

Research Paper

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Addressing Natural Resource Conflicts

Working Towards More Effective Resolution of National and Sub-National Resource Disputes



**CHATHAM
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Summary

Disputes over natural resources – such as land, fresh water, minerals or fishing rights – are ubiquitous. When resolved peacefully, as is most often the case, such disagreements are an essential part of progress and development.

However, resource disputes can also trigger violence and destruction, particularly in states with weak governance, high levels of corruption, and existing ethnic and political divisions. Bitter disagreements over the distribution of Iraq's oil wealth among Sunni, Shia and Kurdish regions, for example, have contributed to the fragmentation of that country. In the Darfur region of Sudan, disputes between pastoralist herders and farmers over livestock migration routes and watering holes have become a violent flashpoint for wider cultural, ethnic and religious differences.

Population growth, urbanization, rising consumption, climate change, environmental degradation, and new technologies for the extraction and processing of resources are changing the patterns of resource supply and demand. This has profound implications for the political economy of resource use – both globally and locally. By the middle of this century, for example, it is predicted that the world's population will have exceeded 9 billion, global energy use will have doubled, and global water demand will have increased by 55 per cent over 2012.

These various trajectories, when taken together, strongly suggest that disputes over resources will occur more frequently in future. They may arise over issues and resources that are hard even to imagine now, and in places that we may not anticipate. In our globalized world the costs of violent conflict are incurred not only locally in terms of human lives and destruction, but also regionally and internationally. It may not be too much of an exaggeration to suggest that politics in the 21st century will be shaped, in part, by how well these disputes can be resolved.

At a broad level four types of resource dispute can present a general challenge to national stability: secessionist conflicts in which resource-rich regions seek to split away from the rest of a country; disputes over resources as part of a new national compact (i.e. in the context of a peace agreement or new constitution); grievances over standalone projects such as mines and hydroelectric dams; and the cumulative impact of multiple small-scale clashes, typically over land, livestock or fresh water.

One of four potentially contentious issues is typically at the heart of these national or sub-national resource disputes: ownership of the resource; allocation of power for managing access to or developing the resource; the distribution of resource revenues; and environmental and social damage caused by extracting the resource.

Most disputes are resolved locally without any international intervention, through existing legislative, judicial, traditional and management mechanisms. Occasionally, however, national authorities and local communities may be unable or unwilling to settle their differences. In these cases, with the attendant risk of violent conflict, the international community may have an important role to play in helping to resolve the dispute.

This is particularly true in cases where the dispute is intractable, funds to support dispute resolution are lacking, or there is a need for an impartial outsider to bring protagonists together to develop

creative solutions. In Aceh, Indonesia (Box 1), Bougainville, Papua New Guinea (Box 2), and Timor-Leste (Box 9) international support helped to surmount difficult issues and facilitated agreement.

This is not to suggest that international involvement in national and sub-national resource disputes is necessarily either desirable or feasible. Such interventions can be seen as an affront to a country's sovereignty or as 'taking sides' in a bitter dispute, and thus risk a range of potentially dangerous unintended consequences. The international community may not have any mandate or legitimacy to intervene in what are essentially sovereign issues. In Ecuador, a US-based NGO negotiating with an oil company on behalf of the Huaorani – an indigenous group in the Oriente region – held meetings in private without the presence of Huaorani representatives. It then concluded a deal that went against the collective wishes of the Huaorani (see Box 10).

Even where international actors are invited to help resolve disputes, their track record in this area is patchy. International support for the resolution of national-level resource disputes is neither consistent nor systematic, and is often poorly timed, badly prepared and ill-informed with regard to the specific local context. There has also been a proliferation of international initiatives and actors, which has made coherent, coordinated action even more challenging. Moreover, international activities on the ground are often undermined by weak cooperation among development, mediation and security actors; insufficient human and financial resources; a lack of 'conflict sensitivity'; and a general reluctance to learn from mistakes. A 2011 OECD report on conflict prevention argued that 'the multiplicity of actors and responses means that the problems of late, incoherent, fragmented, and confused response are perhaps greater today than was true at the time of the Rwandan genocide'.¹

The international community should approach intervention with caution, and its primary role should be to support the ability of countries to resolve their own natural resource disputes: building local capacity wherever possible, but providing impartial mediation services where appropriate.

There are three ways in which the international community needs to improve its capacities if it is to play a more effective role in the resolution of violent national and sub-national resource disputes.

Developing more sophisticated **analytical competency** is the first component. This entails the ability to understand the social, political and institutional context; to work out what the driving issues are; to get to know how different stakeholders are involved in, or affected by, the dispute; and to find ways to measure outcomes and impacts of dispute resolution. Ultimately this means tailoring the response to the specific type of resource dispute (constitutional, point source or systemic) and the issues at hand (ownership, control, division of revenues, or environmental or social damage).

The second component is improving **process competency**. This involves the ability to design effective processes, to negotiate, to coordinate, to communicate with stakeholders and to work in diverse teams.

The third component is enhancing **leadership and management competency**. In the context of resource dispute resolution, this comprises skills of collaborative leadership, facilitation and mediation. The international community often has little, if any, coercive power to force an agreement. Rather, it needs to build a consensus among stakeholders at the national level on the need to resolve resource disputes, and provide the tools that can help them do so.

¹ OECD (2011), *Preventing war, violence and state collapse*, Paris: OECD.

Introduction

The problem

Disputes over the ownership, use and extraction of natural resources – whether land, renewable resources such as timber and water, or non-renewable resources such as hydrocarbons and minerals – often play a disruptive role in peace and security.

A great deal of research over the past two decades has explored how different natural resources play a role in the political economy of fragile states and, in particular, the likelihood of violent conflict.

Resources such as oil, natural gas, minerals and timber are major sources of national income for many countries. Alongside water and land, they are essential to the livelihoods of billions of people around the world. There is growing recognition among researchers and decision-makers that in many fragile states disputes over these resources have fed into, and underpinned, violent conflict and instability. Research suggests that 40–60 per cent of civil wars over the past 60 years have been triggered, funded or sustained by natural resources.²

Two particularly important variables are the location of the resources and the amounts of capital and technology needed to extract them. Rich deposits of minerals or hydrocarbons in one region, for example, tend to be associated with secessionist rebellions. Dispersed or offshore hydrocarbon resources may, on the other hand, encourage attempts to overthrow national governments and assume control, rather than to split off from central authorities. Resources that can be extracted with relatively little access to technology or capital, such as alluvial diamonds or timber, are more ‘lootable’ and may become the focus of rebel groups searching for sources of revenue to finance their operations.³

Bitter disagreements over the fair distribution of Iraq’s oil wealth among Sunni, Shia and Kurdish regions have contributed to grievances among different groups, disenchantment with the central government and the growing fragmentation of the country (see Box 6).⁴

In the Darfur region of Sudan, disputes between nomadic pastoralist herders and settled farmers over livestock migration routes and waterholes have become a flashpoint for wider cultural, ethnic and religious differences (see Box 3).

In Afghanistan village-level disputes over land and irrigation water were the most common causes of violent conflict reported by rural communities in a 2008 survey, far outstripping insurgent or coalition attacks (see Box 5).⁵ Long-term stability in the country will be elusive unless these local-level disputes are managed more effectively. Meanwhile, new investments in major mining operations have raised expectations of substantial revenues but have also become highly politicized.

² UNEP (2009), *From Conflict to Peacebuilding – The Role of Natural Resources and the Environment*, Geneva: UNEP.

³ Brack, D. and Hayman, G. (2006), ‘Managing Trade in Conflict Resources’, in Brown, O., Halle, M., Pena-Moreno, S. and Winkler, S. (eds), *Trade, Aid and Security*, London: Earthscan.

⁴ Peter, E., Kent, S. and Parkinson, J. (2014), ‘Kurdish Oil Gambit Hits Troubled Waters’, 22 July 2014, *Wall Street Journal*, New York.

⁵ Jackson, A. (2009), *The Cost of War – Afghan experiences of conflict, 1978–2009*, Kabul: Oxfam International.

Even where there is no open, violent conflict, resource disputes can perpetuate potentially dangerous conditions of instability. Numerous disputes over local land ownership in Liberia, exacerbated by the loss of land records during the country's civil war, are still unresolved. The recent surge in state sales of land is complicating this picture and raising tensions with local communities and incoming agribusiness companies.

National authorities and local communities resolve the vast majority of resource disputes peacefully through existing legislative, administrative and judicial means. However, where authorities are unable or unwilling to settle a dispute and where there is the risk of violent conflict, the international community – by which the authors of this paper mean the usual amorphous group of international organizations, non-governmental organizations (NGOs) and states interested in promoting international peace and security – may have an important role to play in helping to address such disputes.

Even where there is no open, violent conflict, resource disputes can perpetuate potentially dangerous conditions of instability. Numerous disputes over local land ownership in Liberia, exacerbated by the loss of land records during the country's civil war, are still unresolved.

For example, international organizations helped to mediate land disputes in Timor-Leste (Box 9); international mediators helped to negotiate a peace agreement to share oil revenues and end the Aceh conflict in Indonesia (Box 1); international NGOs have been involved in trying to resolve community disputes over water in Central Asia (Box 12); and neighbouring states have helped to monitor the implementation of a peace agreement in Papua New Guinea (PNG) (Box 2).

