

UNIVERSITY OF TWENTE.

POST-CONFLICT LAND ADMINISTRATION WITHIN THE PROCESS OF POST-CONFLICT STATE BUILDING; CASE KOSOVO

DIMO TODOROVSKI

PHD CANDIDATE /

SECRETARY OF THE UNU LAND ADMINISTRATION STUDIES



ITC an Associated Institution of the



UNITED NATIONS
UNIVERSITY

kadaster

Promotor: Prof. Jaap Zevenbergen

Co-Promotor: Prof. Paul van der Molen



FACULTY OF GEO-INFORMATION SCIENCE AND EARTH OBSERVATION

OVERALL PHD CONCEPTUAL RESEARCH DESIGN

Identified Gap in Knowledge – LA in post-conflict environment in relation to post-conflict state building

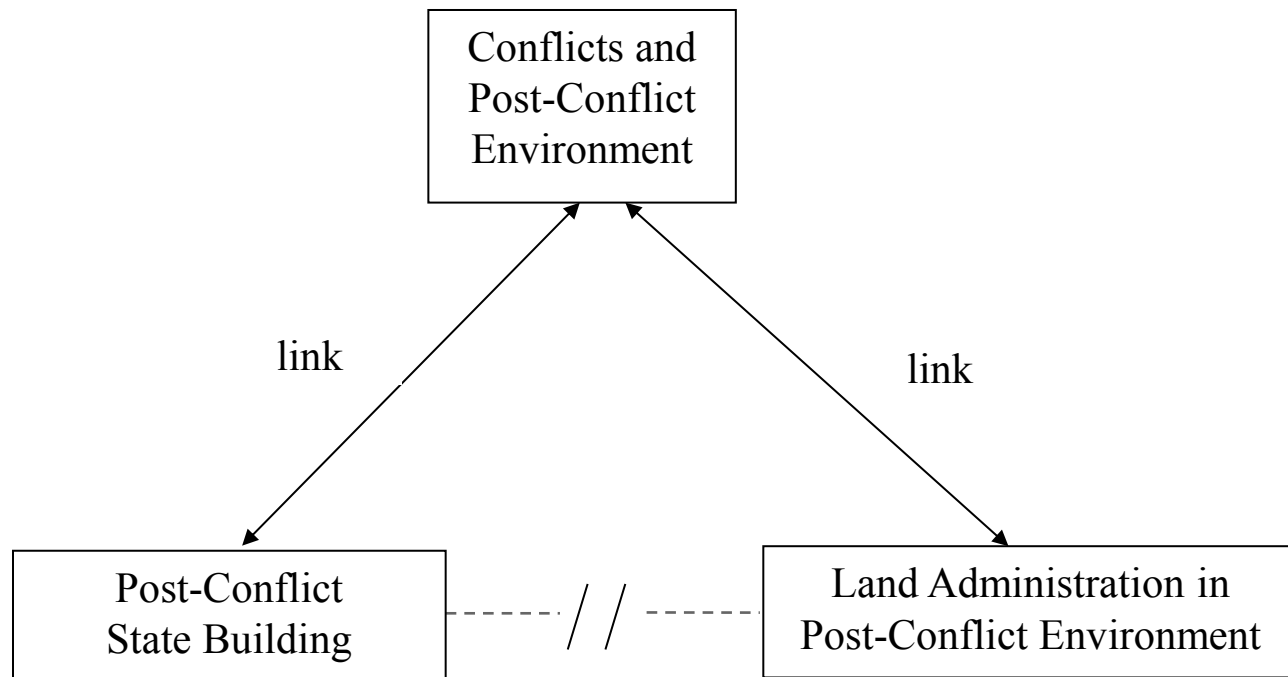


Figure 1: Conceptual Research design



KOSOVO – MAIN CASE STUDY

- Field work – 2 weeks end of September 2013
 - Interviews: 9 Local and 6 International Land Experts
 - Skype Interviews, Personal Communication and Reports Received
 - ISI journal paper – final draft ready for submission
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- Supportive Case Studies – Conference papers on:
 - Case Mozambique, FIG Working Week 2013
 - Case Cambodia, FIG Congress 2014



KOSOVO – HISTORICAL BACKGROUND, TENSIONS

- Part of Socialistic Republic of Serbia within SFRY
- In 1963 Socialistic Autonomous Province in SR Serbia
- In 1973 – own constitution, assembly judiciary
- High birth rate among Kosovo Albanians
 - 733.000 in '48 (68%KA v.s. 24% Serbs)
 - 1.584.000 in '81 (77%KA v.s13% Serbs)
- In 1989 constructional changes – loss of self-gov.
- Demonstrations
- **'Special measures' – implementation discriminatory:**
 - Kos. Albanians away from their jobs,
 - Serbian curriculum to all,
 - Many new Discriminatory laws.



