WHICH INTERVENTIONS IN LAND ADMINISTRATION FACILITATE POST-CONFLICT STATE BUILDING?

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Identified gap in the knowledge – post-conflict land administration in relation to post-conflict state building

Figure 1: Adopted from (Todorovski et. al., 2012a)
Peace building:
‘actions undertaken by international or national actors to institutionalize peace, understood as the absence of armed conflict and at least a modicum of political process’ (Call and Cousens, 2008).

State building:
‘a purposeful action to build capacity, institutions and legitimacy of the state in relation to an effective political process to negotiate the mutual demands between the state and societal groups (OECD, 2008)

‘the creation of new government institutions and the strengthening of existing ones’ (Fukuyama, 2004).
POST-CONFLICT STATE BUILDING – (Ball, 2001)

Three main characteristics of war-torn societies:

Institutional weakness: limited legitimacy of the state, a non-functioning political system and government structure, not available or adequately skilled professionals and an inadequate legal framework.

Economic and social problems: death and injury, displacement, destroyed properties and infrastructure, hatred between people, loss of proof of identity and ownership

Serious security problems: paramilitaries, militarized, weak police forced resettlement risk of secondary conflicts over land, conflicts hosts/displaced

Hollingsworth (2014) in his MSc adopted this for land administration
## STATE BUILDING IN POST-CONFLICT CONTEXTS

<table>
<thead>
<tr>
<th>Institutional Weaknesses</th>
<th>Economic and Social Problems</th>
<th>Security Problems</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Legitimacy of the state / political leaders</td>
<td>- Displacement</td>
<td>- Peace and reconciliation</td>
</tr>
<tr>
<td>- Political system</td>
<td>- Destroyed properties and infrastructure</td>
<td>- Conflicts over land and property</td>
</tr>
<tr>
<td>- Government structure</td>
<td>- Participation/Cooperation International community and local authorities</td>
<td></td>
</tr>
<tr>
<td>- Legal framework (Policies, Law and Administration)</td>
<td>- Citizen participation</td>
<td></td>
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<tr>
<td>- Building Capacities</td>
<td>- Low economic activities</td>
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<td></td>
<td>- Lost/destroyed state records</td>
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</table>

Table: A framework for rebuilding a post-conflict state
LAND ADMINISTRATION IN POST-CONFLICT CONTEXTS

- Land-critical gap in the international response capacities
- PAD – beneficial with land management/administration
- Land Administration: ‘the process of determining, recording and dissemination information about tenure, value and use of land when implementing land management policies’ (UN/ECE, 1996)
- Post-conflict land administration:
  - dysfunctional land administration system
  - limited prioritisation of land policy,
  - discriminatory land law,
  - poor institutional and regulatory framework
  - poor management information systems
  - incapable of helping IDP’s and refugees
LAND ADMINISTRATION IN POST-CONFLICT CONTEXTS

- Normative framework for Housing Land and Property – ‘Pinheiro Principles’ – in regard of displaced
- Land conflicts and disputes – threat the security

- Land and its administration always negatively affected

- Land Professionals: Can be killed, (forced to) leave the area, not able or Not willing to return to their job within the systems of LA

- Land Records in post-conflict areas could be: damaged, stolen, lost, fraud or manipulated by powering parties, partly or fully destroyed, moved to a third country, or be a target of violent attack
RESEARCH QUESTION, METHODOLOGY, CASE SELECT

- Research Question: Which interventions in land administration facilitate post-conflict state building?

- Qualitative methodology – how? what? and why?

- Executed via multiple case studies

- Selection of case studies – maximal variance

- Based on 4 selection criteria characteristics in cases:
  - Displacement
  - Land records
  - Land professionals;
  - New/old state
MAIN CASE STUDIES AND SUPPORTIVE CASE STUDIES

- Main Case Studies - with fieldwork activities:
  - The Case of Kosovo
  - The Case of Rwanda

- Supportive Cases – based on Literature review:
  - The Case of Mozambique
  - The Case of Cambodia
  - The Case of Timor-Leste
POST-CONFLICT LAND ADMINISTRATION – Kosovo

- Before the conflict
  - 300-350 staff and legal framework on Land from federal level
  - Land administration resulted in discriminatory practice – two laws almost fully stopped transfer of properties between ethnic groups
  - Provincial Directorate for Cadastre and Geodesy was moved in Belgrade

- During the conflict and at the end of the conflict
  - 1st displacement wave 100.000 refugees / 260.000 IDPs
  - NATO intervention - 2nd wave 800.000 refugees / 500.000 IDPs
  - 103.000 housing units damaged or left abandoned
  - 3rd wave 245.000 - mainly Serbian pop. as fears of revenge
  - Land records 70% -good or bad intentions- moved in Belgrade