This is not, of course, to suggest that international engagement in national and sub-national resource disputes is always desirable or feasible. It can be seen as an affront to a country's sovereignty, it can draw the international community into 'taking sides' in a bitter dispute, and it can unleash a range of potentially dangerous unintended consequences. This is particularly likely if would-be mediators and peace-brokers are not equipped with the knowledge to make an informed assessment of the situation.

For example, during attempts to resolve the civil war in Nepal between 1996 and 2006, some international actors based their interventions on an incomplete understanding of the conflict (see Box 11). They did not acknowledge the legitimacy that the Maoist militants had in the eyes of a large part of the population (in particular with respect to their demands for land reform), downplayed the roles of India and China, and gave too much prominence to the views of the articulate, anglophone Nepalese elite. This meant that issues of social conflict and exclusion were not coherently integrated into these international approaches.

A somewhat notorious example of a failed intervention was the role that the Natural Resources Defense Council (NRDC) played in a dispute between the oil company Conoco and the Huaorani people of the remote Oriente region of Ecuador. In 1990 Conoco sought to expand its drilling programme in the Yasuni National Park, which forms part of the traditional lands of the Huaorani tribe. Starting in February 1991, the NRDC negotiated on behalf of the Huaorani, demanding a moratorium on new oil wells and proposing a multimillion-dollar clean-up fund. However, following an NRDC-led negotiation process which lacked consultation and excluded the Huaorani from participation in private meetings, the terms that were eventually agreed were opposed by a majority

of the Huaorani.⁶ In response, the Huaorani demanded that the NRDC withdraw from the dispute-resolution process and leave Ecuador (see Box 10).

In another example, a review of three development programmes addressing local conflicts over water in Central Asia pointed out that the agencies fundamentally misunderstood the conflicts, viewing them as disputes rooted in the relationships between communities of different ethnicity (Box 12). The assumption was that negotiation took place in a vacuum, isolated from the wider political and economic context, and that protagonists had more or less equal power. This meant that the agencies tended to focus on the technical challenges of water availability – on the basis that more water would lead to fewer disputes – rather than on more intangible, tricky issues of power and politics.

However, where it is necessary and possible for the international community to support, supplement or even fill in for national and sub-national dispute-resolution processes, it is important to think through the parameters of such action. Who gets involved? With what financial and technical resources? When does an intervention begin? How do the participants act?

This research paper

The core question this paper tackles is how the international community can facilitate more effective resolution of disputes over natural resources at the national level.

The paper draws mainly on discussions by mediation and natural resources experts at a research workshop at Chatham House on 26 June 2014. This rich debate was supplemented by a review of relevant literature and by interviews with a range of mediation and peacebuilding experts.

This is a complex, sensitive and highly political issue that ideally deserves more space than the authors have allowed here. Our paper is based more on anecdotal evidence than on quantitative assessment and should, as a result, be seen as an initial and necessarily incomplete attempt to understand the dilemmas and challenges involved in reducing the violent consequences of some resource disputes.

The following (second) section endeavours to develop a typology of the various sorts of resource disputes that occur, the issues that are at stake, and how they can trigger violence. The third section assesses the strengths and weaknesses of the international community's current approaches to resolving resource disputes. The final section presents initial conclusions and suggestions for how the international community might develop a more effective strategy for supporting national-level dispute resolution.

⁶ Rubenstein, J. (2007), 'Accountability in an Unequal World' in *The Journal of Politics*, Vol. 69, No. 3, August 2007, pp. 616–32.

Understanding Resource Disputes

A typology

Resource disputes happen on all scales, from the individual (neighbours arguing over a hedge) to the international (neighbouring countries disagreeing about the sharing of transboundary water).

This paper focuses on sub-national and national-level disputes taking place within a country's borders: in other words, everything from community disputes at a local level (such as over the allocation of irrigation water) to nationwide processes aimed at securing peace after a civil war or at agreeing a new constitution (which may have important consequences for the ownership or management of natural resources).

This is not to discount the very real problems associated with transboundary disputes over oil, water, land, maritime boundaries and so on. However, a range of international agreements and instruments has been established to settle such disputes, and in that context the international community has a more clearly defined role in encouraging countries to negotiate.

Resolving a national-level dispute, by contrast, is the primary responsibility of the relevant sovereign government. There is often no clear role that can be assumed by the international community. Any intervention often has to navigate tricky issues concerning national ownership, legitimacy and sovereignty.

The opening step towards improving the way in which natural resource disputes are addressed is establishing conceptual clarity over the sorts of disputes that commonly arise. At the broadest level there are four categories of dispute that can threaten the overall stability of a country and that may require intervention by a national government or the international community: disputes that concern geographically distinct resources, where there is a risk of rebellion by secessionist movements (see Boxes 1, 2 and 4); those where natural resources are being discussed as part of a new national 'compact' – either in redrafting a new constitution (Box 6) or as part of a peace agreement (Boxes 1 and 4); those relating to standalone projects such as mines and hydroelectric dams; and the cumulative impact of multiple small-scale disputes.

The first two broad categories – relating to secessionist movements, peace agreements ending civil wars, and processes to draft a new constitution – share one thing in common: they are attempting to establish the basis for a new social compact between citizens and government (in terms either of a different geographical entity, or commitment to a set of national principles). This creates an opportunity for resources and power to be allocated in different ways, with access to or control over a country's valuable natural endowments potentially one of the main 'prizes' at stake. Unsurprisingly these processes – if not already conflictual – often become highly political and divisive.

An example of both the first and second categories is the conflict and subsequent peace negotiations in Aceh, Indonesia,⁷ where the division of oil and gas revenues between Aceh and the central

⁷ Technically this was called a memorandum of understanding as the Indonesian government did not want to accord the rebels (GAM) the implied status of being a party to a peace agreement. However, functionally the pact amounted to a peace agreement.

government was a major plank of the discussions (Box 1). Another is the Comprehensive Peace Agreement (CPA) reached in Sudan in 2005 that ended the north–south civil war and set the scene for the eventual 2011 referendum culminating in South Sudanese independence (Box 4). With oil providing the majority of foreign revenue for both sides, an agreement on the division of oil wealth between north and south Sudan was a major part of that agreement and the topic of one of the CPA's six protocols.

Box 1: Oil and gas in Aceh, Indonesia

The discovery of vast oil and natural gas reserves in northeastern Aceh in 1971 helped to frame a wider sense of marginalization and difference among the Acehnese. From 1976 this fuelled a violent struggle for self-determination and secession from the rest of Indonesia.

The production of gas in Aceh funnelled revenues to the central government but seemed to deliver little in the way of benefits to the local Acehnese people. Meanwhile, expanded production forced the resettlement of some villagers, while also resulting in a significant influx of non-Acehnese, non-Muslim workers, who were engaged to operate the oil and gas installations. The government also brought in thousands of non-local Indonesian security personnel to protect the facilities. Their alleged mistreatment of the local civilian population hardened local attitudes against the Indonesian government.^a

In 1976 the Free Aceh Movement (Gerakan Aceh Merdeka – GAM) began an insurgency, which lasted until 2005. The insurgency, and the brutal government response to it, resulted in the deaths of between 10,000 and 30,000 people.^b The rebels were initially forced underground and only resurfaced as a cohesive fighting force after 1986. In 1989 authorities in Jakarta launched a large-scale counter-insurgency against the rebels and imposed what was effectively martial law in Aceh for the next decade.^c

There were no significant attempts to resolve the conflict until the late 1990s, when Indonesia was going through a new period of democratization, as a result of the downfall of President Suharto in 1998. In this context GAM and the new government in Jakarta welcomed an offer by a Geneva-based mediation NGO, the Centre for Humanitarian Dialogue (HD Centre), to convene the parties. This led relatively quickly to an agreement on a 'Humanitarian Pause' in May 2000 and then to the 'Cessation of Hostilities Agreement' in 2002.

Efforts to convert these arrangements into a wider conflict-resolution process collapsed amid ceasefire violations. Nevertheless, there was a general acknowledgment on both sides that there could be no military solution to the conflict. The December 2004 tsunami that devastated coastal Aceh had the unexpected result of catalysing a new push for peace.^d

Indonesian officials were cautious of 'over-internationalizing' the process by involving the UN. Instead they sought the help of non-governmental intermediaries through the HD Centre and the private diplomacy of former Finnish president Martti Ahtisaari and his Crisis Management Initiative.^e

Ahtisaari fostered the 'Helsinki process', a series of five rounds of direct and informal talks aimed at building trust and reaching a comprehensive agreement. This resulted in the conclusion in August 2005 of a memorandum of understanding (MoU) that ended the conflict. It gave Aceh the right to retain 70 per cent of oil and gas revenues generated in the region for eight years, after which such revenues would be shared equally between Aceh and the central government.

The MoU also provided for mechanisms to facilitate both the joint management of oil and gas resources and greater transparency over the collection and distribution of revenues arising from them.^f The agreement gave Aceh a significant degree of autonomy within a unitary state,^g and included a monitoring mechanism with international oversight provided by a joint mission from the EU and the Association of Southeast Asian Nations (ASEAN), and supported by Ahtisaari – who was to arbitrate serious disputes as and when they arose.^h Even so, there have been problems in implementing the agreement, given the large number of resource concessions that were signed subsequently, and in view of accusations from the Acehnese that the Indonesian government underpaid its agreed share of the revenues.ⁱ

^a Michelle, M. A., 'The conflict in Aceh: context, precursors and catalysts', in *Accord*, 20:12–15, http://www.c-r.org/sites/default/files/Accord%2020_3The%20conflict%20in%20Aceh_2008_ENG.pdf (accessed 13 September 2014).

