursued, creates the context for natural resource use. The dominant trend is the pursuit of a neoliberal economic model, with an emphasis on attracting Foreign Direct Investment (FDI), the privatisation of natural resources, and large-scale agribusiness model for agriculture. For example across Asia and Latin America, free trade agreements and investment plans, imply a rapid increase in foreign direct investments, construction of interconnecting roads and highways, mining, dams and power projects.¹⁶



Maintaining traditionally held rights to home-save seed such as this maize on the Gavi Family Farm, Bikita in Zimbabwe provides immediate, free access to appropriate varieties. **Photo: Rose Hogan**

The results of these policies is increasing contestation over natural resources, as well as the impacts of the monoculture and decreasing biodiversity that they create. For example, new seed patent laws in several countries, deny farmers the right to store and trade varieties of their seeds which they have maintained for centuries through traditional methods (newer hybrid and GM seeds are patented by companies, which means farmers have no rights to trade them either). Privatisation of natural resources such as water can threaten poor people's access to water when they are unable to afford to pay the fees charged by water authorities. For example in Zimbabwe, Trócaire's programme works with communities who are unable to afford water fees charged by the local water authority, despite the reservoir drawing on resources and land that were previously relied upon by the community.

2.2.2 Legislative and policy framework for land and natural resources: set out the natural resource rights and the mechanisms for their achievement at the national level. In practice, most nations will have different legal systems operating at the same time, including customary, national (statutory) and international law. There is a huge variation in policy, legal and institutional frameworks, which will be specific to each national context, however, the general picture is that the legislative and policy frameworks protecting natural resource rights at the national level are: incoherent (often unconstitutional), inadequate, or inadequately implemented in practice, and are therefore driving and sustaining insecurity in people's rights to natural resources.

Incoherence: Land that is occupied by communities according to 'customary law' is the most common system of land and resource ownership in Africa, but despite its prevalence the resource rights it accords to communities are not adequately recognised or protected by national laws. Equally, stronger rights in national law can be undermined by customary law: for example by requiring gender equality in the constitution but also recognising exceptions in issues relating to marriage, divorce, and inheritance, where customary rules are applied. Because marriage and inheritance are the most common ways in which women can acquire land rights, this leaves many of them without such rights.¹⁷

Finally, national laws relating to land and natural resources include a diverse set of sectors (for example, in Myanmar, i) the Farmland Bill, ii) the Vacant, Fallow and Virgin Land Management Bill, iii) the Environmental Law and iv) the Foreign Investment Law are all relevant). It is common for people's rights to land and resources to be undermined in provisions in such laws that are not directly concerned with resource rights, for example promoting the expansion of extractive industries, fostering agro-industrial approaches to agriculture, or restricting the freedom of civil society actors to advocate for resource rights.

Inadequate: while there has been significant progress with regards to constitutional and legal recognition of indigenous peoples' resource rights in Latin America, and to some degree Asia, only a few countries across Africa have elaborated legislation or policies to protect indigenous peoples, and laws concerning land rights and genetic resource rights do not provide specific recognition or protection of the livelihood and needs of indigenous populations.¹⁸ Provisions regarding recognition of customary land rights are often premised on 'modern' forms of land use (e.g. cultivation annually) that excludes nomadic, pastoralist and hunter-gatherer communities, who make up most of the indigenous peoples' in Africa. Furthermore rights based on customary occupation or use of land are rarely in the form of ownership rights, and are at best use or possession rights which means that the communities or individuals in question remain in a precarious position as regards land security.¹⁹

Non-implementation: Despite areas of significant progress, there are discrepancies between what is enshrined in constitutional, legislative, and policy provisions and how those rights are experienced in practice, especially by the most vulnerable. The right to free, informed and prior consent by communities is frequently ignored, while in the case of women's equal rights to land, property and inheritance, which have been guaranteed in the constitutions and national laws of many countries in the last few decades, in practice land is still often registered only in the name of the 'head of the household', often defined as a male, undermining women's bargaining power, decision-making authority, and social position.²⁰

In many countries, requirements for indigenous communities to have legal status before being able to claim collective rights to land prevents many indigenous communities from being able to enjoy the rights provided in national law.

2.2.3 National (and local) democratic institutions:

the ability of people to participate in decisions over resource use and to pursue rights where violations happen is fundamental to achieving natural resource rights. However, serious obstacles undermine communities attempting to respond to the impacts of natural resource and development projects, and limit their ability to prevent and mitigate negative impacts. The exclusion of local male and female voices from development planning constrains rural communities' ability to raise concerns or seek redress for damages through negotiation. Often local communities lack the knowledge of both details and impacts of projects and of the law, limiting their ability to negotiate or take action, and increasing their vulnerability to manipulation.²¹ A lack of transparency on decision-making over resource uses has fuelled corruption, while revenues that should be harnessed for the benefit of citizens are lost. For example, revenues lost to developing countries in taxes alone are estimated at \$160 billion dollars annually.²²

In Nigeria alone, up to \$400bn of oil money has been stolen or wasted over the past 50 years, according to Nigeria's own corruption agency.²³ Human Rights Defenders (HRDs) play an imperative role as the voice of communities but they are often faced with harassment and threats to personal security because of their work, which can deter communities from proactively engaging with authorities to claim their rights.²⁴ Global Witness has identified at least 980 cases where people have been killed defending environmental and land rights between 2002-2013.²⁵

2.3 Regional and Global Level

Increasing global demands for food, minerals, and energy are driving a scramble for resources that is further undermining people's ability to realise their natural resource rights. High consumption societies in particular Western industrialised countries, population growth, rising incomes, urbanisation, the impacts of

climate change and the geopolitical changes including the growth of the BRIC economies have together led to a global scramble for land, water, minerals and energy resources. This has included the scaling-up of extractive industries, over-harvesting of biotic resources (fish, wild animals), the proliferation of logging operations, mining, oil exploitation, dams, and the expansion of nature conservation-oriented businesses on indigenous peoples' lands and territories.

Evidence of resource grab is illustrated by databases²⁶ compiled since 2008 that demonstrate a dramatic intensification of 'land (and water) grabbing', a phenomenon describing the acquisition of land (and water) by public or private, foreign or domestic, actors of rights to large tracts of land. Although contracts for land may make no mention of water extraction, water rights are effectively bundled together with land deals and investors usually choose areas with good access to ground water or rivers.²⁷

Striking characteristics include:²⁸

The scale: commercial land transactions are not new, but estimates of the amount of land involved demonstrate that the scale of some recent deals is exerting unprecedented pressure on land resources. For example, a January 2012 report by the International Land Coalition (ILC) indicates that large-scale land investments (those exceeding 200 hectares) reportedly approved or under negotiation from 2000 to November 2011 covered 203 million hectares of land, the equivalent of five times the area of Germany.

The focus on developing countries: The ILC Land Matrix Database shows that Africa is the most targeted region for reported large-scale land acquisitions: 754 land deals covering 56.2 million hectares are located in Africa (an area equivalent to 4.8% of Africa's total agricultural area)²⁹, compared with 17.7 million in Asia, and 7 million in Latin America.

Focus on agriculture and countries with low food security: agricultural production, including food, biofuel, livestock, and non-food agricultural products, accounts for 78% of the 203 million ha referred to above. Analysis of the 2012 Land Matrix data shows that countries where agriculture accounts for more than 5% of GDP and where hunger is a serious or alarming problem accounted for 73% of total transnational land investments.³⁰



Secure rights to wild species such as Aloes (above) ensures free medicinal use and development of bio-enterprises by landless people.
Photo: Rose Hogan

Conservative estimates suggest that 6 million hectares of additional land will be brought into production each year to 2030 in developing countries. Two thirds of this expansion will be in Sub-Saharan Africa and Latin America.³¹

Investor home countries: Contrary to media reports focusing on Chinese and Gulf country investors, most foreign investors in Africa are European and North American, particularly from the UK, Scandinavian countries, Netherlands, the US and Canada. Asian investors are more important in Asian countries, with much of the investment in Laos and Burma coming from China.³²

While demographic change, urbanisation etc. partly explain the growing demand for resources, particular policies at the global level are further fuelling resource grab:

2.3.1 Over-consumption and geopolitical competition over natural resources:

People living in high consumption societies (e.g. Western Europe, the United States) are consuming at an unsustainable level. If everyone consumed the same level as the average person living in Ireland, we would need 3.5 planets.³³ High levels of consumption not only contribute to climate change, but also directly impact on developing countries.

As pointed out by the UN Special Rapporteur on the Right to Food, it has become easier to outsource production, whereby rich countries use the natural resources of the global south to satisfy the demand of consumers in richer countries. As a result populations in developing countries may be priced out of increasingly globalized markets for land rights.

For example it has been estimated that for 2007-2008, the net food imports of the EU require 35 million hectares to be produced, the equivalent to the entire territory of Germany. The land and water used for these exports are therefore not available to satisfy local needs, and without better protection, risks leading to greater inequalities in producing countries, increasing the concentration of land ownership at the expense of the poorest farmers who often remain poor because they have too little land and because they are not supported in cultivating the little land that they do have.

