USJI WEEK Seminar 1
“Strengthening Post-Conflict Security and Diplomacy: Lessons for U.S. and Japan ODA Policy and Practice” Summary
Jointly organized by the U.S.-Japan Institute and the Environmental Law Institute
Friday, February 4, 2011, 12:00 pm-2:00 pm

Welcome Speech
Dr. Yoshiaki Abe, Operating Advisor of USJI / University Professor at Waseda University
Dr. Abe gave a brief introduction to the U.S.-Japan Institute, explaining that the purpose is to connect the United States through research on security, environmental, and economic issues.

Presenters
Dr. Carl Bruch, Senior Attorney and Co-Director of International Programs, Environmental Law Institute
Dr. Bruch explained that a lot of the experiences presented today come out of a 3-year project that ELI and the Global Infrastructure Fund (GIF) Research Foundation Japan are undertaking with the support of the Center for Global Partnership of the Japan Foundation to look at the role of natural resources in post-conflict peacebuilding and diplomacy.

Dr. Lisa Goldman, Senior Attorney, Counsel, and Co-Director, Africa Program, Environmental Law Institute, “U.S. Bilateral Assistance to Liberia: Forestry as the Cornerstone to Peacebuilding”

Background: First, Ms. Goldman provided a brief historical background on Liberia, mentioning that a peace agreement was signed in 2003 after a long civil war and the entrenchment of a warlord economy centered around lucrative resources. The peace agreement set the stage for a coordinated response by the international community.

The Liberia Forest Initiative (LFI) is an example of USAID assistance in post-conflict resource management. The LFI was developed by the U.S. government in partnership with other multilateral and national institutions and organizations. It has three priorities for forest sector reform: conservation, commercial forestry, and communities (3 Cs). There are four framework issues: governance/rule of law, institutional capacity, informational management, and security.

Legal Reform: One of the most notable achievements of the LFI was its progress on legal reform following the 2003 peace agreement. During the civil war, the process for granting forest concessions was in disarray and the total amount of land supposedly conceded was actually more than all the land in Liberia. So, in 2004, all existing concessions were cancelled. This allowed the Liberian government to start with a clean slate. To facilitate close coordination with the LFI, USAID funded a staff member from the U.S. Forest Service to work at Liberia’s Forestry Development Authority (FDA). Then, the U.S. and others working with the LFI helped draft the National Forestry
Reform Law of 2006. To obtain feedback during the drafting of this law and accompanying regulations, there was a concerted effort to expand the base of public participation. The Community Rights Law was passed in 2009. It allows the FDA to designate lands for community forest activities. Finally, the National Wildlife Conservation and Protected Area Management Law has been drafted and is currently waiting for approval by the government. To address land rights issues, a Land Commission has been established that focuses on clarifying land rights and improving effective land administration.

**Issues for Analysis**: There are several important questions that this case study presents. (1) **How quickly** should outside countries step in and assist a post-conflict government to enact legal reforms regarding the use of natural resources? (In Liberia, there was a lot of economic pressure to overhaul the Forestry law, but at the same time it was important to “get it right.” What timeline should be set?) (2) The **role of public participation.** This is critical, especially in the wake of conflict, even though it can be expensive and time-consuming; (3) How do you **coordinate activities between projects and actors**? (for example, among U.S. agencies, between the U.S. and other countries/institutions); (4) **Trends in Assistance.** During the initial phase of legal drafting, USAID worked closely with the FDA. This core administrative support has now been scaled back. Following legal reform, should the outside country step out completely or simply transfer to operational support? (5) Relationships and **compromise between international donors and politicians in the home country.** The lesson from Liberia is that outside actors should share their best practices and give advice, but the final decision must rest with the important actors in the home country.

**Lessons for Peace-building**: One lesson from Liberia is that the forest sector legal framework must provide some benefit for local communities, or else it is unlikely to endure. Also, in the wake of conflict, it can be difficult to reconcile the strong economic pressure to begin harvesting natural resources again with the need to enact needed legal reforms.

**Dr. Mikiyasu Nakayama**, Professor, Division of Environmental Studies, Faculty of Frontier Sciences, The University of Tokyo, “Japanese Support to the Interim Mekong Committee”

**Background**: The Mekong Committee was established in 1957 with strong support by the U.S. government. The goal was to prevent Indochina countries from communization by economic development. In practice, many of the major large-scale water projects were led by Japanese experts. Committee was on the verge of disappearance after the Indochina “Communism Domino” in 1975. Then, in 1977, Laos Thailand and Vietnam decided to reactivate the collaborative scheme by establishing the **Interim Mekong Committee** in Cambodia’s absence. The Interim Mekong Committee was not supported by the U.S. (for political reasons). It concentrated on projects at a national level, in particular for Thailand. The Mekong River Commission was established as a successor of the Interim Mekong Committee in 1995 by re-admitting Cambodia as a member states.
Accomplishments: (1) Development and implementation of national projects in particular in Thailand; (2) research and planning of basin-wide development scheme; (3) integration of new trends (environmental considerations and public participation); (4) outreaching activities (provision of hydrological data). The projects gradually shifted from national projects to international, basin-wide projects.

