

11 LESSONS FROM THE ACEH LAND RIGHTS ADVOCACY EXPERIENCE

In this section, I am drawing on the lessons learned by Daniel Fitzpatrick and by Lilianne Fan, two key participants in the remarkable story of Oxfam's land rights advocacy in post-tsunami Aceh.

Daniel Fitzpatrick's lessons on land issues

When I met Daniel Fitzpatrick for the first time in Aceh, in October 2007, he had come with UN-HABITAT to work on a scoping study entitled *Addressing Land Issues after Natural Disasters*. This was based on 8 specific disaster experiences: earthquake in Pakistan 2005, earthquake and tsunami in Indonesia 2004, Hurricane Ivan in Grenada 2004, floods in Mozambique 2000-1, earthquake in Bhuj, India 2001, earthquake in Bam, Iran 2003, Hurricane Katrina in Louisiana 2005, and Hurricane Mitch in Central America 1998.

On the basis of detailed case studies of these disasters, Daniel wrote a *Scoping Report* in which he stressed some of the land-specific risks involved in such contexts:

Post-conflict and post-disaster land issues can be similar because both situations tend to involve displacement, death and destruction. In both cases, the land governance system can enter a state of flux as a result of new needs, actors and incentives. Within this context of system change, the following land-specific risks can arise in cases of both conflict and disaster:-

- Temporary living centres may be built on inappropriate land.
- The process of return may be marked by land grabbing, ad hoc land occupation and political score-settling.
- A residual caseload of displaced persons may not be able to return (including renters, squatters and the landless).
- Land rights may be uncertain because of a lack of records, loss or destruction of records, or damage to community-based land governance systems.
- Uncertainty of land tenure may lead to disputes and delays in reconstruction, or to reconstruction in inappropriate locations.
- A failure to identify heirs in an authoritative manner may lead to family disputes, and delays in reconstruction and recovery.
- Powerful individuals may take advantage of inheritance uncertainty to deny entitlements and access to land for vulnerable groups, including widows and orphans.
- Land may be acquired for resettlement and infrastructure in inappropriate locations, or through methods that are productive of conflict. 1

1 Daniel Fitzpatrick, *Scoping Report: Addressing Land Issues after Natural Disasters*, United Nations Human Settlements Programme (UN-HABITAT), 2007, 6-7.

http://www.glt.n.net/images/stories/downloads/utf-8nat_disaster_scoping_paper_jan_08.pdf

Daniel also pulled out these:

Specific Lessons learnt from the case-studies and other research

1. Poor land governance and insecure tenure increase vulnerability to a disaster.
2. There is a need for land programming in the first few weeks after a disaster.
3. Sustainable recovery requires early assessment of the institutions that provide access to land and protect rights to land.
4. International actors will need to work with and through government agencies.
5. Security of tenure is essential for sustainable relief and recovery, particularly in circumstances of informality and/or lost land records.
6. Managing residual caseloads: housing the landless is essential to decommissioning temporary living centres.
7. Mitigation measures may create adverse resettlement effects.
8. Resettlement programming will be challenged by a lack of lead time for planning and consultation.
9. Restitution of housing, land and property rights in a disaster context tends to occur without an ex ante need for formal adjudication of competing claims.
10. Adjudicating restitutionary claims through the courts may not assist displaced victims with insecure forms of tenure.
11. Women and children face disproportionate obstacles to restoration of housing, land and property rights.

Finally, he made these recommendations: 2

- Address the needs of informal, extralegal and customary settlements in order to reduce vulnerability to future disasters.
- Undertake early (and ongoing) institutional assessment.
- Support rapid and ongoing measures for tenure security and tenure reform.
- Provide land and housing to the landless and holders of secondary rights to land.
- Advocate resettlement as a last resort response to requirements for disaster risk mitigation.
- Protect the housing, land and property rights of women and children .

2 *Ibid*, 2-3.

Lilianne Fan's lessons on advocacy more broadly

In my interview with her (16 October 2007) early on in this assignment, I asked Lilianne Fan to imagine that she was being sent to another post-disaster region, which she didn't know, to work with an international NGO in an advocacy role. What would she do there, I asked, drawing on her experiences in Aceh? She replied in the following way.

Firstly, it would be important to get some background knowledge of the area, e.g.

- Is it in power relations with another place?
- Are there any particular challenges facing that place, such as a history of conflict, or very unbalanced power relations?

There would be no time to go into detail, but it is very important to get some general understanding of the dynamics, by looking particularly at recent history, and also of the context and the culture, but without coming with too many preconceived ideas.

Once there, you would need to understand the mandate of the organisation you are working for.

Then you should talk to as many groups as possible:

- Talk to direct victims, as it's important to understand what they see as being priorities, but important also to build a bigger picture, to contextualise that, talk to a wider group, including local civil society groups, which may have been lobbying on human rights issues or longer term change, talk to academics, talk to government and to other international NGOs who might have had more experience in the place, so as to understand what the critical dynamics are.

Also, does the organisation you're working for have an idea whether it's going to be there for longer than just the emergency period?

It's important to think of doing advocacy around issues where one can have a longer term effect, not just 'do the IDPs have enough water or food?' If you focus on that, you will be stuck on short term issues.

Instead, look at longer term issues which will affect the society longer term, and look at areas where you could really make a change for the longest term possible.

You would also need to look at the levers of change which you could affect.

- In Aceh, we looked at areas where you really did need to have advocacy towards government to change things, for example land and property rights – it was the responsibility of government to look over the administration of land in a way that respects the rights of individuals and communities, and this is not an area in which international NGOs have responsibility.

It is very important to get a large picture of the context, not just from a book, but to really go out there and meet people from different sides, with different points of view, so as to understand what it is that local groups are trying to struggle with during the emergency, because they will be there when the international NGOs leave. So you want from the beginning to be supporting issues that they will sustain.

- For example, in Aceh we asked legal aid groups what were the largest complaints they were receiving, and they said 'land', so that was an alarm bell for us. The Legal Aid Foundation (LBH), which had been very prominent in defending activists, was suddenly getting a whole range of different issues. It didn't have the expertise to deal with these cases, and knew it didn't.

So it's very important to talk to the local groups and understand the challenges they're facing. They have a longer term view, as they're embedded in the society.

We come in as outsiders, and only see fragments of things. You might see an issue, but don't understand how much of an issue it is, or how much of a change you might make by working on that issue, without talking to people.

It is really important for agencies to give time in the early stages to getting a proper context analysis, and good analysis of the issues emerging on the ground in a broader sense, not just issues you're working on, so you can understand the impact which your programme may be having. But also so that you can understand where gaps may be emerging; that is really key.

- Lots of programmes were designed in Aceh without that, including large donor programmes which are influencing provincial policy. There were not developed according to a broad-based analysis. For example, RALAS was not based on land rights, but on how to support land administration, which is why it totally missed out on the landless. If Oxfam hadn't been paying attention, this might not have emerged as an issue.

You need to cast your net wide from the very beginning. Your emergency framework should not be restricting your understanding of the issue. That is also really key.

You can help people to see what opportunities are available and should always see yourselves as agents of change.

This advice and this approach, drawn from the very particular experiences of land rights in Aceh, seem to this writer to offer really important lessons to others who may seek to engage in advocacy work in future post-disaster situations.