^b Amnesty International (2013), 'Indonesia: Commission's findings offer hope for victims of Aceh conflict', <http://www.amnesty.org.au/news/comments/32491/> (accessed 8 September 2014).

^c Michelle, M. A., 'The conflict in Aceh: context, precursors and catalysts'.

^d Renner, M. (2015), 'Post-tsunami Aceh: Successful peacemaking, uncertain peacebuilding', in *Livelihoods, natural resources, and post-conflict peacebuilding*, Young H. and Goldman L. (eds), London: Earthscan.

^e Conciliation Resources (2008), *Learning from the Indonesia–Aceh peace process*, London: Conciliation Resources.

^f Haysom, N. and Kane, S. (2009), *Negotiating natural resources for peace: Ownership, control and wealth-sharing*, Geneva: HD Centre.

^g Conciliation Resources (2008), *Learning from the Indonesia–Aceh peace process*.

^h *Ibid.*

ⁱ Dwyer, L. (2012), *Don't Disturb the Peace: Post-Conflict Politics in Aceh, Indonesia*, George Mason University, <http://www.globality-gmu.net/archives/3171> (accessed 30 January 2015).

The third category of resource dispute – disagreement or conflict over single, standalone resource-related projects – can involve large mines, new hydroelectric dams, forest concessions, conservation areas or large-scale agribusiness investments. These disputes usually arise between local communities and private-sector actors, though the national government may also be closely involved. They typically revolve around the potential impacts of the project on the community, its land and environment, as well as around the distribution of benefits locally in terms of revenues, jobs and infrastructure.

One example of this type of dispute can be seen in the Niger Delta, which has suffered many years of instability as a result of armed militant groups angry about environmental damage from oil extraction and the lack of oil revenues flowing to local communities. Among the best-known of these groups is the Movement for the Emancipation of the Niger Delta, which has been active since 2004. Its stated goals are fighting the Nigerian authorities for local control of oil produced in the Delta, and securing compensation from the federal government for pollution caused by the oil industry. Another example was the impact of the Panguna copper mine in the Bougainville province of PNG, where in the late 1980s serious environmental damage caused by mining activities triggered a civil war (Box 2), which evolved into a secessionist conflict.

Box 2: The Panguna copper mine, Bougainville, PNG

Violent conflict erupted in the mountainous eastern Papuan island province of Bougainville in November 1988 and continued until 1997, costing an estimated 15,000–20,000 lives. One prominent cause of the conflict was bitter local resentment over the environmental and social costs of a copper mine at Panguna in south-central Bougainville, which operated from 1972 until it was closed by fighting in 1989. At the time of its closure the mine was providing 9 per cent of PNG's gross national product and had become one of the largest man-made holes in the world.^a

The 180,000 people of Bougainville, geographically and ethnically closer to the Solomon Islands than to the rest of PNG, resented their rich mineral resources being used for the benefit of a distant government. A number of factors compounded this resentment, key among them the inferior positions of Bougainvilleans in the mine workforce, the adverse environmental impact of the mine, the lack of revenue streams directed to local communities, and the large influx of migrant labour.

In 1988 holders of land surrounding the Panguna mine requested compensation for the environmental damage that it was causing and demanded the transfer of Bougainville Copper Ltd (BCL) to local control within five years. The breakdown of negotiations over these claims led to an escalation of violence between the local community and government forces, which increased local support for – and the influence of – the Bougainville Revolutionary Army (BRA). In response to a perceived loss of provincial control, the national government supported the formation of groups opposed to the BRA, known as Resistance Forces, and thereby embroiled the island in civil war. In February 1997 documents were released that detailed government attempts to recruit foreign mercenaries to counter the BRA. The ensuing furore forced the resignation of PNG's prime minister, Julius Chan, and several senior government ministers. The formation of a new government that supported peace negotiations led to a truce under the Lincoln Agreement, concluded in January 1998. In April of that year a 'permanent and irrevocable' ceasefire was signed in Bougainville's regional capital, Arawa. The so-called Arawa Agreement stipulated the creation of a monitoring group comprising representatives from Australia, New Zealand, Fiji and Vanuatu.^b

However, the issue of whether, when, how and under what terms to reopen the Panguna mine remains unresolved and a potent source of dispute. In 2012 representatives of the Autonomous Government of Bougainville, the government of PNG, the United Panguna Mine Affected Landowners Association and BCL created the Joint Panguna Negotiation Coordination Committee to discuss a process for reopening the mine.^c

^a Lal, Brij V. (2000), 'Post-War Pacific' in *The Pacific Islands; an Encyclopedia*, Lal, Brij V. and Fortune, K. (eds), Honolulu: University of Hawai'i Press, p. 262.

^b Althorpe, R. (1998), 'Bougainville reconstruction aid: what are the issues?' in *State, Society and Governance in Melanesia*, 98/7, Canberra: Australian National University.

^c Brown, M., Grzybowski, A., Jensen, D. and Kaye, J. L. (2015), *Natural Resources and Conflict: A guide for mediation practitioners*, UN Department of Political Affairs (UNDP) and UNEP.

The final category of resource disputes – where multiple small disputes collectively threaten wider peace and stability – typically occurs between communities competing over land, water resources, livestock and so on. Each individual disagreement may be relatively minor, although these disputes can become violent, and cumulatively they can affect the stability of the wider country or province. Examples include the Darfur conflict (Box 3), unrest between communities in the Turkana region of northern Kenya, and local-level conflict over land and irrigation water in Afghanistan (Box 5).

Another example is intense community-level competition over fertile land. Alongside the better-known role of valuable minerals – particularly gold, cassiterite (tin) and tantalum (coltan) – fertile land is a source of conflict in the eastern region of the Democratic Republic of the Congo (DRC). The UN Human Settlements Programme (UN-Habitat) has since 2009 managed a programme which attempts to address land disputes in a number of DRC provinces. The programme aims to prevent and reduce land conflicts by deploying teams of mobile local mediators, combined with community land mediation centres, in key conflict areas. This offers a forum for community members to submit land claims and to receive information on issues relating to tenure and land use.

The programme has provided an alternative and effective dispute-resolution mechanism in a region characterized by weak customary tenure systems and by a systemic lack of land-use planning or land-ownership registration.⁸

A number of characteristics relating to the use, sale, trade, price and availability of a resource may affect the dynamics of a resource dispute:⁹

- Natural resources, such as land, are often loaded with historical, spiritual or cultural significance that goes far beyond their instrumental value.
- Natural resources, such as water, forests, productive land or minerals, are rarely evenly distributed. This may lead to disputes where they occur along ethnic, religious or cultural lines. Their availability and value are influenced by a range of complex and unpredictable natural and social factors: weather patterns, trade flows and so on.
- Disputes over natural resources occur on different scales in ways that interconnect at local, regional, national and international levels. Local disputes over water, for example, may mirror, contribute to and complicate wider disputes over water allocation.
- In many countries, resources are managed by complex and overlapping systems of traditional and modern institutions. Different groups may have very different interpretations of who makes decisions over those resources.
- Natural resources that are traded on global markets, such as oil and minerals, are subject to price volatility that can have destabilizing economic impacts or may rapidly drive investment interest in new areas.
- Resource disputes can involve a diverse range of actors and stakeholders: regional governments, local communities, civil society organizations, private companies and so on. These disputes are often characterized by asymmetries of capacity, power and influence among the parties: multinational companies against local communities, central government bureaucrats against indigenous groups, etc.

Box 3: Land and water in Darfur, Sudan

The Sudanese region of Darfur has a long history of conflict between farmers and pastoralists over access to land, migratory routes for livestock and watering holes. Population growth has expanded the area of land used for agriculture and constrained the available routes for nomadic groups that have traditionally followed pastures with their cattle. Meanwhile, climate change and periodic severe droughts have made already-limited water resources more scarce and contested. As a result, the Arab, Muslim pastoralists and African, Christian and animist farmers often directly compete for land and water. Political forces in Khartoum and elsewhere have manipulated these divisions.

The most recent conflict erupted in February 2003 when a combination of forces from the Sudan Liberation Movement/Army and the Justice and Equality Movement instigated a wave of attacks on government forces, whom they accused of terrorizing Darfur's non-Arab population. In response, the government began a

⁸ UN-Habitat (2013), *Guide to land mediation based on the experience in the eastern Democratic Republic of Congo*, Nairobi: UN-Habitat.

⁹ Developed from Brown, M., Grzybowski, A., Jensen, D. and Kaye, J. L. (2015), *Natural Resources and Conflict: A guide for mediation practitioners*.

campaign of ethnic cleansing against the non-Arabs. This was conducted through a range of Arab militias, known as the 'Janjaweed', and led to hundreds of thousands of deaths.

The Darfur conflict has three interacting levels: a local level characterized by clashes between tribal groups, for whom natural resources play an important role; a national-level conflict between major rebel factions and the national government; and an internationalized conflict in which regional political currents are significant.^a In 2014 the UN Environment Programme (UNEP) conducted a review of the different types of local agreements that have attempted to resolve resource disputes in Darfur since 2003. The review argued that the most successful processes were community-based local agreements which closely followed traditional conflict-resolution mechanisms and attempted to re-establish the benefits of peaceful coexistence between different livelihood and ethnic groups.

Although accords imposed from the outside (by government or rebel groups) were seen as less effective, external actors such as UNAMID (the joint African Union/UN peacekeeping mission) have facilitated some local agreements. While the review admitted that local-level agreements cannot resolve Darfur's ongoing conflict on their own, it argued that they are an essential component of wider stability in the region.^b

^a Bromwich, B. (2014), *Relationships and Resources: Environmental governance for peacebuilding and resilient livelihoods in Sudan*, Nairobi: UNEP.