As a result of the economic boom in middle income countries, consumption levels are also increasing in the BRIC economies, contributing to a global boom in mining, oil exploration, logging as well as large scale agricultural modernisation investments and initiatives. Developed economies, including the EU, have responded through trade and investment agreements to secure their companies and investors access to natural resources in developing countries. For example the EU Raw Materials Initiative seeks to enable European companies access key minerals on which the EU economy is dependent for future competitiveness as well as through negotiations of free trade agreements which include new rules on investment that give EU companies unprecedented access to developing countries raw materials on the same or even better terms as local businesses. Such agreements are also likely to include restrictions on the use of export taxes by developing countries, which they may have levied on raw materials in order to develop local industries, raise revenue or protect the environment.

2.3.2 Unsustainable agro-industrial approaches to agricultural production While some sources, such as the World Bank (2011) suggest that increased demand for food can be met by suitable land available that is either not cultivated or produces well below its potential, as highlighted by the UN Special Rapporteur on the Right to Food, this reflects an assessment of the productivity

rather than the existence of other resource uses by customary land users, and risks the label 'available' being applied not to unoccupied lands but to lands used in ways that are not perceived as productive.³⁴

Approaches to investment to meet global food security, for example championed by the New Alliance for Food Security and Nutrition and the Climate Smart Agricultural Alliance, emphasise intensified production, and draw heavily on notions of underutilised and unproductive lands, and on large scale private investments in natural resources to meet demand growth. Intensifying production in a business as usual approach is associated with a production model that favours mono-cultural practices, export markets, high external inputs and mechanisation, low labour, and negative impacts on wild food sources (water bodies, forests, wetlands), biodiversity and ecological resilience.

Demand for water by industrial and agricultural users is increasing greatly as the frontiers of industrial farming are extended. In contrast to such unsustainable approaches, the conclusion of the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD)³⁵, and the various reports of the UN Special Rapporteur on the Right to Food³⁶ point to an alternative approach that puts small scale farmers and more environmentally sustainable practices at the centre. Trócaire champions a transformative approach to agricultural production that emphasises more resilient production systems, with an emphasis on smallholder farmers and just markets. See Trócaire technical programme resources for further support in this area.³⁷

2.3.3 Policies leading to 'Green Grab': Distinct from deals aimed at investing in land for agricultural production, new markets for environmental commodities have emerged under the guise of conservation and climate change mitigation (via carbon-offset markets). The lack of adequate human rights proofing of some emerging and established policies have served to put increasing pressure on the resource rights of vulnerable people:

For example, the promotion of some alternative sources of energy, particularly biofuels and hydropower, which are portrayed as renewable and promise to lower greenhouse gas emissions have had unintended negative impacts. Trócaire has documented evidence of how policies that increase the demand for first generation biofuels, including the European Union's renewable energy target, create incentives to reallocate natural resources, notably land and water from food to fuel production. The displacement of people and food production in one place is compensated for by production in another location, with forested areas, wetlands, peat lands, grasslands and marginal lands being converted into crop fields. When this Indirect Land Use Change (ILUC) affect is taken into account, biofuels derived from palm, soybean and rapeseed oil achieve no real emissions savings and actually generate more emissions than fossil diesel from conventional oil.³⁸ In Honduras, oil palm plantations in the Aguan Valley have increased from 40,000 ha in 1990 to 120,000 ha in 2011, displacing people and food crops. 123 leaders of the land leagues and community associations, as well as two of their lawyers have been murdered since 2010, as they are regarded as a threat to powerful agri-business interests.³⁹

Instruments under the United Nations Framework Convention on Climate Change (UNFCCC), such as some projects under the Clean Development Mechanism (CDM)⁴⁰ (such as a CDM approved oil palm biogas project) and the Reduction in Emissions from Deforestation or Forest Degradation (REDD+)⁴¹ programme have generated grave concerns around their environmental integrity (in particular the evidence for additionality and permanence of carbon storage is highly questionable) and their impacts on the natural resource rights of local communities, such as indigenous forest dwelling groups.

While identifying these policies primarily as threats, members of the International Land Coalition (ILC) also suggest that there may be potential opportunities for using REDD+ to exert leverage to achieving natural resource rights.⁴²

Tips BOX 2

Questions to consider in your contextual analysis:

- ✓ How aware are men and women programme participants of their resource rights?
- ✓ What factors prevent programme participants from claiming their rights to Natural Resources? Do these factors differ for women and men?
- ✓ In what ways do national economic and development policies support or hinder people's ability to claim their rights?
- ✓ What model of agricultural production do government policies support in practice (e.g. regarding farmer's rights to collect seeds, government subsidies for fertilisers, support for small scale farmers and agro-ecological approaches)?
- ✓ Is the legislative and policy framework governing rights to natural resources for women and men clear? Is it coherent across constitutional, statutory and customary laws? Is it implemented in practice, and if so is it implemented differently for women and men?
- ✓ Is there space at local and national level for women and men to participate in decision-making on natural resource use? What factors facilitate or hinder people's participation? Are these factors experienced differently for women and men?
- ✓ What global factors affect programme participant's resource rights at a local level? Are there cases of resource grab? Are there projects related to biofuels for an international market, or projects related to the United Nations Reducing Emissions from Deforestation and forest Degradation in developing countries (REDD) or the Clean Development Mechanism (CDM)?
- ✓ Is there a local member of the International Land Coalition operating in your country? Have they done analysis of the drivers of natural resource contestation in your area? Are there opportunities to engage with them on advocacy, dialogue, knowledge sharing or capacity building?

3.

Securing people's Natural Resource Rights: strategies and opportunities

Drawing on Trócaire's experiences on natural resource rights⁴³ and experiences from other organisations⁴⁴, this section identifies four key strategies for securing people's rights to natural resources. The first three are considered best practice in a coherent country programme on resource rights. The fourth strategy is important at an organisational level, but only where relevant at a country level.

1. **Clarifying and strengthening natural resource rights:** who has rights, what these rights include
2. **Ensuring implementation:** enabling people to monitor and claim their natural resource rights
3. **Ensuring enforcement:** access to justice and protection of human rights defenders
4. **Reducing the global drivers of resource grab:** advocacy internationally on climate change, resource grab, models of agriculture, green grab etc.

3.1 Clarifying and strengthening natural resource rights:

Clearly defined rights to natural resource are essential from the local to the global levels. However (as outlined in section 2.2 above) for many countries different legal systems – customary, national and international co-exist, often with different rules on who owns land and resources and how it is governed and used. It is therefore important to establish clarity on how the different legal systems can co-exist without conflict and uncertainty and ensuring that they reflect the strongest protection for vulnerable people's resource rights.

A best practice approach⁴⁵ suggests an 'inclusive', 'legal pluralism' approach that integrates different systems of law to achieve legal clarity. This means validating in national law the customary land rights and systems that area already being practiced by communities, while at the same time, extending to customary communities all the protections, rights and responsibilities inherent in the national legal system, as well as regional and international agreements to which the country has committed.⁴⁶

The latter is particularly important with regard to women's rights to natural resources, which have clear protection in international agreements but which are often highly unequal under customary systems.

Over the course of the 1990s land titling schemes were considered the most practical way to do this. However, limitations of this approach are now better understood, and while titling may be appropriate in some contexts (and is listed in strategies below), it is important to examine potential risks and trade-offs, and to consider alternative approaches including for example strengthening anti-eviction laws, protecting existing land users (whether or not they are owners), strengthening customary land tenure systems, and where existing land distribution is highly unequal, advocating for land reform programmes.⁴⁷ For a good overview of the debate on the role of land titling in securing land tenure see *Locke, A. and Henley, G, (2014) p20-23.*⁴⁸

3.1.1 Recognition and validation of existing customary land and resource tenure rights

Identifying existing community tenure rights and ensuring national laws formally recognise and treat them equally with documented rights is a common strategy to strengthen natural resource rights. Customary land ownership includes both individual as well as communal forms of land rights, and may be best understood as encompassing bundles of rights for different holders, for example under customary use, individuals may be allocated user rights (such as the right to plant or harvest) but not the right to sell the land, while other user rights may be limited to collecting firewood but not planting on the land. Understanding the complexity of local customary uses is vital. Three steps in the process for ensuring recognition of customary rights are delimitation, registration and titling (see below).



Tribal women in Odisha, India, where Trócaire partner SOVA is working to secure land titles. **Photo: Justin Kernaghan**

Different approaches will be appropriate in different contexts, and awareness of risks and trade-offs is essential. For example, individual land titling may become a source of conflict and legal insecurity if it conflicts with customary rules regarding tenure, in particular where there is communal ownership of land. Indeed, titling schemes can amount to privatisation of previously communal lands. The gender impacts of land titling can be particularly negative given that formal property rights are much more likely to be registered in the name of a male family member. It is therefore important to ensure equal access. In Uganda, several stakeholders, including Trócaire partners are calling on the Ministry of Lands to suspend the implementation of the Certificates of Customary Ownership (CCO) process and to revisit the initiative to ensure that the recognition of customary land ownership, especially with regard to women's land rights, remains an inclusive, well thought out process. In India, where the Forest Rights Act acknowledges the traditional rights of forest dwellers to conserve and nurture their forest resources and makes legal provision for joint titling, Trócaire partners are working to ensure that in all cases joint titling is awarded.