KOSOVO – HISTORICAL BACKGROUND, TENSIONS

- Law forbidding transfer real property from Serb to Kos. Albanians (until June 1999 all these transfers informal)
- 1990 Kos. Albanians started peaceful opposition camp.
- 1995-96 Kosovo Liberation Army- violent/sabotage act.
- 1997 and 1998 large presence of Yugoslav Army and Serb Police
- 23 Feb 1998, 4 police officers killed in ambush by KLA
- Police fight back and first 24 + 49 civilians were killed in less than a week

▪ START OF THE VIOLENT CONFLICT IN KOSOVO



CHARACTERISTICS OF THE CONFLICT IN KOSOVO

- **Definition of Conflict** – contested incapability...concerns gov. and/or territory...use of armed force... between two parties ...results with at least 25 battle-related death
- **Causes of Conflict** – self-determination movement, evolved in violent conflict with the ‘Special Measures’ [incl...](#)
- **Changing nature of Conflict** – intra-state which resulted with state formation
- **Duration of Conflict** – 23 Feb ‘98 (NATO intervention from 24 Mart 1999) end 10 June 1999



CHARACTERISTICS OF THE CONFLICT IN KOSOVO

- Number of people killed of Conflict – 14% in WWI; 64% WWII; 90% in 1990's – in Kosovo 12.000 KA + 3.250 non-Albanian
- Displaced persons – UNHCR 2011: 42.5 Mill (15 R. + 26 IDPs)
 - In Kosovo app. 800.000 Refugees and
 - 500.000 Internally Displaced Persons (IDPs)
- Destroyed infrastructure and Housing – 103.000 housing units and 73.000 abandoned properties
- Peace Agreement Document – Ramboulliet Accord 18 March 1999 and MTA 9 June 1999, **Not Signed by both sides and Land issues in broad sense**



CHARACTERISTICS OF THE CONFLICT IN KOSOVO

- IC and UN involvement and formation of UNMIK
 - Contact Group on Kosovo-statements '97, '98, '99
 - UN security Council resolutions 1160 (1998), [1199 \(1998\)](#), 1203 (1998) and 1239 (1999)
- 24 March 1999 – NATO intervention over Serbia
- 10 June 1999 – UN res. 1244 – Kosovo UN protect.
- 12 July 1999 – Detail report on UNMIK
- [UNMIK doc. State Building - incl. Housing Land and Property \(HLP\) and land administration \(LA\) issues:](#)
 - establish a registry of property claims (HLP),
 - redress legal measures on property (LA), and
 - rebuilding property and cadastral records (LA)



CHARACTERISTICS OF POST-CONFLICT KOSOVO

- Gen. Characteristic of war-torn societies:
 - (a) Weak Institutions
 - (b) Economic and social problems and
 - (c) Very low security ... All three present in the case of Kosovo.

- Phases of post-conflict environment:
 - Emergency period – one to one and a half year
 - Early recovery period – three to three and a half years
 - Reconstruction period – after these two phases of from 2004

- Security situation after the end of the conflict-very low
 - **Illegal occupation of land and housing**



CHARACTERISTICS OF POST-CONFLICT KOSOVO

- IDPs and refugees after the conflict
 - 700.000 refugees came back in 20 days
 - Mass exodus of Serbs and non-Albanian population 245.000
- Displacement fosters urbanization
 - Pristina before the war 200.000 / 550.000 after the war
- Presence of IC and INGOs
- Lawless period – first 6-12 months



CHARACTERISTICS OF POST-CONFLICT KOSOVO

- Violations in property and housing related issues
 - Secondary Occupations – majority abandoned properties (apart.) owned by Serbs and other minorities were illegally occupied by K. Albanians
 - Reallocation supported by the local authorities basis on: providing humanitarian shelter
 - Ruined and burned properties and housing – by law property of municipalities
 - Allocation of public land (usual practice in PC) – un transparent way, court cases under suspicion of fraud
 - Head of Municipal Cadastral Office (MCO) Pristina – spent 6 months in jail



Land administration issues in KOSOVO – before 1989

- First cadastral survey 1923 -1937 (Kingdom of SCS)
- Organization:
 - Directorate for Cadastre and Geodesy and 26 MCO-300-350 st.
- Legal framework - Law on survey and cadastre 1976 & related
- Mandate: maintain and provide to public and citizens
 - Copies of cadastral plans and Possessory lists
- Residential housing – Socially Owned Enterprises (SOE) and Publicly Owned Enterprises (POE) – occupancy right