^b Buchanan-Smith, M. (2014), *Local-level Agreements in Darfur: a review with reference to access and management of natural resources*, Nairobi: UNEP.

Issues in disputes

Of course, every dispute is different and conflict has multiple causes. Almost without exception, however, the natural resource itself is not the only or even the 'main' issue. These disputes become bound up with the ethnic differences between the protagonists, historical grievances, personal enmities and so on. Ultimately, though, all are rooted in the power relations among different stakeholders.

It is possible to disentangle four main issues that are, in some form or another, at the heart of most resource disputes: ownership of the resource, power to manage the resource, sharing of revenues from the resource, and damage caused by the exploitation of the resource. Understanding the issues that underlie the dispute can help in addressing the core problem and in finding creative solutions to it.

While the ownership may capture attention, what is often at the heart of a dispute is who holds the power to make decisions over the management of the resource.

The first underlying issue is ownership of the resource. Determining precise ownership is typically a contentious issue, and may require considering private ownership, customary rights and the assertion of state ownership (see, for example, the Bolivian constitutional referendum: Box 8).

The second is allocation of power to access, manage or develop natural resources. This overlaps with, but is not necessarily the same as, absolute ownership. A community may have common-law rights to use a forest, for example, without actually owning it legally. While the ownership may capture attention, what is often at the heart of a dispute is who holds the power to make decisions over the management of the resource. For example, during the negotiation of Sudan's 2005 CPA

(Box 4), the parties agreed to defer discussions on the final ownership of the oil, but put in place a system to continue exploiting those resources.

The third underlying issue is the treatment of natural resource revenues. How to share the revenues from resources is a frequent cause of disputes of all scales, while the transparent and fair collection of natural resource revenues can be a determining factor for preventing corruption and ensuring political stability (for example, through wealth-sharing in Iraq; see Box 6).

The fourth issue is the environmental and social damage caused by exploiting the resource, be it a mine or a new hydroelectric dam (for example, the Panguna mine in Bougainville; Box 2). This

Box 4: Oil in the CPA in Sudan

The distribution of oil revenues between southern and northern Sudan was an important element of the January 2005 CPA (also known as the Naivasha Agreement). This accord ended 22 years of north–south conflict in Sudan – Africa’s longest-running war – and paved the way for South Sudan’s independence referendum in January 2011.

The majority of oil production occurred in the disputed border region between north and south Sudan, which greatly complicated the border demarcation. In addition, the majority of remaining oil reserves were found in what became South Sudan, while the only export pipeline ran through the north, forcing the regions to collaborate if they hoped to benefit from the sale of oil.^a

The CPA’s six protocols included a specific protocol on wealth-sharing, which set out broad principles for the division of oil revenue (oil was the major source of revenue for authorities on both sides).^b This was a neat compromise – it set up a formula for sharing oil wealth while deliberately deferring the highly sensitive discussions of final ownership of the resources to a later date.^c

The peace process was encouraged and facilitated by the diplomatic efforts of the Intergovernmental Authority on Development (IGAD), a regional organization promoting socio-economic development in East Africa.^d However, implementation of the CPA, once signed, proved to be very challenging and the cause of numerous disputes, in part because the agreement did not settle the location of some of the oilfields along the border or set benchmark prices for payments to the Oil Stabilization Fund for which it provided.^e

South Sudan subsequently separated from Sudan after its 2011 referendum. Since then, disputes over transit fees for South Sudanese oil through the northern pipeline have continued to dominate the extremely bad relations between the two countries. Conflicts over the demarcation of oil-rich border areas have persisted,^f and internal power struggles and ethnic divisions within South Sudan have precipitated a slide back towards full-blown civil war.

^a Haysom, N. and Kane, S. (2009), *Negotiating natural resources for peace*.

^b Wennmann, A. (2012), ‘Sharing natural resource wealth during war-to-peace transitions’, in *High-value natural resources and post-conflict peacebuilding*, London: Earthscan.

^c Haysom, N. and Kane, S. (2009), *Negotiating natural resources for peace*.

^d IGAD was established in 1996 (replacing the Intergovernmental Authority on Drought and Development – founded in 1986). Its members are Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. (Eritrea suspended its membership in 2007.) IGAD is headquartered in Djibouti.

^e Goldwyn, D. L. (2008), ‘Implementation of the Wealth Sharing Accords: Oil, energy and political implications’, in *Implementing Sudan’s Comprehensive Peace Agreement: Prospects and Challenges*, Washington, D.C.: Woodrow Wilson International Center for Scholars – Africa Program, pp. 15–21.

^f Salman, S. M. A. (2013), ‘The Abyei territorial dispute between North and South Sudan: Why has its resolution proven difficult?’, in *Land and post-conflict peacebuilding*, Unruh, J. and Williams, R. C. (eds), London: Earthscan.

damage can undermine livelihoods in the local area, or upset the previous social structure and create grievances, particularly if communities that are suffering the negative effects from the resource's exploitation feel that they are not benefiting from it either.

These issues may be present singly or in combination in each category of resource dispute described above. Absolute ownership of a resource (for example, whether sub-surface minerals are owned by the state, the local community or private landowners) is often a key issue in secessionist rebellions. Allocation of resource revenues (among the central and regional government and the local community) is often a prominent point of contention in disputes around a new national compact. Meanwhile, disputes over standalone projects often focus around environmental damage and social dislocation, as well as perceptions that the benefits of such projects are unfairly distributed. Finally, violent community-level disputes over land or water may reflect a lack of legal clarity and poor records relating to the ownership of the resource, which may be compounded by weak or biased systems of enforcement to settle disagreements.

The link to violent conflict

Disputes (as in disagreements) over natural resources are ubiquitous and to be expected. Indeed, social conflict can be a positive source of creative problem-solving and an important part of progress and development. Disputes can lead to the development of new, more effective institutional structures.¹⁰

However, they become a security concern where there is the risk or reality of violent conflict. Ultimately a violent conflict is the result of one or both parties being unable or unwilling to resolve their differences peacefully.

Violent conflict is particularly likely to occur in countries with weak institutions, which may be unable to deter corruption or respond to the seizure of natural resources by powerful actors. This may be compounded where the distribution of natural resources aligns with ethnic boundaries.¹¹

In these cases resource disputes can become the focus for violent conflict themselves – as in the case of the Panguna mine in PNG (Box 2). They may also underlie other conflicts and make them more difficult to resolve (Box 5).

Box 5: Natural resource disputes in Afghanistan

Contrary to international news reports on Afghanistan, which emphasize instability caused by radical Islamist insurgencies, the most common causes of violence reported by rural communities are disputes over land and irrigation water (followed by family disputes).^{a,b} While local disputes are not the cause of the insurgency, they do help to create the conditions of instability and violence that facilitate it.

In addition, 'conflict economies' producing opium and heroin, or smuggling high-value cedar wood and precious gemstones, are making millions of dollars for warlords and corrupt politicians. This is creating incentives among some groups for prolonged insecurity.^c Powerful warlords are capitalizing on the insecurity and governance vacuum to grab large tracts of land.^d

¹⁰ Conca, K. (2006), *Governing Water*, Cambridge, MA: MIT Press.

¹¹ Haysom, N. and Kane, S. (2009), *Negotiating natural resources for peace*.

Local disputes are typically resolved through an ad hoc array of government officials and local leaders. However, corrupt officials, local warlords and the prevailing insecurity in large parts of the country have undermined these community-based mechanisms. Meanwhile, weak but centralized management of natural resources from Kabul, the Afghan capital, coupled with slow and often corrupt court processes, leaves a situation in which resources are more easily captured by the strongest and best-armed elements.^e

The United States Institute for Peace (USIP) has created and funded dispute-resolution councils to bring tribal leaders and government officials together to resolve disputes in two eastern provinces (Nangarhar and Kunar). This emphasizes the potentially positive role of local leaders for stability when they are relied on to help resolve disputes.^f

Even if a political settlement is concluded between the government and the insurgents, it is likely that long-term stability in Afghanistan will be a tenuous prospect until and unless resource disputes are managed more effectively.

^a Oxfam (2009), *The Cost of War – Afghan experiences of conflict – 1978–2009*, Kabul: Oxfam.

^b In 120 cases considered by the dispute-resolution councils in Nangarhar and Kunar, 55 per cent involved land issues.

^c Brown, O. and Blankenship, E. (2013), *Natural Resource Management and Peacebuilding in Afghanistan*, Kabul: UNEP.

^d Unruh, J. and Shalaby, M. (2012), 'Road infrastructure reconstruction as a peacebuilding priority in Afghanistan: Negative implications for land rights', in *Assessing and restoring natural resources in post-conflict peacebuilding*, Jensen D. and Lonergan, S. (eds), London: Earthscan.

^e Coburn, N. (2011), *The politics of dispute resolution and continued instability in Afghanistan*, Washington, D.C.: USIP.

^f Ibid.

Trajectory of disputes

Population growth and rising consumption are increasing demand for all categories of resources.¹² Between 2003 and 2013, the world's use of coal, palm oil and iron ore grew by between 5 per cent and 10 per cent a year, while demand for oil, copper, wheat and rice increased at a rate of 2 per cent a year.¹³ On current trends, by the middle of this century, the world's population will have exceeded 9 billion, global energy demand will have doubled, and global water demand will have increased by 55 per cent over 2012.¹⁴ Seriously compounding this picture, climate change and environmental degradation will increasingly shift and limit the availability of critical natural resources such as fresh water and productive land.¹⁵

On current trends, by the middle of this century, the world's population will have exceeded 9 billion, global energy demand will have doubled, and global water demand will have increased by 55 per cent over 2012.