Step 1: Delimitation/Demarcation:

Delimitation or demarcation is the process of describing where community lands and resources are. Given that sources of customary law may often be held orally rather than in written form, clarifying boundaries can be difficult. Accurately documenting customary

entitlements create a basis for promoting security and preventing or resolving conflicts. A good example of such an initiative is the *Principles, Practices, Rights and Responsibilities of Customary Land Tenure in Lango Region, Uganda*.⁴⁹ Trócaire's Uganda programme works with communities to undertake mapping and demarcation of lands through a community led process, which then supports development of maps that may be registered, and promotes community action to plans for land protection. It is also important to foster legal recognition of customary forms of evidence as proof of customary land claims.

Step 2: Registration

Is a procedure describing a parcel of land and identifying its owner and form of ownership, which is captured in a land register. Communal registration/gazettment of protected areas and Community Based Natural Resource Management (CBNRM) involve village communities getting rights to control and access forest (or exclosed and enclosed) lands either as authorised associations or as joint management partners with local and/or national governments. In this way they have gone through government approved processes to claim or maintain user and management rights to communal or public resources.

Step 3: Titling (individual, collective)

A title is a certificate of ownership or tenure issued on the bases of details in the land register that can be used as a form of proof. Titling is pursued in order to

increase people's security of land tenure. Land titling is a central component in many Trócaire programmes, including the Democratic Republic of Congo, Guatemala, Honduras, India and Uganda. For example in the area where Trócaire's Livelihood Programme operates in India, 23,009 titles in the name of both spouses have been conferred to date.⁵⁰

Beyond individual titles, supporting communities' engagement with statutory authorities to support collective titling of tenure rights is a feature of several Trócaire programmes (Cambodia, Guatemala, Honduras and India). For example, in Guatemala, three community land titles were secured in 2012, benefiting 259 men and 256 women.⁵¹ In Africa, initiatives aimed at recognising customary entitlements e.g. Certificates of Customary Ownership (CCOs) in Uganda are broadly understood as stepping stones towards freehold titles. In India, the Forest Rights Act acknowledges the traditional rights of forest dwellers to conserve and nurture their forest resource. Since the Act came into law, hundreds of thousands of applications have been submitted and Trócaire's programme aims to ensure that the claims made to government are processed and that forest dwellers in the programme area get title to the forested land.

3.1.2 Land reform and land redistribution

In contexts of highly unequal distribution of land in rural areas, strengthening security of tenure may not be sufficient; and land redistribution may be required. The UN Special Rapporteur on the Right to Food summarised some of the benefits of land redistribution to achieving the right to food, including the positive correlation of more equitable distribution of land with economic growth, poverty reduction, social inclusion and gender equality.

3.1.3 Supporting people in the sustainable management of natural resources

Programmes supporting increased access to natural resources, in particular land, also require complementary action to support beneficiaries in the use and management of such resources in order to increase environmental resilience and avoid the potential threats (such as sale of resources in the short term) to secure resource rights in the long term.

The final evaluation of Trócaire's East Timor Livelihoods programme⁵² observed that while insecure land tenure leads to weakened livelihoods (and therefore increased risk of food insecurity represents a reasonable assumption for programming), the relationship is more complex. The report found that communities receiving assistance from programme partners to strengthen their land tenure will not necessarily experience increased food security as a result. Rather than focus only on land access as an end in itself, the evaluation pointed to the need for subsequent interventions to support usage and management which can realise its productive capacity in an environmentally sustainable way.

Similarly, research in Guatemala suggested that an emphasis on land titling without corresponding technical assistance or access to capital increased the vulnerability of indigenous people to land grabbing, allowing wealthy elites and foreign investors to pressure smallholders into selling the most productive and mineral rich land.⁵³ For Trócaire's approach to sustainable use and management of natural resources please refer to Trócaire internal guide 'Sustainable Agriculture – what do we mean'.⁵⁴

3.1.4 National (and local) Advocacy: monitor policies and laws and advocate for them to strengthen resource rights

Strengthening the protections people have under land and resources law involves examining existing laws and analysing problems or limitations, making proposals for new laws, and examining and commenting on draft laws. A Trócaire toolkit is available to support the monitoring of government policies.⁵⁵

For example, in Zimbabwe Trócaire's programme supports communities to advocate for affordable water with water authorities to increase communities' access to water in their catchment areas. In East Timor, Trócaire partners in the Timor-Leste Land Network successfully lobbied the Ministry of Justice to include or improve nine clauses in draft land legislation. The nine clauses (see Box) illustrate how a range of approaches, tailored to local realities that can protect vulnerable peoples' tenure rights.

Clauses which the Land Network in East Timor succeeded in being included in draft legislation governing land

1. Department of Land and Property staff are now required to ask whether a land certificate will be in both the husband and wife's name when being issued.
2. The notice period for evictions has been increased from 30 days to 90 days.
3. Eviction notices must be handed to each household head to be evicted, not to village chief.
4. All compensation (money, land etc.) must be provided before evictions can take place.
5. The government cannot subcontract out the task of undertaking evictions.
6. The Community Land Law will recognize traditional forms of evidence of land ownership.
7. Pre eviction protocols and processes requiring minimum standards of research and consultation have been improved and codified.
8. Research and consultation processes and protocols for development of land related legislation have been improved (e.g.: consultation must take place at village level, not just at district level).
9. Land legislation recognizes the right of whole of communities to make decisions about land issues, not simply according this right to community leaders.

3.1.5 National Advocacy: resolve inconsistencies between land and resource rights and laws governing different land use sectors (e.g. mining, forestry, agriculture, conservation)

Sectoral laws governing different land-use sectors, such as mining, forestry, agriculture and conservation may conflict with people's resource rights as expressed in relevant land laws, for example granting concessions to logging companies, planning permission to convert lands to large-scale agricultural use, or mining extraction rights and creating protected areas for conservation.

Identifying inconsistencies involves scrutinising and commenting upon sector laws (as in 3.1.4 above). Resolving such conflicts could include either ensuring land law statutes explicitly state that provisions of land law, especially rights of community tenure holders overrule all other laws relating to land and land use, or surveying sectoral laws, identifying where they conflict with community land tenure and seeking to reform sectoral laws to bring them into line with the land laws, cross-referencing relevant provision of land law within sectoral laws as appropriate.

A critical issue for communities is their frequent exclusion from negotiations on investments by private companies. It is critical that the land owners (individuals or communities) whether under customary or statutory law, rather than the state are the negotiators – giving or withholding consent over investment deals. Acknowledging the heterogeneous nature of communities is crucial, as communities are made up of a broad range of differing interests and viewpoints. Important elements to be included:

Clarify community rights to keep land intact – including over apparently 'unused' land

As illustrated in section 2.3.1 above, ideas of 'unused' or 'underutilised' land can make it seem that such land is available for investors or for development. However, in practice it is common for some lands under customary land use to lie fallow at times, to be used only seasonally or as common land for hunting, gathering and sacred areas. Land may therefore appear unused, but perform important functions as part of sustainable land management and use. Ensuring that the appropriate individuals or community are the legal owner of *all* customary land areas and ensuring they constitute the legal entity who outsiders must engage with in order to invest in or develop lands is one strategy to protect natural resource rights. The UN Declaration on the Rights of Indigenous Peoples, states that indigenous peoples have rights not only to the land they directly cultivate or inhabit, but to the broader territory, encompassing the total environments of the areas which they occupy or otherwise use, inclusive of natural resources, rivers, lakes, and coasts.⁵⁶

Ensure community-investor agreements are considered as formal contract: treating community-investor agreements as formal contracts subject to national contract law would strengthen community rights. The law should provide for the enforcement or voiding of contracts between community and investor are first heard through customary courts, and it should be possible to appeal the decisions through the state system.

Ensure rental benefits and benefit-sharing agreements are negotiated and agreed to by communities where investors are allowed to exploit community lands; a key concern for communities is to share equitably in the economic benefits. Law reforms should ensure that rental payments and other benefit-sharing agreements are agreed through effective consultation and consent complying with all the requirements of free, prior, informed consent (FPIC).

Ensure environmental and social impact assessments (ESIAs) are required, available and carried out in a participatory manner the social and environmental impacts of any investment or development over community lands should be fully and independently conducted, include participation by the affected community, and the project should only go ahead in accordance with all of the provisions of FPIC . The legal basis for participation in ESIA systems in many countries is weak, non-mandatory or non-existent, but examples do exist (for example Liberia's Environmental Protection Agency Act and Environmental Protection Act of 2002, Mozambique's Environment Act 1997, Kenya's Environmental Management and Co-ordination Act 1999 and Southern Sudan's Land Act). Trocaire's experience in Honduras suggests that ESIAs undertaken by the environment Ministry are of questionable quality and impartiality, and the Programme is considering opportunities for promoting community led or community approved ESIAs.