Lessons for Peace-building: (1) The United Nations can be a safety net in the event of political difficulties. (2) Change of political regimes in countries does not necessarily mean the end of the “collaborative mind” of countries. (3) Outreaching services are important to bring issues in post-conflict regions to the international community.

Dr. Mishkat Al Moumin, CEO, Women and the Environment Organization

Summary: Dr. Moumin explained the legal framework of managing oil in Iraq. She explained two vague provisions of the new Iraqi Constitution and their deleterious impact on oil management within the last five years. She expressed a need for the support of the international organizations to help Iraq update its environmental impact assessment policy, involve Iraqi citizens in managing their own resources, and ensure that the revenues of the Iraqi oil industry are distributed fairly.

Background: Article 111 states “The Iraqi people living in regions and governorates are the owners of oil and gas.” It resulted in a conflict between executive and legislative branches. Article 112 stipulates that the federal and local govt must manage oil in a fair manner. It created a conflict between federal and local govt; each claims they are the true authority that should award oil contracts. The main problem with the articles is that they are too vague and do not clearly explain who has authority to manage the contracting or bidding process. What is needed is clear language that clarifies the agency that should manage oil. Identify a criteria for the management. Tell what determines if oil is being managed “fairly.” Finally, the Iraqi government should enact policies to meaningfully involve the main stakeholders (i.e. Iraqi people) in managing their ownership.

Lessons for Peace-building: (1) The more lucrative the natural resource, the more politically contentious and susceptible to corruption the resource management process. Oil provides the revenues for 90% of the government budget. Therefore, this conflict over who will manage the oil and oversee the oil bidding process is vitally important. (2) As with Liberia, it is crucially important to involve the Iraqi people in the process. (3) Some natural resources are very sensitive, and outside political involvement may be construed as ‘interference’ and generate a backlash within the country. For this reason, USAID’s Strategic Objectives in Iraq did not involve oil at all. (4) The appropriate level of foreign involvement may vary based on the local capacities of resource management in each post-conflict state.

Dr. Carl Bruch, Strengthening Post-Conflict Security & Diplomacy

Conclusions: Post-conflict programming must be viewed in the broader context of the post-conflict spectrum. Conflicts ebb and flow, blurring distinctions between times of
peace and times of conflict. The only way to know whether the conflict is actually over is by the passage of time.

**Countries are not necessarily homogenous.** Take Colombia and Afghanistan, for example. Some parts of these countries are peaceful and have productive economies, and others are captive to warlords. So, you cannot make blanket statements about the ability to manage resources in an entire country.

There is often a **window of time** to manage the post-conflict period. If you do it wrong, it might trigger a relapse of conflict. One of the goals is to improve peacebuilding and reduce the likelihood of relapse.

**Four Broad Lessons**

**Natural resources cut across peace-building priorities.** Natural resources are directly related to livelihoods, security, basic services, governance, etc.

**Staff with natural resource management expertise is critical.** Also, it is important to keep in mind that natural resources can be part of the problem (timber in Liberia, poppy in Afghanistan) or part of the solution. On the one hand, development, security, and governance staff may not know how to address natural resources issues. Therefore, it is important to “mainstream” the management of natural resources through checklists, the creation of environmental impact assessments, and high-quality guidance and training.

On the other hand, **natural resource management (NRM) experts sometimes do not understand the variations in post-conflict settings.** Timeframes are different for each state. There are often people who apply their old tools to a new task. Each post-conflict state is very different. For example, Liberia and Iraq are two distinct cases from this seminar with different levels of local capacities, existing laws, and prominent natural resources.

**Indicators and monitoring & evaluation procedures are lacking for projects that have both natural resource and conflict impacts.** Generally speaking, the United States and Japan compartmentalize their bureaucracies (example: natural resource project, security project, governance project), although this is starting to change. In some instances, conflict issues (e.g., over land) are resolved through technical means (e.g., land reform and resolving competing claims). In such instances, though, the indicators tend to focus on the technical aspects (because the project was deemed to be a “land project”) rather than the conflict management aspects: How many parcels have you resolved? How many complaints have you resolved? But the underlying motivation is: How do you prevent a return to land-based conflict? There is an as-yet unmet need for M&E approaches (including indicators) that address projects at the intersection of peacebuilding and natural resources.

**Final Word:** Fundamental challenges of development play a key role in natural resource management in conflict and post-conflict settings. **Japan’s ODA process is more streamlined (through JICA) than the United States**, which has many agencies that
participate in this kind of activity. **Japan also seems to have more interest in deploying technology as a form of aid** than the United States. The experience and documentation of particular projects presents the need for a central repository of data and information. For example, a central database of JICA (Japan International Cooperation Agency) is needed. Liberia is an example of how to improve coordination and communication between diverse actors. The Mekong Committee is an example that the timeframe is often long-term and unexpectedly halting. The Iraqi oil issue displays the importance of local engagement in NRM.