Meanwhile, new consumer technologies (such as the increased use of rare-earth minerals in modern electronics) are changing the patterns of global resource demand.¹⁶ New extraction techniques (such as sub-salt and horizontal drilling for oil) are encouraging resource development in technologically

¹² Lee, B., Preston, F., Kooroshy, J., Bailey, R. and Lahn, G. (2012), *Resources Futures*, London: Chatham House.

¹³ Ibid.

¹⁴ Global Water Forum (2012), *Water outlook to 2050: the OECD calls for early and strategic action*, <http://www.globalwaterforum.org/2012/05/21/water-outlook-to-2050-the-oecd-calls-for-early-and-strategic-action/> (accessed 14 September 2014).

¹⁵ Brown, M., Grzybowski, A., Jensen, D., and Kaye, J. L. (2015), *Natural Resources and Conflict: A guide for mediation practitioners*.

¹⁶ Ratner, B. D., Meinzen-Dick, R., Hellin, J., Mapedza, E., Unruh, J., Veening, W., Haglund, E., May, C. and Bruch, C. (2013), *Addressing conflict through collective action in natural resource management: A synthesis of experience*, CAPRI Working Paper No. 112, Washington, D.C.: International Food Policy Research Institute. <http://dx.doi.org/10.2499/CAPRIWP112>.

challenging and politically sensitive environments. This is already redrawing the map of global resource production and changing the political economy of resources.¹⁷ For example, a 2013 report by the African Development Bank noted the presence of significant reserves of shale gas across Africa, which have the potential to shift patterns of global gas production and consumption.¹⁸

We can expect the cumulative effect of these trajectories to make disputes over resources more likely. In fragile states where resource governance and the rule of law are weak, these disputes have the potential to trigger violence. In June 2013 the UN Security Council held a thematic session on preventing natural resource conflicts, chaired by the United Kingdom. The discussions reflected a broad consensus on the need for revenue transparency, the managing of commodity chains for conflict resources, and peaceful dispute resolution.¹⁹

These trajectories underline the need for better national approaches to dispute management. The international community – in the sense of those international organizations, NGOs and states with the interest and capacity to promote peace and security – has a strong self-interest in supporting this. In today's globalized world, the costs of violent conflict are incurred not only locally in human lives and destruction, but also regionally and internationally in terms of the costs of humanitarian and peacekeeping responses, increased flows of refugees and internally displaced persons (IDPs), forgone economic growth, and so on. Once a situation has descended into violence, it almost always becomes more difficult to deal with over the long term. Violent conflict is often repetitive. Indeed, roughly 40 per cent of civil wars resume within a decade of an original peace deal.²⁰

International organizations and donors will find that their work increasingly focuses on countries facing chronic conflicts, as well as on natural resources such as land, oil, minerals, water and forests. This means that resource dispute resolution may move from being an occasional hurdle in the development field to the norm in terms of the challenges faced. It may not be too much of an exaggeration to suggest that politics in the 21st century will be shaped, in part, by how well these disputes can be resolved.

Box 6: Oil-sharing in Iraq

Revenue from oil constitutes two-thirds of Iraq's GDP and about 95 per cent of its foreign-exchange earnings. The majority of Iraq's reserves (an estimated 140 billion barrels of oil) are situated in oilfields in the Kurdish north and Shia Arab south. Relatively few reserves are located in areas where Sunni Arabs are in the majority.^a

Following the invasion of Iraq in 2003 and the removal of Saddam Hussein's regime, a constitutional drafting process began which resulted in the adoption of a new federal constitution in 2005. The process was marked by controversy, particularly over the handling and partitioning of resource revenues.

While the constitution was endorsed by a referendum, its implications continue to be a source of controversy for Sunni Arabs.^b Despite this, the constitution has functioned as the main regulatory framework underlying the governance of Iraq's oil and gas sector, partly due to a failure to adopt a law specific to the oil sector.

¹⁷ Lee, B., Preston, F., Kooroshy, J., Bailey, R. and Lahn, G. (2012), *Resources Futures*.

¹⁸ African Development Bank (2013), *Shale gas and its implications for Africa and the African Development Bank*, <http://www.afdb.org/en/news-and-events/article/afdb-reports-significant-opportunities-of-shale-gas-production-in-africa-in-a-new-publication-12367/> (accessed 19 April 2015).

¹⁹ UN Security Council (2013), Debate on Conflict Prevention and Natural Resources. See UN S/PV.6982 (resumption 1), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.6982 (accessed 30 January 2015).

²⁰ McCandless, E. (2010), *In pursuit of peacebuilding for perpetual peace: where the UN's peacebuilding architecture needs to go*, University of Ottawa.

The adoption of the new constitution signalled a shift away from decades of centralized governance towards regional control over oil sector revenues. The lack of detail on the key areas of oil and gas revenue taxation, and how future resource discoveries would be treated, implied the possibility of increased regional authority over new finds.^c Indeed, the Kurdistan Regional Government (KRG) began issuing its own concessions in 2011, a practice that the central government bitterly contested, blacklisting any oil companies drilling in Kurdistan from bidding for the southern fields.^d

These ongoing disputes over the extent and nature of federalism in Iraq and the drafting of the 2007 Hydrocarbon and Revenue Sharing Law have hampered national reconciliation. This has helped to lay the ground for the current crisis the country faces.^e Like the constitution, the draft law (which has not been adopted) states that Iraq's hydrocarbon resources belong to its citizens. However, it does not contain guidelines for how the revenues from them should be distributed.^f

The ambiguous constitutional provisions on who has the authority to manage oil development are partly to blame for repeated failures to achieve a compromise in negotiations between the Federal Ministry of Oil and the KRG.^g In November 2013 Turkey offered to mediate between the KRG and the federal government.^h A deal to share oil revenues was eventually struck in December 2014, though it is not clear to what extent the deal was facilitated by Turkish mediation.ⁱ

Tensions peaked in early 2014 after the KRG started, in December 2013, to export oil through a pipeline running directly to Turkey, protesting that the Shia government of Nouri al-Maliki was withholding funds needed to pay hundreds of thousands of Kurdish government employees and causing the most serious banking crisis the Kurdish region had experienced since its creation in 1991.^j

^a Haysom, N. and Kane, S. (2009), *Negotiating natural resources for peace*.

^b *Ibid.*

^c Al Moumin, M. (2012), 'The legal framework for managing oil in post-conflict Iraq: A pattern of abuse and violence over natural resources', in *High-value natural resources and post-conflict peacebuilding*, Lujala, P. and Rustad, S. A. (eds), London: Earthscan.

^d Helman, C. (2012), 'The High Stakes Chess Game for Iraqi Oil', *Forbes*, <http://www.forbes.com/sites/christopherhelman/2012/08/02/its-big-oil-versus-baghdad-in-an-iraqi-chess-game-who-will-win/> (accessed 30 January 2015).

^e Peter, E., Kent, S. and Parkinson, J. (2014), 'Kurdish Oil Gambit Hits Troubled Waters', 22 July 2014, *Wall Street Journal*, New York.

^f Open Oil, http://wiki.openoil.net/index.php?title=Revenue_Sharing_Procedures_in_Iraq (accessed 13 September 2014).

^g Haysom, N. and Kane, S. (2009), *Negotiating natural resources for peace*.

^h AFP (2013), 'Turkey proposes to mediate Iraq energy dispute', http://www.spacedaily.com/reports/Turkey_proposes_to_mediate_Iraq_energy_dispute_999.html (accessed 13 September 2014).

ⁱ *Gulf State News* (2014), 'Baghdad and KRG finally agree on oil revenues', 11 December 2014, Vol. 38, Issue 963, pp. 11–12.

^j Barbarani, S. (2014), 'Oil fuels tensions between Erbil and Baghdad', in *Middle East Eye*, 14 June 2014, <http://www.middleeasteye.net/news/oil-fuels-tensions-between-erbil-and-baghdad-69648644> (accessed 13 September 2014).

Addressing Resource Disputes

The vast majority of resource disputes are resolved peacefully through existing management structures (such as community groups that control irrigation channels), legislative processes (such as new mining legislation), judicial action (for example, at land courts), mediation or arbitration (for example, resolving local disputes over grazing rights), or national processes (such as the development of a new constitution).

If administered well, the framework for the management of natural resources can support livelihoods, enhance community trust, provide justice, strengthen the social compact and reinforce stability. Even the most fragile states typically have some surviving traditional mechanisms for the resolution of disputes (Box 7).

Box 7: Customary dispute resolution in Somalia

Despite its reputation as a failed state, Somalia's traditional mechanisms for settling resource disputes are still functioning. The *Xeer* system, for example, is a customary legal framework that developed in Somalia as early as the seventh century. It has survived both European colonization and the collapse of the Somali state in 1991.

Under *Xeer* no single authority authorizes a unitary legal code; instead, judges determine the best way to resolve a dispute. *Xeer* is a form of alternative dispute resolution that takes one of three forms: negotiation, mediation or arbitration. Of these, arbitration is the most commonly used. This is where the opposing parties present their cases to a neutral third party that has the power to propose solutions after hearing the arguments from each side. Those solutions are closely linked with the idea of *diya*, or blood compensation, which sets out rules for the punishment of misconduct.