3.1.6 Integrating international provisions and the 'domestication' of voluntary international initiatives

Protection for communities' rights over land and natural resources is well established in international and regional law. This protection is based on inter-related human rights protected by international law, including the right to property, food, culture, housing, self-determination, non-discrimination and development. International laws also require national legal and policy reform processes to be participatory where community rights may be affected. Civil society organisations advocating the protection of community land and resource rights can therefore rely on international law to articulate protections for community rights to their natural resources, and can draw inspiration from them for making recommendations in national legal frameworks.

The Human Rights Committee

implementation of the UN Convention on Economic, Social and Cultural Rights and Political Rights and has inter alia found on the right to culture, as a valid ground for indigenous land and resource rights. For example, in *Ominiyak v. Canada*, the Committee found that Canada ... had violated the right to culture under Article 27 by allowing the government of Alberta to grant gas exploration and for timber harvesting within the aboriginal territory of the Band of Cree because] ... the Band is a distinct cultural community whose way of life and the sustenance that it derived from

Similarly, international processes, such as the Food and Agriculture Organisation (FAO) Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests, the UN Reducing Emissions from Deforestation and Degradation in developing countries (REDD), and the EU's Forest Law Enforcement, Governance and Trade Action Plan can potentially be used to further strengthen resource rights – by providing opportunities for reform and by inspiring the content of new laws and procedures that governments

may have already signed up to. Programmes could consider the 'domestication' these initiatives at the national level as part of a strategy on resource rights.

Annex 1 includes a table summarising for the 17 Trócaire Programme Countries, which are party to international and regional instruments relevant to community rights to land and natural resources. Annex 2 lists a range of voluntary and soft-law initiatives that may also be useful to consider.

3.2 Ensuring implementation: enabling people to monitor and claim their land and resource rights

In many cases people may be given land titles on paper, but are denied them in practice. Making the law work in practice includes putting in place **procedures** through which communities can demarcate and register their land rights, have **access to information** about concession decisions or anything else that might affect their resource rights, and **be consulted and participate in** decisions affecting their resources (such as investments, large-scale developments, extractives etc.).

Advocacy on the implementation of natural resource rights can focus on the proper implementation of any of the elements outlined in section 3.1, for example: support for the legal recognition of customary tenure, ensuring an environmental and social impact assessment is conducted, conducting meaningful consultation with affected peoples, ensuring the free, prior informed consent of a community to any project that involves commercial development of natural resources within customary lands, etc. Beyond this, enabling the implementation of resource rights involves:

3.2.1 Access to information: Is vital for communities to be informed about decisions and processes affecting their resource rights. It can be facilitated through general access to information through 'Freedom of Information' laws (for example the Right to Information Act in India and the Access to Information Act in Uganda), or in the absence of these, through seeking to secure the right of communities to access relevant information within specific national laws on land and resource rights. In practice, such access to information can be very difficult to achieve. For example, the new Mining Law in Honduras requires that requests for

mining concessions should be published in media outlets accessible in the local area, but in practice this may be achieved with very limited visibility, and furthermore communities have only 15 days to reply. Trocaire's programme is considering promoting an Environmental Observatory in order to support partner organisations and communities with access to information.

3.2.2 Awareness-raising of community resource rights:

Raising vulnerable communities and specific groups, notably women and indigenous peoples, awareness of their natural resource rights and how to protect these rights is a foundation activity in the majority of Trócaire programmes. Trócaire programmes in Cambodia, Guatemala, India, Liberia and Myanmar emphasise activities aimed at building communities and partners' knowledge of national land laws, human rights and FPIC and facilitating where possible access to information. Education and dissemination mechanisms range from producing popular versions of land laws, engaging communities in consultations, facilitating community exchanges, to billboard messaging and community media.

Importance of awareness raising: *"From our experience, focusing on educating and empowering communities has been the most positive practice used in response to large scale development projects. While in an ideal world, companies and governments would apply a variety of standards of community participation, consultations, independent appeal mechanisms and consideration of communities' livelihoods, in practice it is extremely hard to ensure that ideal procedural methods are considered and applied by company and governments' plans. On the other hand, educating communities of their rights allows them more leverage and a more equal power balance to negotiate with government and companies when faced with large scale development projects which affect their homes and livelihoods"*⁵⁸

Trócaire Myanmar programme.



An estimated 10,000 Salvadorians took to the streets to demand approval of the General Water Law. **Photo: Michael Solis**

3.2.3 Participation in decisions that affect community land and resource rights:

Trócaire programmes promote people's participation in decision-making as a core strategy. Opportunities/spaces for participation in relation to natural resources include: engaging in FPIC on proposed projects or investments, participatory procedures to demarcate community land rights, engagement in ESAs, and engagement in broader community development plans at local and national levels.

3.2.4 Public protest and mass mobilisation: Natural resource rights are contentious, and states, elites and private companies often have vested interests in their exploitation at the expense of local communities. Trócaire's experience in a number of countries has demonstrated that where other strategies have failed, sometimes the most appropriate remaining strategy (or only choice) is public protest and mobilisation in opposition to a particular project or policy. In El Salvador, Trócaire's programme has supported mass mobilization to oppose the privatization of water and demand the approval of the General Water Law. An estimated 10,000 demonstrators took a stand against the prolonged delay of the law in August of 2013.

In Colombia, public protests in 2013 succeeded in suspending for a two year period the introduction of a controversial law that would make it illegal for Colombian farmers to save seeds. During the two year suspension the Colombian government has committed to developing new rules on seed use that will not affect small scale farmers.⁵⁹

3.3 Ensuring enforcement: dispute resolution, access to justice and protection of human rights defenders

When a rights violation occurs, the law should authorise a competent authority to interpret the law, to clarify the rights at stake and take action to protect rights that have been violated. In the context of land tenure security, law enforcement can refer to decisions taken by a court or a traditional institution (like a village council) to require the government or other authority to ensure that those granted land or resource rights under the law can use and enjoy the benefits of their resources. Enforcement means that where a community or individual feels that the government or anyone else interferes with ownership, use or enjoyment of their land or resources they can file a complaint through a clear and accessible complaints mechanism and that the complaint will be fairly dealt with.⁶⁰

3.3.1 Dispute Resolution

The dispute resolution continuum stretches from Alternative Dispute Resolution (ADR) practices through to statutory litigation systems. At a local level, for example Trócaire's programme in Uganda works to support communities to conduct mediation on land conflicts using ADR. Community awareness-raising and education around dispute resolution can also build social acceptance for women's land rights. For example in 2010 the NGO Landesa led a pilot project that aimed to improve women's ability to access customary justice mechanisms with respect to their land rights. The project focused on providing education on the new constitution – with particular emphasis on provisions affecting women and land – to community elders, women leaders, teachers, and youths. Results from the pilot showed a notable change in attitudes and behaviours, especially among community elders, who influence land allocation and resolve the vast majority of land disputes. The elders and chiefs began requiring that a spouse obtain the other's written consent before they would approve any land transaction, meaning men could no longer dispose of their land without their wife's consent.⁶¹

Examples from other organisations include: In Kenya, grassroots women's groups such as GROOTS Kenya have organized community paralegal training to strengthen the capacity of community watchdogs and protect women's land rights. Similar initiatives have been spearheaded by other grassroots women's groups in the region, such as

Seke Rural Home Based Care (Zimbabwe), Ntengwe for Community Development (Zimbabwe), Rwanda Women's Network (Rwanda). Typically, the watchdog groups work to provide women and orphans with information and to connect them with resources and legal assistance that can help them protect themselves from dispossession and disinheritance.

3.3.2 Access to Justice: increased jurisprudence of national courts, and regional/international human rights mechanisms

In Latin America and Africa, regional human rights mechanisms have been instrumental in addressing peoples' rights to lands and territories, while in Asia, national human rights institutions are increasingly addressing their situation.⁶² Access to Justice is a core strategy of Trócaire's Governance and Human Rights Programme and Trócaire's guide on Access to Justice is available for more support⁶³.

ILO Convention 169 is an important international mechanism for indigenous peoples. The Convention places a strong emphasis on participation and consultation of indigenous peoples including Free Prior Informed Consent (FPIC). Only 20 states have so far ratified ILO Convention 169, including nearly all countries in Latin America. In Guatemala, many community consultations based on ILO Convention 169 have taken place in the last few years, aiming to ensure the participation of indigenous peoples and human rights defenders around land and the impacts of extractive industries.⁶⁴ The Optional Protocol for the International Covenant on Economic, Social and Cultural Rights (ICESCR), which entered into force in May 2013, provides victims of violations of economic, social and cultural rights with an international forum in which to seek justice. Victims of such violations will be able to bring their complaints before the UN when their countries fail to provide appropriate remedies.

