UNIVERSITY OF TWENTE.

LAND ADMINISTRATION AND POST-CONFLICT STATE BUILDING

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LANDac PhD seminar,
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Promotor: Prof. Jaap Zevenbergen
Co-Promotor: Prof. Paul van der Molen

AGENDA

- Introduction
- Conflict and post-conflict environment
- Land Administration in post-conflict environment
- Post-conflict state building

CONFLICT AND POST-CONFLICT ENVIRONMENT

- What is conflict?
  - Basic idea: disagreement between people about something – start/beginning of conflict
  - Related concepts: dispute, contestation, competition, rivalry, confrontation…
    -How people act/react – intensity - on that disagreement is a different question
- What are CONFLICTS/WARS fought about?
- Are wars fought over land?
  … and the answer would be historically…yes

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Conflict – Natural resources (Social Studies)
  - oil,
  - gas,
  - non-fuel minerals,
  - gemstones,
  - narcotics,
  - timber, and
  - agricultural products (these influence: Causes and Length)
- Conflict – Scarcity of land (Markakis, 2012)
  - Productive land
  - Climate Changes (water resources, drought)

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Causes of conflicts
  - Land - one of the factors
  - Broad factors: social, economic and political discrimination
  - Other factors:
    - Ethnic envy, religious ideologies
    - Nationalistic tendencies
    - Opposing interests, class conflicts
    - Dispute frontiers
    - Struggle for political and economic control, etc.

Causes of conflicts are not because land itself but they always have a Land Dimension

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Definitions of Conflicts
  - Sociologists definition of conflicts: social situation in which a minimum of two actors (parties) strive to acquire at the same moment in time an available set of scarce resources, land can be also one of these resources
  - Definition of Armed Conflict by Uppsala University, Sweden
    'an armed conflict is a contested incompatibility which concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths'

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Secondary Conflicts:
  unregulated activity involving the land, housing and property sectors for which there are no mechanisms to resolve the conflicts between parties other than through using force and violence
- Land Conflicts – PhD theses by Wehrmann (2005)
  a social fact in which at least two parties are involved, the roots of which are different interests over the property rights to land - the right to use the land, to manage the land, to generate an income from the land, to exclude others from the land, to transfer it and the right to compensation for it.

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Changing Nature/Trends of Conflicts
  - From inter-state (in the past) to intra-state conflicts
  - More civilians die nowadays in conflicts and in the past it was more soldiers
  - Displacement fosters Urbanization
  - Every conflict has its own characteristics – there are similar but the same two conflicts

Mainly three types of conflicts: international conflict, civil wars and conflicts over state formation

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Preventing the conflicts
- Mapping the conflicts
  - http://www.pcr.uu.se/research/ucdp/
  - http://www.youtube.com/watch?v=_KiQTDFJdtY

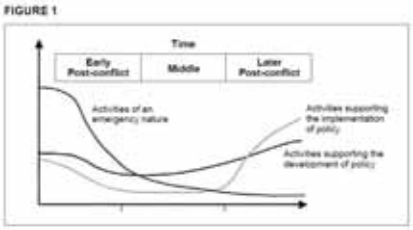
CONFLICT AND POST-CONFLICT ENVIRONMENT

- Post-conflicts period starts when:
  - hostilities have ceased
  - peace treaty document is signed and
  - international assistance could be provided
- Post-conflicts phases are:
  Emergency, early recovery and reconstruction
- Conflicts and Post-conflict environment are more internationalized compared to the past

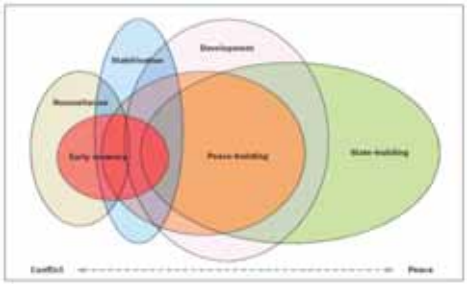
CONFLICT AND POST-CONFLICT ENVIRONMENT

- Post-conflicts phases (FAO, 2005) are:

FIGURE 1



CONFLICT AND POST-CONFLICT ENVIRONMENT



International Approaches to Conflict and Transitional Settings (Bailey and Pavanello, 2009)

CONFLICT AND POST-CONFLICT ENVIRONMENT

- General post-conflicts characteristics are:
  - death and injury,
  - hunger and starvation,
  - displacement of people,
    - (IDP's and refugees),
  - negative social and psychological consequences,
  - changes in values and expectations,
  - destruction of infrastructure and housing,
  - limited government capacity,
  - limited funding and
  - limited national 'ownership' of recovery plans (FAO, 2005)
  - Any LA related issues here?