The case of Kosovo
Land Administration in KOSOVO – Emergency phase

- End of conflict 700,000 return in 40 days - land issues
- Two laws were discharged; law from 1976 was on force
- 26 MCOs and (Institute for geodesy and photogrammetry); app 150 staff came back
- Kosovo Cadastral Agency (KCA) was created (2000/14)
  - 90-95% Kos. Albanians came back in MCOs
  - A few Serbs-before retirement-came back
- Punch cards helped rebuild DB v.1 ‘89 and v.2 ’97
- Kosovo Cadastre Support Programme (KCSP) started November 2000 – all donors and UN well coordinated
- Housing and Property Directorate, Housing and Property Claims Commission (UNMIK 15.11.1999)
Land Administration in KOSOVO – Early Recovery Period

- KCA and KCSP success – 4 year extension, 8 new prj.
- MCOs not so encouraging
  - This suggest that KCSP was with long term perspective
- New Law for establishment of register of immovable property 2002 and Law on cadastre 2003
- By end of 2004 app.300 staff in MCOs
- Main disadvantage of HPD and HPCC: residential prop.
- Kosovo Property Agency created beginning of 2006:
  Private property, agriculture and commercial; by 2014, 75000 solved
- Countries with land records restitution success

The case of Kosovo
## POST-CONFLICT LAND ADMINISTRATION – Kosovo

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<td>- Legitimacy of the state (international community and UN, and UN-HABITAT for the land sector)</td>
<td>- Displacement (providing cadastral products and services)</td>
<td>- Including land in a peace document (to some degree supports security situation as well)</td>
</tr>
<tr>
<td>- Political System</td>
<td>- Destroyed properties and infrastructure - providing cadastre products and services</td>
<td>- Land dispute resolution (adjudication method)</td>
</tr>
<tr>
<td>- Government structure (authorities dealing with land claims, land administration)</td>
<td>- International community and local authorities participation/co-operation</td>
<td>- Displacement-land relation (reducing secondary conflicts)</td>
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<tr>
<td>- Building Capacities in housing and property rights and land administration</td>
<td>- Citizen participation</td>
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<tr>
<td>- Legal framework (Land Policy, Land Law, Improvements in Land Registration)</td>
<td>- Recovery of land records</td>
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<td></td>
<td>- Implementation programmes (with aim to uphold rule of law, reduce conflicts, uncertainties and support economic development)</td>
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LAND ADMINISTRATION FOR POST-CONFLICT CONTEXTS

- Land issues: major cause used to increase ethnic division
- Genocide: one million dead people, 2.5 million refugees
- PADs had very limited attention on land -> later developed
- Land sharing policy – supported political stability and legitimacy
- Allocation of state land and villagesation projects
- Creation of organisations in land and land claim comm.
- Laws + authorities + citizens participation -> rule of law
- Genocide and refugees issues were addressed with peace, harmony and reconciliation – land issues also
- Land Tenure Regularization programme
- Security via land claim comm. and land issues in PAD

The case of Rwanda
### Characteristics of post-conflict state building focusing on the role of HLP and land administration

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<tr>
<td>- Legitimacy of the state (via land policies)</td>
<td>- Land issues in context of peace, social harmony and national reconciliations</td>
<td>- Land claim commissions (mediation or adjudication method)</td>
</tr>
<tr>
<td>- Political System</td>
<td>- Displacement-land relation (land sharing, state land, housing and village settlements)</td>
<td>- Including land in PAD (to some degree supports security situation as well)</td>
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<tr>
<td>- Government structure (authorities dealing with land claims, land administration)</td>
<td>- Community participation</td>
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<tr>
<td>- Legal framework (Land Policy, Land Law, Land Registration)</td>
<td>- Citizen participation</td>
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<td></td>
<td>- Implementation programs (with aim to develop agriculture, reduce social tensions and improve economic situations)</td>
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Supportive Cases (Literature) – Conference papers

- Case Mozambique, FIG Working Week 2013
- Case Cambodia, FIG Congress 2014
- Case Timor-Leste, FIG Working Week 2015 (peer review conference paper)
# LAND ADMINISTRATION FOR POST-CONFLICT Contexts

<table>
<thead>
<tr>
<th>Interventions in land administration for post-conflict state building</th>
<th>Kosovo</th>
<th>Rwanda</th>
<th>Mozambique</th>
<th>Cambodia</th>
<th>Timor-Leste</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Land Policy</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Cadastre / Land Law</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Land administration organisations</td>
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<td>Land-claims commissions</td>
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<tr>
<td>Implementation program / project</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Ad hoc land policies: land sharing, state land for housing and village settlements</td>
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<td>✓</td>
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<tr>
<td>Specific land management / administration issues in PAD</td>
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<tr>
<td>Land registration improved/created</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Recover/create land records</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Train/educate land professionals – capacity building</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Cadastre products and services for displaced population and destroyed infrastructure &amp; houses</td>
<td>✓</td>
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<td>✓</td>
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<tr>
<td>Land dispute mechanisms (by mediation or adjudication)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<td>✓</td>
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THANK YOU FOR YOUR ATTENTION

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