The advantage of the *Xeer* system is that it is relatively simple, familiar, transparent and accessible to those who wish to use it.^a Although the system is centuries old, some commentators argue that it may yet provide the basis for a modern, functioning country.^b

^a Abdile, M. (2012), 'Customary Dispute Resolution in Somalia', in *African Conflict and Peacebuilding Review*, Vol. 2, Issue 1 (Spring 2012), pp. 87–110.

^b Thorne, K. (2005), *Rule of Law through imperfect bodies? The informal justice systems of Burundi and Somalia*, Geneva: HD Centre.

The role of the international community

Sometimes, however, resource disputes resist domestic resolution. This can be for a number of reasons. The issues may be particularly intractable; there may be a lack of political will to tackle the core dispute; or the institutions involved may be overwhelmed or not seen as legitimate.

In such cases, the international community might be able to help. There are many ways in which the international community can and does support domestic dispute resolution. These approaches are either direct (bringing together protagonists for discussions) or indirect (helping to create the conditions in which resolution of the dispute might become easier). They include the following:

1. Knowledge and capacity-building

- Providing objective and impartial analysis (for an example of this, see Box 8);
- Establishing and training networks of local mediators (Box 3, Box 9);
- Building capacity to reduce technical or negotiating asymmetries (Box 12); and
- Implementing early-warning and -response systems.

2. Convening stakeholders

- Organizing national dialogues, convening and facilitating meetings in a safe, neutral space (Box 1);
- Encouraging participation by relevant stakeholders in groups such as ‘peace committees’; and
- Supporting advocacy campaigns at all levels for peace.

3. Supporting dispute-resolution processes

- Building trust and then assisting the parties in mediation and joint problem-solving (Box 4, Box 9);
- Providing discreet support for national efforts to reach a political agreement (Box 8);
- Monitoring the implementation of agreements (Box 1, Box 2);
- Ensuring coherence between related initiatives; and
- Providing political and financial support (Box 1, Box 2).²¹

Box 8: Supporting constitutional reform in Bolivia

In 2008, amid rising political tensions, Bolivia almost descended into social violence over a disputed constitutional reform bill.^a Key elements of the new constitution, which took more than two years to draft, included recognition of 36 distinct Indian ‘nations’; more autonomy for Bolivia’s nine regions; the imposition of state control over key resources such as natural gas reserves; and restrictions on private land ownership to no more than 5,000 hectares.^b

The UN helped parties to reach internal consensus over the new constitution by commissioning public surveys, providing credible information on the technical issues faced by the parties, and offering facilitation at the personal level through its country team.^c The constitution was passed by referendum in January 2009.^d

^a Kumar, C. (2012), ‘Building National “Infrastructures for Peace”: UN Assistance for Internally Negotiated Solutions to Violent Conflict’, New York: UNDP Bureau for Crisis Prevention and Recovery.

^b Piette, C. (2009), ‘Bolivia faces long reform struggle’, BBC News, <http://news.bbc.co.uk/1/hi/world/americas/7850587.stm> (accessed 14 September 2014).

^c Kumar, C. (2012), ‘Building National “Infrastructures for Peace”’.

^d Piette, C. (2009), ‘Bolivia faces long reform struggle’.

²¹ Adapted from UNEP (unpublished), *Confrontation or Cooperation? Environmental diplomacy for conflict prevention, conflict management and peacebuilding*, UNEP; and van Tongeren, P. (2011), *Creating Infrastructures for Peace – Experiences at Three Continents*, Pensamiento Propio Vol. 36–37, pp. 91–127.

Strengths and weaknesses of current approaches

A great deal of time and effort has been spent on trying to improve the coherence and effectiveness of international support for the resolution of resource disputes. This has mostly focused on transboundary (i.e. interstate) disputes – for example, in the proliferation of transboundary river organizations. But it has also fed into the international community's attempts to support *intrastate* dispute resolution.

In recent years there has been a proliferation of actors involved in dispute resolution. In this research paper we have deliberately used the term 'international community' loosely. Historically it has been a convenient shorthand for the range of international organizations (principally the UN), international NGOs (mostly Western) and individual states (mostly northern European) that tend to be active in conflict prevention. But the international community is becoming much more heterogeneous. Many new groups have entered the scene. China, some of the Gulf states, Turkey, private-sector entities, regional development banks, regional bodies such as the African Union, and regional communities such as ASEAN have all joined in.²² Each actor has its own agenda, capacities, constraints and approaches to dispute resolution.

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Within the UN there has been a focus on peacebuilding and mediation. Both the Peacebuilding Commission Support Office, which was established in 2005, and the Mediation Support Unit of the Department of Political Affairs, founded in 2006, have one or two dedicated experts on natural resource issues. Since 2008 there has been a multi-agency EU–UN Partnership on Land and Natural Resource Conflict Prevention.

Meanwhile the European External Action Service has created a mediation support team that includes experts with a background in negotiating and mediating in resource disputes. The past decade or so has also seen a proliferation of often highly experienced NGOs working in the fields of resource dispute resolution and peacebuilding.

The OECD identifies several strengths in the current international system for dispute resolution. Firstly, the international community has developed an expanded range of international tools and techniques that can create pressure for peace. For example, by 2012 there were twice as many peacekeeping operations as in 1989. Evidence suggests that these operations are able to reduce the risk of a relapse into conflict by as much as 70–75 per cent.²³ Secondly, there are now more integrated international approaches that can support long-term peace operations. The Post-Conflict Development Needs Assessment process coordinated by the UN Development Group is one example of this. Thirdly, partnerships are emerging at all levels, from the global to the local, that can generate context-specific responses to violent conflict (see Box 9).²⁴

²² OECD (2012), *Improving International Support to Peace Processes: the Missing Piece*, Paris: OECD.

²³ Ibid.

²⁴ Ibid.

Box 9: Land disputes in Timor-Leste

East Timor (now Timor-Leste) was invaded by Indonesia in December 1975, nine days after declaring independence from Portugal. The ensuing Indonesian campaign of ‘pacification’ led to an estimated 102,800 conflict-related deaths over more than two decades.^a A UN-sponsored referendum in August 1999 resulted in an overwhelming vote for independence; the administration of the country was initially taken over by the UN through the UN Transitional Administration in East Timor (UNTAET), and then in May 2002 Timor-Leste achieved full independence. Given that many thousands of people had been forced from their land during the Indonesian occupation, the ownership and allocation of land continued to be a highly sensitive issue post-independence.^b

A renewed bout of violence in 2006 destroyed thousands of homes and displaced an estimated 100,000 people. In the aftermath, the government of Timor-Leste, supported by the UN, began an assessment to gauge the extent of abandoned land and to estimate damage to homes. This effort consisted of interviewing representatives of households who had been displaced to refugee camps, in order to identify the houses from which they had been forced to flee. The findings of this study were collated in a database and a map was created to inform a cash-based return and resettlement programme.^c Another project, called ‘Ita Nia Rai’, worked to resolve land disputes by developing a National Land Cadastre. The project was supported by USAID between 2007 and 2011, and from 2012 it was funded by the Ministry of Justice.^d

Nevertheless, Timor-Leste’s peace process almost collapsed between 2007 and 2009 under pressure from a wave of conflicts over land triggered by the return of refugees and IDPs. With international assistance, a network of community mediators was trained and deployed to resolve these disputes. By 2010 their efforts had enabled the return and resettlement of 13,000 families. As a result, the government worked with funding from the UN Peacebuilding Fund to establish a new Department for Peacebuilding and Social Cohesion in the Ministry of Social Cohesion.^e

^a An estimated 18,600 killings and 84,200 ‘excess’ deaths from hunger and illness. Human Rights Data Analysis Group, <https://hrdag.org/timorlestefaq/> (accessed 30 January 2015).

^b International Crisis Group (2010), *Managing Land Conflict in Timor-Leste*, Asia briefing No. 110, 9 September 2010.

^c UN-Habitat (2012), *Toolkit and guidance for preventing and managing land and natural resources conflict*, New York: EU-UN Partnership on Land and Natural Resource Conflict Prevention.

^d See <http://itaniarai.mj.gov.tl/eng/index.html> (accessed 30 January 2015).

^e Kumar, C. and De La Haye, J. (2011), ‘Hybrid Peacemaking: Building national “infrastructures for peace”’, in *Global Governance* 18 (2011), pp. 13–20.

But while there has been progress in developing the international community’s response to resource-related conflicts, the current approach still has significant weaknesses. These are as follows:

- **Erratic engagement.** The most obvious weakness is that international engagement is neither consistent nor systematic.²⁵ It has proven difficult to set any kind of criteria for international support for dispute resolution. The international community does not, of course, have any automatic mandate or legitimacy to intervene in what are essentially sovereign issues. The international community may get involved on a case-by-case basis where there is a high-profile peace agreement or new constitution to be negotiated, but it often ignores systemic issues of community conflict over land and water (see Box 5 on Afghanistan). The result is that international support for the resolution of national or sub-national disputes is patchy and inconsistent.

²⁵ Kumar, C. (2012), *Building National “Infrastructures for Peace”*.