Land Administration in KOSOVO – Tensions 1989-1998

- Move Directorate for Cadastre and Geodesy in Belgrade
- Legal framework – Two Discriminatory Laws
 - 98% of the files rejected by Min. of Finances in Belgrade
 - A few transactions registered in cadastre / all the rest informal
 - Federal laws 1992-1996 for Real Estate Cadastre – not in Kosovo
- Prior to conflict app. 250 employees
 - App.150 Serbs and 100 Kosovo Albanians
- In this period all MCOs equipped with PC and software for updating and maintaining the cadastral system



Land Administration in KOSOVO – during the Conflict

- Land administration even with lower intensity
- Event: announcement for NATO intervention
 - Majority of citizens left their properties/MCOs closed for 4 months
- About staff being fired from MCOs and Directorate:
 - Different sources different interpretation; from 0 - fey - 205
- When retreating Serb Authorities removed all archives
 - In reports, documents Serb and Russian Army remove from MCO
 - Newspaper interview: Heads of Cadastral offices from Serbia
 - From 18 out of 26 MCOs work org., geodetic elaborates, PCs, geod. equipment were taken away, first Belgrade than Krusevac

Land Administration in KOSOVO – Directly after Conflict

Emergency post-conflict period

- Fluid, Complex and Difficult
- One of UNMIK priorities re-establish mechanisms of governance where one of goals was reintroduction property and land management system
- 9 April 1999 Balkan Task Force was created (UNEP/UNCHS – Habitat) environmental and human settlement assessment in the region, incl. Kosovo:
 - Municipal administration; regularization of housing and property rights and dev. of cadastral systems
- Poor state of land administration from destruction, loss, removal of property certificates and plans as consequence of the conflict.

Land Administration in KOSOVO – Directly after Conflict

Emergency post-conflict period – Areas of Concern

- property certificates and registries were partially removed;
- property boundary markers, survey control points and associated documentation were destroyed or defaced;
- geodetic surveying equipment and computers had been removed;
- discriminatory legislation; lack of control over property registration and taxation deterred people from recording property transfers and
- restrictions in recruitment of personnel and the displacement of people left municipal cadastral offices without qualified staff
- 26 MCOs and (Institute for geodesy and photogrammetry); app 150 staff came back
- Kosovo Cadastral Agency (KCA) was created (2000/14)
- Federal Laws 1992-96 revoked and Two discriminatory laws were discharged; so Law from 1976 was on force

Land Administration in KOSOVO – Directly after Conflict

Land Records and Land Professionals

- All cadastre plans and records were missing - 6 MCOs
- For 15 MCOs mostly documentation 1989-1999
- 8 MCOs had almost complete (source TOR, 2000)
- Other sources different numbers – further loads LA
- Punch cards helped rebuild DB v.1 '89 and v.2 '97
- 90-95% Kos. Albanians came back in MCOs
- A few Serbs-before retirement-came back
- Only few staff had relevant knowledge and skills – it is believed because of discrimination no trainings or exposure to new technologies

Land Administration in KOSOVO – Directly after Conflict

Register of property claims

- End of conflict – Land issues arise on horizon-700.000
- Housing and Property Directorate, Housing and Property Claims Commission (UNMIK 15.11.1999)
- Rules, Procedures and Evidence of HPD (31.10.2000)
- Central Mechanism for solving Residential Property Disputes – which influence overall security situation
- But even one year latter they were barely functional
- Operating Procedures including Principles of laws and Evidence were required for its functionality


Land Administration in KOSOVO – Early Recovery Period

UN-HABITAT Kosovo Cadastre Support Programme

- KCSP started November 2000 – good practice that all donors and UN agencies were well coordinated
- Main Objective: ‘a well-functioning land sector which will contribute to economic growth, democratic and sustainable development when supported by a real property market, rights protection and an improved cadastral and land registration system’
- On MCOs level Obj.:MCOs are able to render proper land and property services to the beneficiaries
- Establish KCA on Kosovo level and strengthen MCOs on local level – two major parts of KCSP

Land Administration in KOSOVO – Early Recovery Period

UN-HABITAT Kosovo Cadastre Support Programme Cont. 1

- 
- KCA reached beyond and MCOs not so encouraging
 - End 2002 KCA 14 int. and 32 local experts+admin.80
 - Key success of KCSP renovation of technical infr. related to cadastre and land administration
 - Update tech. and develop new tools and processes:
 1. Fundamental geodetic framework
 2. New ways registering of immovable property rights
 3. New ways of mapping of immovable property (land)
 - Close cooperation with all stakeholders
 - New Law for establishment of register of immovable property 2002 and Law on cadastre 2003
 - By end of 2004 app.300 staff in MCOs