The Universal Periodic Review (UPR), created by the UN in 2006, allows for the examination of each state's human rights record once every four years. In advance of Cambodia's 2009 UPR, Trócaire used this mechanism to highlight issues arising relating to natural resources. The issues included the use of forced evictions to make way for private development, the intimidation of human rights defenders and the lack of transparency and corruption in

When states have ratified an ILO Convention, states have a one year period to amend their policies before the convention becomes binding. Thereafter, states have to submit reports on the implementation of the convention. In addition to this reporting supervision, the ILO has complaint procedures for alleged violations of ratified conventions. These procedures are used extensively by indigenous peoples to address their concerns. Most countries are required to consult with indigenous peoples in the context of natural resource exploration and lands and territories.⁶⁵

the management of natural resources. These issues were reflected in Ireland's recommendations to Cambodia.⁶⁶ Similarly, Trócaire successfully lobbied the Irish Government during Guatemala's UPR process in 2012, as a result Ireland made a recommendation to the Guatemalan government "to Implement a legislative framework for an appropriate and meaningful consultation, procedure that will ensure genuine, free and informed consent of indigenous peoples in land disputes, as set out in the United Nations Declaration on Indigenous Peoples Rights (Ireland)". Given the increasing contestation over natural resources, there is a case to be made for the systematic inclusion of NRR issues in all UPR processes where Trócaire programmes have prioritised resource rights.

3.3.3 Protecting Human Rights Defenders:

Human Rights Defenders play an important role in championing people's rights to natural resources.⁶⁷ For example, monitoring the impact of large-scale development projects, and producing shadow reports to those submitted by the government/companies. Protecting such activists from the dangers of reprisals (as outlined in section 2.2.3 above) is vital to ensuring their safety and to enable them to effectively hold duty-bearers to account. Trócaire engages in a range of strategies to protect Human Rights Defenders, including accompaniment, documentation of cases and providing training on protection and security.

Trócaire 'Partners at Risk: Guidelines, Checklist and Resource Guide' is available to support Programme Officers. Trócaire's partners in Guatemala have participated in legal processes at the Inter-American Commission for Human Rights to safeguard the rights and health of indigenous people affected by the Marlin Mine in San Marcos as well as seeking protection measures from the Inter-American Commission for Human Rights for the evicted communities in the Polochic region.

3.4. Reducing the global drivers of resource grab: advocacy internationally

"The earth and its good things belong to all the people of the earth and no nation has the right to build its own prosperity upon the misery of others. It is our Christian duty.... to demand that the political authorities representing us act always with justice and responsibility towards less fortunate countries and be prepared to use all means necessary for this end."
Pastoral Letter of the Bishops of Ireland Establishing Trócaire, 1973

Section 2.3 illustrated the range of trends at an international level that are making it more difficult to achieve natural resource rights. Trócaire's founding document commits Trócaire to advocating for more just Irish and EU policies that impact on developing countries. In recent years our international advocacy related to natural resource rights has included advocacy campaigns led by the Sustainable Livelihoods and Environmental Justice team on tackling the causes and consequences of climate change by seeking a global agreement on climate change as well as stronger action at Irish and EU levels; reforming EU energy policies in order to reduce and eliminate targets that drive demand for first generation biofuels; advocacy towards the FAO to shape the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security. Our international advocacy on resource rights led by the Governance and Human Rights team has included advocacy towards Ireland during the UPR process for programme countries, policies to strengthen protections for Human Rights Defenders and advocacy to protect civil society space. An area for consideration is the role of the Irish private sector in relation to resource grab in programme countries. See Trócaire's advocacy manual on business for more information.⁶⁸

Tips BOX 3

Questions to consider when developing programme strategies:

- ✓ Are the rights of women and men to natural resources clear? What bundles of rights do people have in statutory and customary law to own, access, use or otherwise benefit from natural resources? Remember that communities are not homogenous and there are different rights and interests within the community.
- ✓ What gaps, inconsistencies or limitations exist in the customary, legal and policy framework on resource rights?
- ✓ Can these rights be strengthened through formalising recognition and validation? Are there any potential risks related to titling, and if so would strategies such as strengthening anti-eviction laws or strengthening customary land tenure be more appropriate?
- ✓ Are communities supported to sustainably manage natural resources as complementary to accessing resources?
- ✓ What opportunities exist to strengthen national policies governing resource rights, for example advocacy on user fees, ensuring people's participation in decisions on, their Free Prior and Informed Consent, and adequate compensation for the use of natural resources?
- ✓ Which international laws and voluntary agreements are being violated by government (or private sector) active on natural resource in your programme areas? Have you considered using these documents to support advocacy efforts at the local and national level?
- ✓ What opportunities exist to improve the enabling political environment, such as access to information, transparency, protection of human rights defenders, enabling civil society?
- ✓ Do the issues relevant to your programme relate to the advocacy priority identified in your global programme team? Are there opportunities to feed into or benefit from the international advocacy pursued by the global team? If so, link in with the relevant programme policy officer in Maynooth. If not, this is ok – not all programmes will have an international dimension.
- ✓ Are there any Irish angles, for example Irish private sector operators involved in resource grab?

Conclusion and recommendations: Opportunities for Trócaire to add value

The Natural Resource Rights framework outlined in the paper is intended to guide programmatic work across the organisation to deliver on natural resource rights as a 'core competency'. The framework should guide the development of new programmes, including:

1. Supporting clarity and consistency in the language and definitions around NRR within PDN narratives and between PDNs across different programmes.
2. Supporting a comprehensive contextual analysis for programmes of the drivers (from local through to global). A comprehensive analysis can ensure the various drivers and enablers of resource rights will be identified. In addition, if applied across the organisation it will also enable a more refined presentation of our work to various audiences.
3. Identifying potential opportunities and offering inspiration for strategy development. The overview of strategies presented in section 3, also includes some reflections on different strategies, for example the relative limits of titling alone, and the importance of accountability and protection, a hallmark of existing Governance and Human Rights programmes.
4. The value-added of Trócaire adopting natural resource rights as a core competency could be pursued through:
 - Comprehensive programming: working across the range of strategies identified, from technical interventions through to influencing relevant policy from local to global and across thematic programmes. Given the risks involved to individuals and to partners engaging in resource rights in some country contexts, careful consideration should be given to the commitment to pursue a programme on natural resource rights.
 - Movement building: as an international NGO operating across regions, Trócaire can identify opportunities for cross-country learning and partner capacity building. Examples include collective partner learning, experience sharing and exchange visits within regions. The East Timor final Livelihoods programme evaluation gives concrete examples of how concepts from our Ugandan and Indian programmes were introduced to the local Land Network and strengthened their policy lobbying. Trócaire's recent membership of the International Land Coalition could provide opportunities for strengthening the global movement to claim natural resource rights.

Problems

- Lack of clear rights for women and men documented
- Lack of awareness of rights, and lack of capacity to claim rights, social norms
- Exclusion of poor and vulnerable groups, especially women, from decision-making
- Corruption
- Disputes over land and resources, conflict
- Degradation, soil infertility undermining use

Local

Strategies

- Demarcation, registering and titling (3.1.1)
- Land reform and land redistribution (3.1.2)
- Supporting sustainable resource management (3.1.3)
- Sensitisation of community resource rights (3.2.2)
- Promoting participation: demarcation, community development plans, FPIC for projects (3.2.3)
- Dispute settlement (3.3.1) and Access to Justice (3.3.2)
- Protection of Human Rights Defenders (HRDs) (3.3.3)

Population growth, climate change, competition for natural resources

- Economic and Development policy: intensification of agricultural production, prioritizing FDI, privatization, IPRs, large-scale development model.
- Incoherent, inadequate or non-implementation of legislative and policy framework governing land and resources.
- Corruption, unaccountable, un-transparent and non-participatory democratic institutions
- Conflict

National

- Increasing demand for food, minerals, energy
- Resource grab
- Overconsumption and global competition over natural resources, investment and trade policies
- Intensification of agricultural production models
- Policies promoting 'Green Grab' (REDD+, CDM, EU energy policies)

Regional/International

Outcomes*

- Evidence, registrations and titles for women, men and communities
- Awareness by women and men of their rights
- Community (especially women) involved in decision making
- Disputes settled
- Access to justice
- HRDs free to advocate for natural resource rights
- Communities derive benefit from their resources

Awareness raising, sensitisation, capacity building, movement building

- Strong laws protecting women and men's resource rights
- Consistent protection of natural resource rights
- Communities benefit more from investments on their resources (given with FPIC)
- Transparency of decision-making and information related to natural resource rights governance
- Communities (especially women) participate effectively in decisions over natural resource use, including by state and private investors
- Communities have access to justice for rights violations
- HRDs are free to advocate for natural resource rights

- International protections for natural resource rights are integrated into national laws
- Commitments made to natural resources in soft law and voluntary agreements are implemented nationally
- A strong international civil society movement advocates for natural resource rights internationally (climate change, resource grab, models of agriculture, green grab, and trade and investment agreements etc.).

* Refer to the technical team for appropriate indicators. Differentiate where appropriate between women and men. Refer to Partners At Risk guideline in unsafe contexts.