- **The ‘backyard effect’.** International intervention to support the resolution of resource disputes tends to take place where there is a big power differential or an international stakeholder (often the former colonial power) with a somewhat paternalistic interest in the dispute being settled.
- **Poorly timed interventions.** It is, of course, very difficult to predict accurately when and where disputes are going to break out. Outside help may be most useful before violence begins and positions become entrenched. However, in the majority of disputes there is no internal consensus on the need for external assistance in dispute resolution, especially where violent conflict has not erupted on a significant scale.²⁶
- **Perceptions of meddling.** In the absence of a clear invitation from the protagonists, international involvement can seem like meddling. Where valuable resources are involved, particularly in the context of a secessionist rebellion or dispute over the operations of a multinational company, the motives of an external party trying to resolve the dispute are likely to be viewed with suspicion. This is particularly the case for disputes over resources such as land or oil where international actors may be seen as pursuing their own political or economic interests (see Box 10).
- **Lack of self-awareness.** Ultimately, the international community struggles to understand and respond to these complex resource issues in a meaningful way. There tends to be a lack of self-awareness that the international community is an intensely political actor, with powerful vested interests (Box 10). Consequently, global actors seeking to engage in resolving resource disputes need to be aware of their perceived legitimacy and the political baggage that may accompany any intervention, however well-meaning.

Box 10: The NRDC and the Huaorani in Ecuador

In 1990 the US-based oil company Conoco sought to expand oil-drilling operations in the Yasuni National Park in the remote Oriente region of Ecuador. The Yasuni National Park forms part of the traditional lands of a small and very marginalized indigenous group called the Huaorani.

Starting in February 1991, the Natural Resources Defense Council (NRDC), a US-based NGO, negotiated with Conoco on behalf of the Huaorani. Before and after the contact, several Ecuadorian groups asked the NRDC not to make any agreements concerning the region. The NRDC called for a moratorium on new wells and proposed a multimillion-dollar clean-up fund. The NRDC sent Robert Kennedy Jr to help mediate the process; this approach involved private meetings from which the Huaorani were excluded.^a

The Huaorani had little capacity to control or direct the NRDC’s approach and negotiations. Consequently, following a failure to consult with the Huaorani, the NRDC agreed terms that a majority of the Huaorani opposed.^b Eventually, the Huaorani demanded that the NRDC withdraw from the process and leave Ecuador.

^a Salzman, L. and Issel, B. (not dated), *Natural Resources Defense Council: Eco-logical or Eco-sell-out?*

^b Rubenstein, J. (2007), ‘Accountability in an Unequal World’, in *The Journal of Politics*, Vol. 69, No. 3, August 2007, pp. 616–32.

²⁶ Ibid.

- **Tendency to ignore political issues.** This seems to be especially the case when dealing with the third and fourth category of resource disputes described above: disputes over the socio-environmental impacts of standalone projects; and community-level conflict over land or water issues. International actors can appear woefully naive in navigating these complex political waters, and unaware that they may themselves be perceived as protagonists in the dispute (Boxes 10 and 12).
- **Lack of technical knowledge.** Addressing resource disputes effectively may require specific technical expertise if creative solutions are to be found. It may require knowledge and data on issues as diverse as peak flow rates of rivers, mineral extraction techniques, forestry concession legislation, and so on. Despite the frequency of resource disputes, there are still relatively few mediation or conflict prevention specialists with a background in natural resource management issues.²⁷
- **Lack of preparation.** At the most basic level, any intervention has three stages: planning, implementation and follow-up. When international organizations try to support domestic dispute resolution, there is a tendency to jump straight into the implementation stage.²⁸ The planning and follow-up stages frequently receive insufficient attention. This means that there is a tendency for international actors to get involved without the necessary background analysis to understand the stakeholders, their interests, the dynamics of the conflict and – critically – existing local capacities for conflict resolution (Box 12).²⁹ Misreading the context at the outset is a reliable route to misdirected interventions.

Box 11: Inadequate conflict analysis in Nepal

The Nepalese civil war was waged between Maoist fighters and the Nepalese government between 1996 and 2006. More than 15,000 people were killed and up to 150,000 internally displaced as a result. The conflict was partially motivated by grievances over land distribution in rural areas. A study by the OECD noted that the approach of some Western actors to the Nepalese peace process was informed by a poor understanding of the conflict and inadequate contextual analysis.^a The study argues that this played out in three ways.

Firstly, external actors failed to give sufficient consideration to the historically influential roles of India and China, which reduced the effectiveness of their strategies and programming. Secondly, many international actors did not understand local perceptions of Maoist legitimacy, and hence underestimated the Maoists' importance to the peace negotiations. Thirdly, international decision-makers were too influenced by the articulate and anglophone Nepalese elite, the result of which was a failure to integrate issues of conflict and exclusion into development initiatives.^b

^a OECD (2012), *Improving International Support to Peace Processes*.

^b *Ibid.*

²⁷ Brown, M., Grzybowski, A., Jensen, D., and Kaye, J. L. (2015), *Natural Resources and Conflict: A guide for mediation practitioners*.

²⁸ Chatham House (unpublished), 'Meeting summary: Addressing resource conflicts: working towards more effective resolution of natural resource disputes', 26 June 2014.

²⁹ Hayman, C. (2010), *Ripples to Waves: Locally led peacebuilding on a national scale*, Peace Direct, Quaker UN Office.

Box 12: Flawed assumptions in Central Asia

Following the collapse of the Soviet Union in 1991, the 300-kilometre Ferghana Valley, which has a population now in the region of 14 million, was divided among the three Central Asian republics of Uzbekistan, Tajikistan and Kyrgyzstan.^a Since its division, the valley has been the subject of disputes over contested borders, land and water; these disputes have threatened to escalate into violence both within communities and across borders.

One review assessed international attempts to resolve local-level water conflicts in the Ferghana Valley.^b The researchers reviewed the mediation and conflict-prevention efforts of three different agencies: the Swiss Agency for Development and Cooperation, Mercy Corps International and the UNDP. Typically their programmes were focusing on two or more villages where conflicting claims over land or water had risked, or resulted in, violence.

Each organization's programmes had broadly the same components: building or rehabilitating the water infrastructure (i.e. attempting to deal with the root cause of the conflict); establishing and training community-based organizations (i.e. helping communities to mobilize, and to address the conflict); and fostering joint social activities between the communities (i.e. cultivating communication, trust and personal relationships).

However, the review argued that the agencies fundamentally misunderstood the conflict in a way that undermined the effectiveness of their interventions. They viewed the irrigation disputes as local issues caught in the relationship between communities of different ethnic identities rather than as a strand of a wider conflict embedded in prevailing power and political arrangements.

As a result, the foreign agencies took for granted that more water would somehow lead to fewer disputes. They also assumed that there was an equal distribution of power and influence between the participating parties. In effect the foreign agencies considered the processes of negotiation and mediation as separate from the wider socio-economic surroundings. This translated into an overemphasis on the technical challenges of water availability and allocations, rather than a focus on more intangible, politicized issues of power and influence.

^a Gunya, A. (2007), *Cross-border cooperation in the Ferghana Valley*, ECC Newsletter, October 2007.

^b Bichsel, C. (2009), 'It's about more water. Natural resource conflicts in Central Asia', in Péclard, D., *Environmental Peacebuilding: Managing Natural Resource Conflicts in a changing world*, Swisspeace Annual conference 2007, pp. 22–27.

- **Fragmentation of actors.** While there has been a proliferation of international initiatives, this has not always led to better responses. In fact the system resembles an inconsistent patchwork of institutions rather than a cohesive international system. An OECD report, published in 2011, argued that:

At national, regional and international levels, capabilities to respond to situations of violent conflict and state fragility have evolved significantly. ... However, the multiplicity of actors and responses means that the problems of late, incoherent, fragmented, and confused response are perhaps greater today than was true at the time of the Rwandan genocide.³⁰

- **Weak coordination.** Activities on the ground are often undermined by inadequate cooperation among development, mediation and security actors, a lack of 'conflict sensitivity', and a general reluctance to learn from mistakes.³¹

³⁰ OECD (2011), *Preventing war, violence and state collapse*.

³¹ OECD (2012), *Improving International Support to Peace Processes*.

- **Insufficient human and financial resources.** Prevention of conflict is notoriously hard to monitor and fund. It is often impossible to prove the counterfactual (what would have happened in the absence of an intervention) and attribution (that a particular intervention was responsible for resolving the dispute). This reinforces the tendency of the international community to arrive ‘too late’. It also means that time and energy are focused on reactive responses to conflict rather than proactive prevention programmes that, in the final analysis, may be more cost-effective.

Conclusions

Natural resources – such as land, fresh water, minerals and fishing rights – are critical for the livelihoods and economic well-being of individuals and entire communities. Partly for this reason, they often become loaded with concepts of identity and ethnicity. They are also subject to rapid fluctuations in value or the interest of multinational corporations in ways that can make them highly contentious. In countries with weak governance or a history of conflict, resource disputes can become violent and destructive, damaging development, affecting people's lives, and posing a significant threat to long-term peace and stability. Avoiding violent conflict requires that national governments address resource disputes more effectively, especially in states that are already fragile.

In certain circumstances the international community may have an important role to play: where the dispute is particularly intractable, where funds to support resource dispute resolution are lacking, or where there is a need for an impartial outsider to bring protagonists together and develop creative solutions. Well-designed interventions can help shift the incentives of the parties towards the cooperative and equitable management of resources, and reduce the likelihood of conflict and violence.³²

However, international intervention in resource conflicts should be approached cautiously. Essentially, the primary role of the international community should be to support the ability of countries to resolve their own natural resource disputes. The focus should be on building local capacity wherever possible, while providing impartial dispute-resolution support where appropriate and necessary.