Land Administration in KOSOVO – Early Recovery Period


UN-HABITAT Kosovo Cadastre Support Programme Cont. 2

- KCSP ended Nov. 2003, extension for 3 years as:
Support Programme for re-establishment Cadastre
- Many related projects supported development of LA as:
 - Reconstruction of Cadastral Information
 - Building Cadastre Construction
 - Kosovo Positioning System - KOPOS
 - New law for Cadastre 2011
 - Address register 2012
 - Digital topographic maps 1:2500, JICA 2013
 - GeoPortal
 - KCLIS project for harmonization of maps and cadastral data

[This suggest that KCSP was with long term perspective](#)

Land Administration in KOSOVO – Early Recovery Period

Post-conflict Property Restitution

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- Main disadvantage of HPD and HPCC: residential prop.
 - HPD all 29.160 filled and adjudicated claims
 - HPD ended in June 2007 – 99.9 % decisions implement

 - Kosovo Property Agency created beginning of 2006:
 - Private immovable property, agriculture and commercial
 - As May 2013 42.439 claims filled (36.717 adjudicated):
 1. Case closure
 2. Implementation –compensation
 3. Repossession of property
 4. Administration of property

 - Countries with land records restitution success



Post-Conflict State Building in General

- Characteristics of war-torn societies (a), (b) and (c)
- First challenge: Peace keeping process
- Peace building requires Doing Justice and Rule of Law
- Next priority a form of political governance
- Definition on state building
- Challenging address land issues – contribute peace
- New regimes lack capacities for land issues and Land is seen as politically sensitive and technically difficult
- Good governance is required when developing Land Policy and Land Management
- Sound definition of property rights, registration in LA systems definitely belong to main state institutions



Post-Conflict State Building in Kosovo

- Characteristics of war-tor societies (a), (b) and (c) – present Kosovo
- UN 1244 – establish interim administration – Kosovo UN protectorate
- ‘... interim civil administration authority over the territory and the people of Kosovo. All legislative and executive powers, including the administration of the judiciary, will therefore be vested to UNMIK’
- Main components of the mission’: (1) civil administration; (2) institution building; (3) humanitarian issues and (4) reconstruction
- **HLP and LA issues in (1) under judicial affairs**



Post-Conflict State Building in Kosovo

- Pillar I UNHCR humanitarian aid and return of the refugees and IDPs – this mission ended in the spring 2001 – after this new 4 pillars:
- Pillar I was created led by UN to deal with police and justice
- Pillar II was also led by UN with task to create a civil administration
- Pillar III OSCE democratisation activities and human rights watch dog, and
- Pillar IV was led by EU and was conferred with responsibility of economic reconstruction and development

- Security Issues: KFOR until 2008 main security formation
- From 2002 until 2008 parallel UN Police and Kosovo Police present
- 2008 second elections and referendum for independence of Kosovo



Land Administration in Post-Conflict State Building

- Post-conflict land administration systems are dysfunctional:
 - limited prioritization when/for developing land policy;
 - discriminatory land law;
 - poor institutional and regulatory framework (allowing grabbing of public and private land by powerful individuals and groups);
 - poor management information systems;
 - weak state capacity that is incapable of helping internally displaced people and refugees – in land-related issues.
- Practices in post-conflict LA are never the same – impact of differences in causes of conflict and local circumstances
 - IC, UN and NGO tend for restitution – good moment for reforms
 - LA should be included in a broader National Development Policy – not only Refugees and IDPs



Land Admin. in Post-Conflict State Building in Kosovo

- Component (1) judicial issues HLP and LA included
- Restore property rights, locate and secure key doc., land record books and address illegal occupations
- Establish a registry of property claims
- Redress legal measures on property and
- Rebuilding property and cadastral records
- Increased international involvement
- Country with Land records – Restitution successful
- Good practice addressing HLP and LA as early as possible with well coordinated international support
- Only after one decade of hard work – confidence is brought back to land administration in Kosovo



Land Administration in Post-Conflict State Building

Land administration in post-conflict environment is land administration performing in peace conditions - but loaded with the characteristics of the specific conflict and post-conflict environment



CONCLUSIONS

- Characteristics of war-tor societies: (a) weak institutions, (b) economic-social problems and (c) low security – present in case Kosovo as well
- In majority of PADs land issues neglected or in broad sense / UNMIK includes HLP and land administration issues
- Creation of HDP (later KPA) and KCA – (a)
- Support to real property market/rights protection, improved cadastral and regist. system, KCSP– (b)
- Land claims and dispute register, HDP and HPCC, and KPA later - to some degree supports (c)



CONCLUSIONS

Having said all this reveals that post-conflict land administration contributes to the process of post-conflict state building especially in two out of the three:

- strengthening the institutions and
 - social and economic situation



THANK YOU FOR YOUR ATTENTION

Dimo Todorovski - d.todorovski@utwente.nl