Summary of guidance tips for applying the framework during programme cycle management

In your programme rationale, emphasise that by strengthening land tenure rights countries can⁶⁹:

- ✓ Reduce conflict and the risk of conflict
- ✓ Improve resource security including for food, water and land
- ✓ Secure and maintain natural resource wealth and biodiversity for future generations through sustainable resource management
- ✓ Better ensure that investments benefit communities and the country at the same time
- ✓ Fulfil rule of law and international legal commitments

In your programme development, consider:⁷⁰

- ✓ The communities' substantive rights to land and other natural resource ownership, control and management, but also their procedural rights (such as rights to information, participation and consent) that enable them to claim and enjoy their substantive rights to land and resources
- ✓ Who has regulatory responsibility for implementing and enforcing the substantive and procedural rights?
- ✓ Will the programme ensure that these rights are implemented?
- ✓ The importance of the sustainable use and management of natural resources as well as accessing and participating in decisions over natural resources

Questions to consider in your contextual analysis:

- ✓ How aware are men and women programme participants of their resource rights?
- ✓ What factors prevent programme participants from claiming their rights to Natural Resources? Do these factors differ for women and men?
- ✓ In what ways do national economic and development policies support or hinder people's ability to claim their rights?
- ✓ What model of agricultural production do government policies support in practice (e.g. regarding farmer's rights to collect seeds, government subsidies for fertilisers, support for small scale farmers and agro-ecological approaches)?
- ✓ Is the legislative and policy framework governing rights to natural resources for women and men clear? Is it coherent across constitutional, statutory and customary laws? Is it implemented in practice, and if so is it implemented differently for women and men?
- ✓ Is there space at local and national level for women and men to participate in decision-making on natural resource use? What factors facilitate or hinder people's participation? Are these factors experienced differently for women and men?
- ✓ What global factors affect programme participant's resource rights at a local level? Are there cases of resource grab? Are there projects related to biofuels for an international market, or projects related to the United Nations Reducing Emissions from Deforestation and forest Degradation in developing countries (REDD) or the Clean Development Mechanism (CDM)?
- ✓ Is there a local member of the International Land Coalition operating in your country? Have they done analysis of the drivers of natural resource contestation in your area? Are there opportunities to engage with them on advocacy, dialogue, knowledge sharing or capacity building?

Questions to consider when developing programme strategies:

- ✓ Are the rights of women and men to natural resources clear? What bundles of rights do people have in statutory and customary law to own, access, use or otherwise benefit from natural resources? Remember that communities are not homogenous and there are different rights and interests within the community.
- ✓ What gaps, inconsistencies or limitations exist in the customary, legal and policy framework on resource rights?
- ✓ Can these rights be strengthened through formalising recognition and validation? Are there any potential risks related to titling, and if so would strategies such as strengthening anti-eviction laws or strengthening customary land tenure be more appropriate?
- ✓ Are communities supported to sustainably manage natural resources as complementary to accessing resources?
- ✓ What opportunities exist to strengthen national policies governing resource rights, for example advocacy on user fees, ensuring people's participation in decisions on, their Free Prior and Informed Consent, and adequate compensation for the use of natural resources?
- ✓ Which international laws and voluntary agreements are being violated by government (or private sector) active on natural resource in your programme areas? Have you considered using these documents to support advocacy efforts at the local and national level?
- ✓ What opportunities exist to improve the enabling political environment, such as access to information, transparency, protection of human rights defenders, enabling civil society?
- ✓ Do the issues relevant to your programme relate to the advocacy priority identified in your global programme team? Are there opportunities to feed into or benefit from the international advocacy pursued by the global team? If so, link in with the relevant programme policy officer in Maynooth. If not, this is ok – not all programmes will have an international dimension.

ANNEX 1

Summary table of major international and regional laws relevant to resource rights to which Trócaire programme countries are party (adapted from Pritchard et. al 2013)

- ratification
- signature not yet followed by ratification

	UN Convention on the Elimination of all Forms of Racial Discrimination, 1965	UN Covenant on Civil and Political Rights, 1966	UN Covenant on Economic, Social and Cultural Rights, 1966	Optional Protocol to the UN Covenant on Economic, social and Cultural Rights (2008)	American Convention on Human Rights, 1969	UN Convention on the Elimination of All Forms of Discrimination against Women, 1979	African Charter on Human and Peoples' Rights (ACHPR), 1981	UN Convention on the Rights of the Child, 1989	ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, 1989	African Charter on the Rights and Welfare of the Child, 1990	UN Convention on Biological Diversity, 1992	International Treaty on Plant Genetic Resources for Food and Agriculture, 2001	Protocol to ACHPR on the Rights of Women in Africa, 2003
DRC	•	•	•	○		•	•	•		○	•	•	•
Ethiopia	•	•	•			•	•	•		•	•	•	○
Guatemala	•	•	•	○	•	•		•	•		•	•	
Honduras	•	•	•		•	•		•	•		•	•	
India	•	•	•			•		•			•	•	
Israel / Occupied Palestinian Territories**	•	•	•			•		•			•		
Kenya	•	•	•			•	•	•		•	•	•	○
Malawi	•	•	•			•	•	•		•	•	•	•
Myanmar	•					•		•			•	•	
Nicaragua	•	•	•		•	•		•	•		•	•	
Pakistan	•	•	•			•		•			•	•	
Rwanda	•	•	•			•	•	•		•	•	•	•
Sierra Leone	•	•	•			•	•	•		•	•	•	○
Somalia	•	•	•				•	○		○	•		○
South Sudan*													
Uganda	•	•	•			•	•	•		•	•	•	•
Zimbabwe	•	•	•			•	•	•		•	•	•	•

*South Sudan (formerly Southern Sudan) is a United Nations and African Union member state, but on the information available has not yet taken the steps necessary to become a party to the above treaty instruments.

** The occupied Palestinian territories have not ratified any international treaties to date, due to not being a member state of the UN. However, the vote in the UN General Assembly in 2012 for Palestine to be recognised as a 'non member state' has opened the possibility in future for Palestine to ratify international treaties.

In the areas of natural resource rights, examples of frameworks that may provide opportunities in support of advocacy include:

United Nations Declaration on the Rights of Indigenous Peoples (UNRIP), 2007. While a Declaration is not legally binding (compared to the conventions listed in Annex 1, which are legally binding treaties, coming into force upon ratification by a certain number of States), it nevertheless carries moral weight because it is adopted by the international community. The UNRIP was adopted by the UN General Assembly by a majority of states: 144 in favour, 4 against (Australia, Canada, New Zealand and the United States), and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine). It contains detailed provisions on indigenous peoples' rights to land, territories, and resources. Including: the concept of territories, collective rights, traditional occupation, ownership or use,

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGLT) were endorsed by the Committee on World Food Security in May 2012. According to FAO, they: *"serve as a reference and set out principles and internationally accepted standards for practices for the responsible governance of tenure. They provide a framework that States can use when developing their own strategies, policies, legislation, programmes and activities. They allow governments, civil society, the private sector and citizens to judge whether their proposed actions and the actions of others constitute acceptable practices"*⁷¹

In relation to gender, the VGLT commit states to "ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status' and to ensure that policy, legal and organisational frameworks for tenure governance are 'non-discriminatory and promote social equity and gender equality'. The VGLT have potential as a major reference for governance of tenure in the coming years. Advocacy will be necessary to a) ensure a progressive interpretation of the Guidelines and b) domesticating the VGLT into national processes.

The Framework and Guidelines on Land Policy in Africa: were adopted by the African Union, the African Development Bank and the Economic Commission for Africa in 2010. The Framework reflects "a consensus on land issues; and serves as a basis for commitment of African governments in land policy formulation and implementation and a foundation for popular participation in improved land governance". It was developed to strengthen land rights and secure livelihoods for the majority of the continent's population. It acknowledges the particularly marginalised position of indigenous peoples, and in relation to gender it states: "[L]and policies should seek to remove age-old rigidities in traditional structures and systems which tend to discriminate against women while at the same time building on and thereby improving indigenous tenure arrangements."⁷²

The EU Land Policy Guidelines were developed by the EU Task force on land tenure in 2004 in order to support land policy design and land policy reform processes in developing countries. The *Guidelines* remain highly relevant to current challenges.⁷³

The successor agreement to the Millennium Development Goals (post-2015): the post-2015 agenda is an opportunity to build on the UNCSD (Rio+20) outcome document, which explicitly referred to gender equality and natural resources in paragraphs 58(k), 109 and 236-244. For example paragraph 240: "We are committed to equal rights and opportunities for women in political and economic decision-making and resource allocation and to removing any barriers that prevent women from being full participants in the economy. We resolve to undertake legislative and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other forms of property, credit, inheritance, natural resources and appropriate new technology"⁷⁴

World Bank led **Principles for Responsible Agricultural Investment (PRAI)** and the UN FAO Committee on Food Security (CFS) **Responsible Agriculture Investment (RAI) principles**. The World Bank PRAI provide a reference point for international investment contracts and corporate social responsibility in relation to land governance. The principles start from the premise that investment in land is something that needs to be regulated. Critics argue that the large scale land acquisitions the PRAI seek to regulate are unjust and threaten local food security and livelihoods and should be prevented rather than regulated. Furthermore, the principles were developed without consultation and fail to include the principle of FPIC in terms of all peoples in decisions related to land they own or use. In light of these criticisms the UN Special Rapporteur on the Right to Food identified a set of minimum human rights principles which along with other stakeholders is now feeding into the CFS RAI principles, which are scheduled for approval in October 2014.