CONFLICT AND POST-CONFLICT ENVIRONMENT

- At the end of hostilities, drives Land issues to the for a of large number of people over a short time
- Ideology replaced Identity
- 'After a war states have nothing else but their land' Statement: Prof. John Markakis
- Land was identified as a Critical Gap in international response capacities (OCHA, 2005)

CONFLICT AND POST-CONFLICT ENVIRONMENT

- Land issues in post-conflicts environment:
  - Illegal occupations by local commanders, disputes arising by loss or destruction of ownership documents, fraud transaction, land distribution to the members of the winning party, disputes over grazing and water rights
  - Too few people with background in land are engaged
- Land Disputes and Land Claims
- A need to ensure that land issues are tackled in a Peace Treaty Documents or a national land policies
- Future

CONFLICT AND POST-CONFLICT ENVIRONMENT

SUMMARY ON CONFLICT

- Disagreement – about something
- Causes – many and varied – land in some cases is a main
- Natural resources/Conflict – influence: Causes and Length
- Land scarcity / climate change
- All conflicts have Land Dimension
- Ideology replaced Identity
- Definition of Armed Conflict by Uppsala University, Sweden
- Secondary conflicts
- Land Conflicts

SUMMARY ON CONFLICT cont.

- Changing Nature of Conflicts:
  - intra-state,
  - civilians die more,
  - displacements fosters urbanization &
  - no 2 same wars
- IDP's and refugees
- Mainly three types of conflicts: international conflict, civil wars and conflicts over state formation
- Preventing the conflicts
- Mapping the conflicts

SUMMARY ON POST-CONFLICT ENVIRONMENT

- Starts when: hostilities ceased, PAD signed, Int. Assistance can be provided
- Phases: Emergency, early recovery and reconstruction (time frames / activities)
- More internationalized compared to the past
- General post-conflicts characteristics (FAO, 2005)
- Land issues arise for many people over a short time
- Land was identified as a Critical Gap in international response capacities

SUMMARY ON POST-CONFLICT ENVIRONMENT cont.

- Secondary occupation
- Illegal occupations by local commanders,
- disputes arising by loss or destruction of ownership documents,
- fraud transaction,
- land distribution to the members of the winning party,
- Too few people with background in land are engaged

- Land Disputes and Land Claims
- Land issues not always in PAD

LAND, LAND RIGHTS and LAND ADMINISTRATION

- Land can be recognized as a source of all wealth (UN/ECE, 2005), as such lies in the hearth of good government and effective public administration
- From LA perspective 'Land' is surface of earth, materials beneath, air above and all things fixed on soil – buildings included

- Land Rights: rights, interest and responsibilities to land
- Statutory rights: ownership, leasehold, freehold, easements, superficies and rights to profit
- Customary rights: unwritten rules, depending on culture, social, economic and political factors

LAND, LAND RIGHTS and LAND 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)

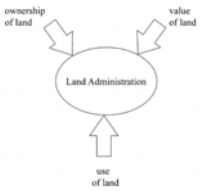


Figure 1: The broad concept of land administration (Molen, 2002)

LA in post-conflict environment

- Some of the land related challenges in a post-conflict:
  - loss or destruction of property
  - secondary occupation
  - landlessness
  - insecure use or mobility rights and lack of clarity regarding ownership or use rights,
  - access to land
  - LA systems that support tenure security
  - forced transactions
  - emergency occupation of land (for ex.: emergency camps, settlements for refugees and IDP, etc.) and
  - HLP rights – addressed in 'Pinheiro Principles' (COHRE, 2007)

LA in post-conflict environment – Land Professionals

- 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

- Most LA staff are professionals with specific expertise

- Experiences show that too few Land Professionals are engaged in the emergency phase