Effective international responses can include direct support for dispute resolution, such as through the provision of mediation services³³; or indirect support, such as capacity development to create the conditions for better resolution of natural resource disputes. During the peace process at the end of the 1990s in Sierra Leone, for example, the UN set up radio stations around the country; these gave a voice to people who accused certain traditional chiefs of engaging in severe pre-war exploitation and abuses over land and labour. Thus, the radio stations helped to prompt a discussion around the role of the traditional chiefs and to raise expectations for their accountability among their constituents once the war was over.³⁴

The focus should be on building local capacity wherever possible, while providing impartial dispute-resolution support where appropriate and necessary.

The best mix of direct and indirect measures depends, of course, on the scale and location of the resource dispute: whether it is over potential secession; over a new constitution or national compact; over the impact of a standalone project; or rooted in community-level conflicts over land, water and livestock. It also depends on the issue at hand: whether the dispute is over the absolute ownership of the resource, the power to manage the resource, the partition of revenues, or the environmental and social damage caused by the extraction of the resource.

³² Ratner, B. D., Meinzen-Dick, R., Hellin, J., Mapedza, E., Unruh, J., Veening, W., Haglund, E., May, C., and Bruch, C. (2013), *Addressing conflict through collective action in natural resource management: A synthesis of experience*.

³³ For an extensive discussion of natural resource mediation, see Brown, M., Grzybowski, A., Jensen, D. and Kaye, J. L. (2015), *Natural Resources and Conflict: A guide for mediation practitioners*.

³⁴ Unruh, J. D. (2008), 'Land policy reform, customary rule of law and the peace process in Sierra Leone', *African Journal of Legal Studies* 2, pp. 94–117.

Strengthening the international response

The international community must improve its analytical, process and leadership competencies in order to play a more constructive role in national resource disputes.³⁵

More sophisticated analytical competency is the first element. This means the ability to understand the social, political and institutional context; to work out what the issues actually are; and to find ways to measure outcomes and impacts of dispute-resolution processes. The international toolkit for dealing with the diversity of violent conflict needs to become more sophisticated. For instance, future research could develop different models of resource ownership and access, establish the links between natural resources and identity, and so on.³⁶

As the case study on Central Asia demonstrates (Box 12), appreciating the technical and political complexities begins with a detailed conflict assessment. Context is critical and every situation is different. Developing appropriate responses relies on a nuanced understanding of the situation. Integrated assessments that cut across sectors can help to combine insights from natural resource management and conflict resolution.

It is important to design dispute-resolution processes that give appropriate weight to planning and follow-up as well as implementation.

There is a need for more experts with technical expertise of resource management, regional knowledge of the context and very strong interpersonal skills. In particular, it is important to understand (1) the root causes of the conflict, (2) how resource conflicts interact with other conflict drivers, and (3) the possible entry points for mitigating the dispute.

Better analytical competency would help to address some of the past mistakes of poor preparation, an unwillingness to learn from past experience, and a tendency to ignore the political undercurrents that inform apparently objective issues of natural resource management.

The second necessary element is process competency. This involves the ability to design effective processes; to build trust; to negotiate, coordinate and communicate with stakeholders; and to work in diverse teams. Careful attention is needed to identify the stakeholders that should be involved in the process. And, as the case study of the NRDC and the Huaorani (Box 10) shows, excluding affected groups from key discussions or decisions can derail the entire process.

In particular, it is important to design dispute-resolution processes that give appropriate weight to planning and follow-up as well as implementation. Underlying this all is a need for sufficient funding to ensure that financial support for peace processes is flexible and sustained.

It is, for example, essential to understand what capacities for dialogue and mediation already exist – to be able to identify potential insider mediators and the role they can play within the dispute. This kind of context and stakeholder analysis is key to determining the potential legitimacy, effectiveness and impact of the existing infrastructure for peace. It helps determine who should be ‘at the table’ and who has the power to make decisions.

³⁵ Developed from McKinney, M. (2013), *Natural resources conflict resolution – Handbook*, University of Montana.

³⁶ OECD (2012), *Improving International Support to Peace Processes*.

A better understanding of the conflict can itself be a powerful tool for dispute resolution. For example, encouraging protagonists to embark on joint conflict analysis and planning can help to develop common approaches and joint strategies. Helping the different parties get access to impartial scientific and technical information about the resource in dispute can build confidence among the parties that they are able to negotiate on more equal terms.³⁷ Natural resource management may even offer useful opportunities for more creative crisis management and conflict prevention.³⁸

Meanwhile, the international community can play an important role in equalizing the knowledge base between the parties. This can help the different parties to find a peaceful solution that benefits both sides.³⁹ This is particularly useful where a resource dispute might turn on scientific or technical information (such as the amount of water flowing in a river, or the quantity of oil remaining in a well) that may be misunderstood by the parties.⁴⁰

Cooperative actions by parties in conflict can be stepping-stones to the sort of diplomatic engagement that is necessary to build sustainable peace.⁴¹ For example, the 1996 peace agreement between the government of the Philippines and separatist rebel groups from the island of Mindanao established the Autonomous Region in Muslim Mindanao. However, the region continued to experience persistent local-level conflict among Christians, Muslims and indigenous groups, much of it generated by historical grievances over ownership of, and access to, land and natural resources.

Helping the different parties get access to impartial scientific and technical information about the resource in dispute can build confidence among the parties that they are able to negotiate on more equal terms.

Between 2001 and 2011 a natural resources governance initiative called the Philippine Environmental Governance (EcoGov) project, funded by USAID in collaboration with the government of the Philippines, consciously included marginalized groups in community-based institutions for joint forest, coastal and marine management in Mindanao. This provided an opportunity for competing groups to work together towards a common goal and to find neutral spaces for dialogue. Thus they were encouraged to set aside political, ethnic and economic differences and to participate constructively and collaboratively in joint decision-making and project implementation. The project helped, in a modest way, to reduce the level of community violence and contribute to wider peacebuilding.⁴²

The third element is leadership and management competency. In the context of resource dispute resolution this means skills of collaborative leadership, facilitation and mediation. This is complicated by the multiplicity of international actors, which makes consistent and coherent action increasingly challenging (but which, at the same time, provides new ideas and approaches for dispute resolution).

The international community often has little, if any, coercive power to force an agreement. As a result, building national ownership over dispute-resolution processes is critical. The international community

³⁷ Brown, M., Grzybowski, A., Jensen, D. and Kaye, J. L. (2015), *Natural Resources and Conflict: A guide for mediation practitioners*.

³⁸ Conca K., Carius A. and Dabelko, G. (2005), 'Building Peace through Environmental Cooperation', *State of the World 2005: Redefining Global Security*, New York: Norton, pp. 144–55.

³⁹ Regan, P. M. and Aydin, A. (2006), 'Diplomacy and other forms of intervention in Civil Wars', in *The Journal of Conflict Resolution*, Vol. 50, No. 5 (October 2006), pp. 736–56.

⁴⁰ Jensen, D. and Lonergan, S. (2012), 'Natural resources and post-conflict assessment, remediation, restoration, and reconstruction: Lessons and emerging issues', in *Assessing and restoring natural resources in post-conflict peacebuilding*, Jensen, D. and Lonergan, S. (eds), London: Earthscan.

⁴¹ USIP (2007), *Natural resource, conflict and conflict resolution – study guide*, Washington, D.C.: USIP.

⁴² Brady, C. (2013), 'Improving natural resource governance: A key to ensuring peace and stability in Mindanao', in *Livelihoods, Natural Resources, and Post-conflict Peacebuilding*, Young, H. and Goldman, L. (eds), London: Earthscan.

needs to encourage a consensus among the different stakeholders and a constituency at a national level that can put resource issues higher on the political agenda. As the case study on Nepal (Box 11) demonstrates, giving predominance to one societal group can lead to skewed approaches to the conflict. Various techniques from mediation and dispute resolution can help stakeholders depart from entrenched positions and surmount negotiating obstacles.

Better leadership and management in international efforts to resolve disputes could help to address some of the problems of weak coordination and inconsistent action described above. At the larger scale it is important to have sufficient planning and collaboration to bring together the various strands of the international community's work into a more strategic framework that addresses the sources of conflict; strengthens national capacities; promotes coherence, coordination and integration; and establishes mutual accountability of national and international actors.⁴³

⁴³ McCandless, E. and Tschirgi, N. (2010). 'Strategic frameworks that embrace mutual accountability for peacebuilding: Emerging lessons in PBC and non-PBC countries', in *Journal of Peacebuilding and Development*, Vol. 5, No. 2, pp. 20–46.

Acronyms and Abbreviations

ASEAN	Association of Southeast Asian Nations
BCL	Bougainville Copper Ltd
BRA	Bougainville Revolutionary Army
CPA	Comprehensive Peace Agreement
DRC	Democratic Republic of the Congo
GAM	Gerakan Aceh Merdeka (Free Aceh Movement)
HD Centre	Centre for Humanitarian Dialogue
IDP(s)	internally displaced person(s)
IGAD	Intergovernmental Authority on Development
KRG	Kurdistan Regional Government
NRDC	Natural Resources Defense Council
NGO	non-governmental organization
OECD	Organisation for Economic Co-operation and Development
PBC	Peacebuilding Commission
PNG	Papua New Guinea
UNAMID	African Union/UN Mission in Darfur
UNDP	UN Development Programme
UNDPA	UN Department of Political Affairs
UNEP	UN Environment Programme
UN-Habitat	UN Human Settlements Programme
USIP	United States Institute for Peace

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