The **Africa Mining Vision (AMV)**: was established by the African Union in 2009 in order to foster 'transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development'. This includes fostering a transparent and accountable mineral sector in which resource rents are optimised and utilised to promote broad economic and social development; promoting good governance of the mineral sector in which communities and citizens participate in mineral assets and in which there is equity in the distribution of benefits; fostering sustainable development principles based on environmentally and socially responsible mining, which is safe and includes communities and all other stakeholders.⁷⁵

There are a range of Initiatives and mechanisms to strengthen **governance in the extractive industry**.⁷⁶ The most well-known ones are the *Extractive Industries Transparency Initiative (EITI)*, the *Kimberley Process Certification Scheme*, the *Dodd-Frank Act* and the *OECD Due Diligence Guidance*. In general these instruments have contributed to a useful body of knowledge and practice to strengthening governance in the extractive industry. However, in many countries, these instruments are stand-alone and parallel structures, which are not sufficiently embedded in national policy and decision-making processes. Moving forward, therefore, it is

imperative to domesticate these instruments into national processes. Alongside requisite national legislation, efficient implementation and close monitoring to help reverse the negative trends in the management of revenues from natural resources is necessary. Legislative solutions advanced by the non-profit sector include *Publish What You Pay (PWYP)* and *Revenue Watch*. Industry led initiatives include the financial sector's benchmark for managing social and environmental risk, known as the *Equator Principles* and the *Santiago Principles* developed by Sovereign Wealth Funds. The *OECD Guidelines for Multinational Enterprises*, endorsed by 44 countries, engages a role for signatory home countries where transnational corporations are based, with regard to their operations globally. The *UN Framework for Business and Human Rights*, which has been endorsed by the UN Human Rights Council, rests on three pillars: 1) the state's duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; 2) the corporate responsibility to respect human rights, which means acting with due diligence to avoid infringing on the rights of others; and 3) greater access by victims to effective remedy, judicial and non-judicial (UN Doc. A/HRC/14/27).'' (Feiring 2013)

A number of **international financial institutions (IFIs) have adopted safeguards or policies on indigenous peoples' rights**. These include the Asia Development Bank (ADB, 2009), Inter-American Development Bank (IADB, 2006), International Finance Corporation (IFC, 2012), and the World Bank (World Bank, 2005). As a minimum, these policies aim at mitigating harm to indigenous peoples, e.g. in the context of large-scale development and infrastructure projects that may lead to forced resettlements, etc. This "do no harm" approach has typically been the approach taken by development banks but is increasingly being criticised for falling below the international standards enshrined in UNDRIP. In general, the policies of IFIs are not strong on land rights. These processes provide entry points for raising concerns related to indigenous peoples' land and resource rights.

A number of **donor agencies have already adopted policies that reflect more ambitious goals of supporting indigenous peoples' rights**, in line with UNDRIP. These include the European Union (EC, 1998a; EC, 1998b) and the bilateral development agencies of Denmark (Danish Ministry of Foreign Affairs, 2004), Norway (Norwegian Ministry of Foreign Affairs, 2004), and Spain (AEI, 1998). However, most agencies face challenges in terms of coherent application of their policies. This is particularly the case in regions and countries with weak legislative and policy protection of indigenous peoples where respect for indigenous peoples' rights implies taking an independent stand from government policies." (Feiring 2013)

The **non-profit sector has also advanced initiatives**. The *International Institute for Sustainable Development* has developed a 10 steps guide for governments, local communities involved in negotiating investment contracts with investors for land and water.⁷⁷ Finally, the *Trans National Institute* published a paper on *Land Sovereignty*, the right of peoples to have effective access to, use of, and control over land and the benefits of its use and occupation, where land is understood as resource, territory, and landscape. The concept is a call to action against a corporate push to enclose the commons. It goes beyond viewing land just as a resource to also consider land as territory embracing the struggles of indigenous, rural labourers and social movements. It connects with the demand and movements for *food sovereignty* allowing for a mutually reinforcing synergy between the two concepts.⁷⁸

USEFUL RESOURCES AND FURTHER READING



(adapted from Locke, A. and Henley, G, (2014)⁷⁹)

General trends and governance

Borras, S. M. et al. (eds.) (2011) 'Towards a better understanding of global land grabbing: an editorial introduction', *The Journal of Peasant Studies*, 38(2), p209-216.

Edelman M. et al. (eds.) (2013) 'Special issue: global land grabs', *Third World Quarterly*, 34 (9). Available at: <http://www.tandfonline.com/toc/ctwq20/34/9>

Margulis M. E. et al. (2013) 'Special issue land grabbing and global governance', *Globalizations*, 10(1). Available at: <http://www.tandfonline.com/doi/abs/10.1080/14747731.2013.764151>

White, B. et al. (2012) 'The new enclosures: critical perspectives on corporate land deals', *Journal of Peasant Studies*, 39(3-4). Available at: <http://www.tandfonline.com/toc/fjps20/39/3-4>

Wolford, W. et al. (eds.) (2013) 'Governing the global land grab: the role of the state in the rush for land', *Development and Change*, 44(2).

Biofuels

Borras S.M. et al. (2010) 'Biofuels, land and agrarian change', *Journal of Peasant Studies*, 37(4). Available at <http://www.tandfonline.com/toc/fjps20/37/4>

Markets for environmental goods and services

Fairhead J. et al. (2012) 'Green grabbing: a new appropriation of nature?', *Journal of Peasant Studies* 39(2). Available at: <http://www.tandfonline.com/toc/fjps20/39/2>

Water

Mehta, L. et al. (eds.) (2012) 'Water grabbing? Focus on the (re)appropriation of finite water resources', *Water Alternatives*. Available at <http://www.wateralternatives.org>

The IIED has published many briefings, reports and books on investments and legal frameworks of land deals. These are available at: <http://pubs.iied.org/search.php?c=land>

FAO's 'Investments in agriculture' webpage publishes work that it has done, including a recent review of case studies, FAO (2013) Trends and impacts of foreign investment in developing country agriculture: Evidence from case studies. Rome. Available at: <http://www.fao.org/docrep/017/i3112e/i3112e.pdf> .

Researchers at the World Bank wrote an influential report in 2011. Deininger, K. W. et al. (2011) Rising global interest in farmland: can it yield sustainable and equitable benefits? Washington, D.C. Available at: http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf

Securing land rights for women

FAO. (2013) *Governing land for women and men: A technical guide to support the achievement of responsible gender-equitable governance of land tenure*. Rome.

International Center for Research on Women, (2014) *Securing Women's Land and Property Rights- A Critical Step to Address HIV, Violence, and Food Security*. Available at: <http://www.icrw.org/publications/securing-women%E2%80%99s-land-and-property-rights-critical-step-address-hiv-violence-and-food-s>

Natural Resources and conflict

The UN and EU host a website on Land, Natural Resources and Conflict, including online training modules <http://www.un.org/en/land-natural-resources-conflict/>

The Environmental Law Institute and UNEP launched a series of policy briefs and longer reports on land and natural resources in conflict states <http://www.environmentalpeacebuilding.org/publications/books/>

UN-HABITAT has published several reports and handbooks on how land issues can be incorporated into post-conflict and disaster operations, including a 2009 handbook *Land and Conflict: A Handbook for Humanitarians*, available on their online bookshop see <http://unhabitat.org/>