LA in post-conflict environment – Land Records

- Land Records are evidence of ownership and use rights, typically associated with formal 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
- Example of East Timor: Land and Property Building together with Land Records were among firstly destroyed buildings by direct militia attack
- Paper based systems are even more vulnerable

LA in post-conflict environment – Summary

- Historically LA issues in most of the cases have not been integrated in UN operations
- While some UN missions, like in Kosovo and East Timor, addressed LA
- The relationship of the goal of LA and land policies to the overall state building process is relevant and should be recognized in peace treaty
- LA is appropriate instrument for implementation of National Land Policies

LA in post-conflict environment in this research is recognized as LA performing in peace but loaded with the characteristics of the post-conflict environment

POST-CONFLICT STATE BUILDING

- After a war a new state is formed or the old one is coming out from the conflict,
- <u>both need to follow a post-conflict state building process.</u>
- FIRST THING TO DO IS: Keep the peace

POST-CONFLICT STATE BUILDING

- Two situations of peace:
  - negative and
  - positive peace
- Peace building: is 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, 2007).

POST-CONFLICT STATE BUILDING

- Fragile states
  - 'states are fragile when states structure lack political will and/or capacity to provide basic functions needed for poverty, development and to safeguard security and human rights of their populations' OECD (2007)
- States and Nations
  - State is defined as the institutions of government consisting of both those making political decisions and those acting on political instruction
  - Nation is a social group sharing common ideology, institutions, language and homogeneity

POST-CONFLICT STATE BUILDING

- State-building is defined as '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)
- First priority of state-building must be a form of political governance and articulation of a set of political processes or accountability mechanisms through which state and society reconcile their expectations to each other (Anten, 2009)
- Focus required on governance structure / state formation

POST-CONFLICT STATE BUILDING

- Three main characteristics of war-torn societies:
  - Institutional weakness
  - Economic and social problems and
  - Serious security problems

POST-CONFLICT STATE BUILDING

Three dimensions of policy should be present:
- political processes that legitimate the state
- the development of the framework of the rule of law, and
- the re-establishment of a framework of security

- From a situation of negative to positive peace :
  - Doing justice – rule of law
  - UNDO the effects of the war

Post-war state present both major challenges and major opportunities

POST-CONFLICT STATE BUILDING

- Presence of:
  - Humanitarian Organizations,
  - International Community,
  - Donors
  - NGO etc.
- Double effect:
  - Benefit – quality/skilled staff support Institutions
  - Dependency – when they go, Institutions fail in their performance

POST-CONFLICT STATE BUILDING – LAND ISSUES 1

- Property rights and supporting LA systems are an institution – right to property as a human right
- Only a few cases of post-conflict state building where land issues were addressed
- Opinions that land issues should be addressed as early as possible in a broader context
- Weak state authorities, new regimes lack capacities and political will to address land issues – need to raise the awareness of the importance of the subject

POST-CONFLICT STATE BUILDING – LAND ISSUES 2

- Good governance is of particular importance in post-conflict state building, land policy and management good basics for sustainable and low-conflict development

Land is seen as politically too sensitive and technically to complicated (EU/UN, 20120)

KNOWLEDGE GAP & CONCEPTUAL RESEARCH DESIGN

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

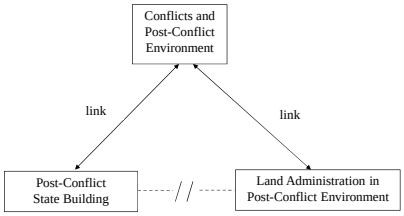


Figure 2: Conceptual Research design

MAIN RESEARCH QUESTION AND OBJECTIVE

- Main Research Question:

  Can Land Administration in post-conflict environment facilitate the post-conflict state building and under which circumstances?