ENDNOTES

- 1 See Trócaire (internal paper, 2013), Climate Fact Sheet No. 1: CDM, https://www.yammer.com/trocaire.ie/uploaded_files/13601774
- 2 See Trócaire (internal paper, 2013), Climate Fact Sheet No. 2: REDD https://www.yammer.com/trocaire.ie/uploaded_files/13601777
- 3 Landesa, (2012a), Issue Brief, 'Women's Secure Rights to Land: Benefits, Barriers, and Best Practices' <http://www.landesa.org/wp-content/uploads/Landesa-Women-and-Land-Issue-Brief.pdf>
- 4 de Schutter, O. (2012), Statement on the right to food, presented to the Conference on Land-grabbing convened at the European Parliament, Brussels, on 8th March 2012
- 5 Statement by UN Secretary General Ban Ki Moon on International Day for Preventing Exploitation of the Environment in Armed Conflict <http://www.un.org/News/Press/docs/2012/sgsm14615.doc.htm>
- 6 World Bank Development Indicators 2008, quoted in Shah, A (2013) Poverty Facts and Stats (website) <http://www.globalissues.org/article/26/poverty-facts-and-stats>
- 7 Locke, A. and Henley, G, (2014) Topic Guide: Land, Evidence on Demand, <http://www.evidenceondemand.info/topic-guide-land>
- 8 UN DESA (2009) 'State Of The World's Indigenous Peoples' http://www.un.org/esa/socdev/unpfii/documents/SOWIP_web.pdf
- 9 Global Witness (2014) 'Deadly Environment: the dramatic rise in the killings of environmental and land defenders' <http://www.globalwitness.org/deadlyenvironment/>
- 10 Trócaire (2011) 'Leading Edge 2020: Critical Thinking on the Future of International Development' <http://www.trocaire.org/sites/trocaire/files/pdfs/policy/LeadingEdge2020websizedfinal.pdf>
- 11 Pritchard, J., Lesniewska, F., Lomax, T., Ozinga, S., Morel, C., (2013) Security community land and resource rights in Africa: A guide to legal reform and best practice, <http://www.fern.org/sites/fern.org/files/BPG%209Jan14%20digital%20English%20low%20res.pdf>
- 12 Landesa (2012a), Issue Brief, 'Women's Secure Rights to Land: Benefits, Barriers, and Best Practices' <http://www.landesa.org/wp-content/uploads/Landesa-Women-and-Land-Issue-Brief.pdf>
- 13 Trócaire (internal paper, 2008) Environmental Justice Discussion Paper
- 14 *adapted from* Pritchard, J., Lesniewska, F., Lomax, T., Ozinga, S., Morel, C., (2013) Security community land and resource rights in Africa: A guide to legal reform and best practice, <http://www.fern.org/sites/fern.org/files/BPG%209Jan14%20digital%20English%20low%20res.pdf>
- 15 Trócaire (2012a) 'Democracy in Action: Protecting Civil Society Space' http://www.trocaire.org/sites/trocaire/files/pdfs/policy/Democracy_in_Action.pdf
- 16 Feiring, B. (2013), 'Indigenous peoples' rights to lands, territories and resources' ILC, Rome
- 17 Landesa (2013a) 'The Global Status of Women's Land and Property Rights' http://landpost2015.landesa.org/wp-content/uploads/2013/09/Resource_Global-status-of-women-land-and-prop-rt.pdf
- 18 For example the recognition of indigenous peoples' land and resources rights in national legal frameworks achieving legal recognition in the Philippines (through the 1997 Indigenous Peoples Rights Act – IPRA), the provision in the Indian Forest Rights Act of 2006 for collective management of forest resources by adivasi/tribal communities, and the 2001 Cambodian Land Law, which provides for collective ownership of lands and participation of customary institutions in decision-making, Feiring, B. (2013), 'Indigenous peoples' rights to lands, territories and resources' ILC, Rome
- 19 Feiring, B. (2013), 'Indigenous peoples' rights to lands, territories and resources' ILC, Rome
- 20 Landesa, (2012a), Issue Brief, 'Women's Secure Rights to Land: Benefits, Barriers, and Best Practices' <http://www.landesa.org/wp-content/uploads/Landesa-Women-and-Land-Issue-Brief.pdf>
- 21 Trócaire (2013a, unpublished) Myanmar response to questionnaire: UN Special Rapporteur on the Situation of Human Rights Defenders on the theme of "Large-scale development projects and human rights defenders" June 2013

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- 26 Examples include GRAIN global land grabs dataset (2012) and ILC land portal www.landportal.info
- 27 Locke, A. and Henley, G, (2014) Topic Guide: Land, Evidence on Demand, <http://www.evidenceondemand.info/topic-guide-land>
- 28 Landesa (2012b), Issue Brief, 'Land Rights and the Global Land Rush', <http://www.landesa.org/wp-content/uploads/Issue-brief-land-rights-and-the-global-land-rush-May-2012-updated-8-21-20121.pdf>
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- 30 Locke, A. and Henley, G, (2014) Topic Guide: Land, Evidence on Demand, <http://www.evidenceondemand.info/topic-guide-land>
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- 32 Locke, A. and Henley, G, (2014) Topic Guide: Land, Evidence on Demand, <http://www.evidenceondemand.info/topic-guide-land>
- 33 WWF (2012) 'Living Planet Report 2012' http://www.wwf.panda.org/about_our_earth/all_publications/living_planet_report/2012_lpr/
- 34 de Schutter, O. (2011) 'How not to think of land-grabbing: three critiques of large scale investments in farmland ', *Journal of Peasant Studies*, Vol. 38, Issue 2 http://www.tandfonline.com/doi/abs/10.1080/03066150.2011.559008#.UwteDGJ_v_A
- 35 The International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) evaluated the relevance, quality and effectiveness of agricultural knowledge, science, and technology (AKST). The three-year collaborative effort (2005 - 2007) assessed AKST in relation to meeting development and sustainability goals of, reducing hunger and poverty, improving nutrition, health and rural livelihoods, and facilitating social and environmental sustainability. It was launched as an intergovernmental process, with a multi-stakeholder Bureau, under the co-sponsorship of the FAO, GEF, UNDP, UNEP, UNESCO, the World Bank and WHO. It concluded that efforts need to focus primarily on small scale farmers in diverse ecosystems. <http://www.unep.org/dewa/assessments/ecosystems/iaastd/tabid/105853/default.aspx>
- 36 See reports of the UN Special Rapporteur on the Right to Food here: <http://www.srfood.org/en>
- 37 For information and guidance on Trócaire's approach to programming agro-ecological approaches to sustainable agriculture, see Trócaire (*in draft*) Trócaire internal paper and PowerPoint Sustainable agriculture –what do we mean? Trócaire unpublished internal guide. Maynooth, Ireland.
- 38 Trócaire (2013c) Briefing paper, '*Biofuels: Fuelling Poverty and Environmental Degradation*'
- 39 Trócaire (2014, internal briefing) 'Securing Resource Rights for people of the Aguán Valley in Honduras'
- 40 See Trócaire (internal paper, 2013), Climate Fact Sheet No. 1: CDM, https://www.yammer.com/trocaire.ie/uploaded_files/13601774
- 41 See Trócaire (internal paper, 2013), Climate Fact Sheet No. 2: REDD https://www.yammer.com/trocaire.ie/uploaded_files/13601777
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- 43** In mapping Trócaire's programmes the most frequently cited strategies were land titling, access to water, supporting civil society to advocate on national level policy discussions, and promoting participatory and accountable governance.
- 44** This section draws heavily Pritchard, J., Lesniewska, F., Lomax, T., Ozinga, S., Morel, C., (2013) Security community land and resource rights in Africa: A guide to legal reform and best practice, <http://www.fern.org/sites/fern.org/files/BPG%209Jan14%20digital%20English%20low%20res.pdf>
- 45** e.g. Statement the UN Special Rapportuer on the Right to Food to the 65th Session of the General Assembly, Pritchard et. al (2013), *Op. cit.*
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- 47** de Schutter, O. (2012), Statement on the right to food, presented to the Conference on Land-grabbing convened at the European Parliament, Brussels, on 8th March 2012
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- 50** Trócaire (2012b) Trócaire Annual Report and Finances 2012-13 <http://www.trocaire.org/whatwedo/annual-report>
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- 53** TNI (2013), 'The Global Land Grab: a primer', <http://www.tni.org/files/download/landgrabbingprimer-feb2013.pdf>
- 54** Trócaire (*in draft*) Trócaire internal paper and Power Point Sustainable agriculture–what do we mean? Trócaire unpublished internal guide. Maynooth, Ireland.
- 55** Trócaire, CAFOD, Christian Aid (2007) Monitoring Government Policies: A toolkit for civil society organisations in Africa http://commdev.org/files/1818_file_monitoringgovernmentspolicies.pdf
- 56** United Nations Declaration on the Rights of Indigenous People, article 26
- 57** Feiring, B. (2013), 'Indigenous peoples' rights to lands, territories and resources' ILC, Rome
- 58** Trócaire (2013a, unpublished) Myanmar response to questionnaire: UN Special Rapporteur on the Situation of Human Rights Defenders on the theme of "Large-scale development projects and human rights defenders" June 2013
- 59** See GRAIN website update on 'Colombia farmers uprising puts the spotlight on seeds', <http://www.grain.org/article/entries/4779-colombia-farmers-uprising-puts-the-spotlight-on-seeds>
- 60** Pritchard, J., Lesniewska, F., Lomax, T., Ozinga, S., Morel, C., (2013) Security community land and resource rights in Africa: A guide to legal reform and best practice, <http://www.fern.org/sites/fern.org/files/BPG%209Jan14%20digital%20English%20low%20res.pdf>
- 61** Landesa (2013b) 'Promising Approaches to Securing Land and Property Rights for Women' http://landpost2015.landesa.org/wp-content/uploads/2013/09/Resource_Promising-approaches-to-securing-land-and-property-rights-for-women.pdf
- 62** Feiring, B. (2013), 'Indigenous peoples' rights to lands, territories and resources' ILC, Rome, *Op. cit.*
- 63** Trócaire (2012c) Access to Justice, programme resource, Trócaire, Maynooth, Ireland http://www.trocaire.org/sites/trocaire/files/pdfs/policy/Access_to_Justice.pdf

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- 65** Feiring, B. (2013), ‘Indigenous peoples’ rights to lands, territories and resources’ ILC, Rome, *Op. cit.*
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