- Main Research Objective:

  Explore and identify the functions of Land Administration in post-conflict environment that can facilitate the post-conflict state building

SUB - OBJECTIVES

O1: Examine the characteristics of the conflict and post-conflict environments - in relation to land,

O2: Explore and identify specific Land Administration issues for post conflict environments,

O3: Recognize the characteristics of the post-conflict State Building with focus on land issues, and

O4: Assess which functions of Land Administration in post-conflict environment and within which settings, Land Administration could be perceived as facilitators for the post-conflict State Building

THANK YOU FOR YOUR ATTENTION

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RESEARCH METHODOLOGY

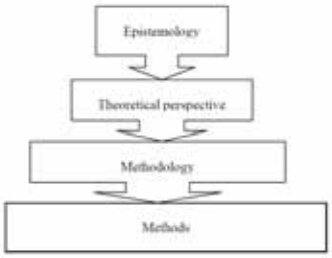

Figure 3: Four Elements of Research Design, source Crotty (1998)

RESEARCH METHODOLOGY

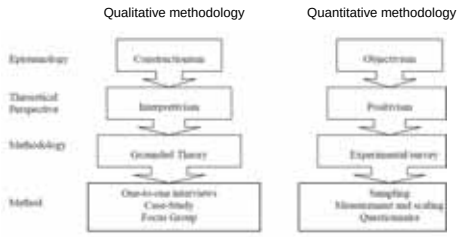

Figure 4: The four elements of the research design relating to a qualitative and a quantitative methodology, source Levy (2006) adopted from Crotty (1998)

RESEARCH METHODOLOGY

- Quantitative methodology:
  - Results are typically generalizable and quantifiable
  - Statistical procedures
  - Means of quantification
- Qualitative methodology:
  - Examines how, what and why of various phenomenon
  - Describing the characteristics of people and events without comparing events in terms of measurements or amounts

RESEARCH STRATEGIES

Strategy	Form of Research Question	Requires Control of Behavioral Events?	Focuses on Contemporary Events?
Experiment	how, why?	Yes	Yes
Survey	who, what, where, how many,, how much?	No	Yes
Archival analysis	who, what, where, how many, how much?	No	Yes/No
History	how, why?	No	No
Case study	how, why?	No	Yes

Table 1: Relevant Situations for Different Research Strategies, (source: Yin (2003)

RESEARCH METHODOLOGY AND STRATEGY CHOICE

- Qualitative methodology
- Executed via case study strategy

RESEARCH DESIGN MODEL

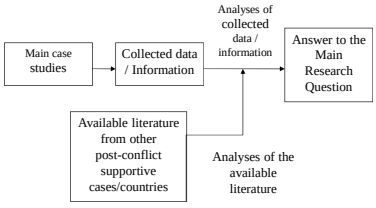

Figure 5: Outline of the research design model

CASE STUDY SELECTION

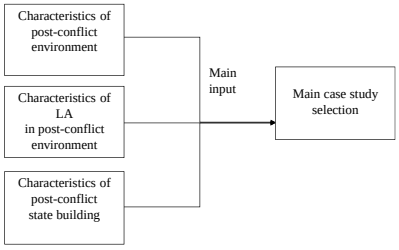

Figure 6: Criteria model for main case study selection

CASE STUDY SELECTION

- Based on literature review the following three main case studies are proposed:
  - Kosovo (Meha, 2004; UN-HABITAT, 2003)
  - Rwanda (Rurangwa, 2004)
  - East Timor (Fitzpatrick, 2002)
- Supportive cases analysed via literature review are countries like:
  - Cambodia (Torhonen, 2001)
  - Liberia (Unruh, 2009)
  - Guatemala (van Hemert, 2004)
  - Bosnia and Hertzegovina (Buyse, 2008)

PROPOSED MODEL FOR DATA COLLECTION

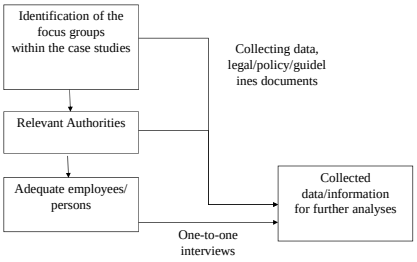

Figure 7: Proposed model for data collection

EXPECTED OUTCOME

- Chapter 1 - Introduction
- Chapter 2 - Conflicts and post-conflict environment – with reflection on land issues
- Chapter 3 - Land Administration in post-conflict environment
- Chapter 4 - Post-conflict State Building – land issues
- Chapter 5 – LA in post-conflict environment as a facilitator for the post-conflict state building
- Chapter 6 - Conclusions and recommendation

OPERATIONAL PLAN

	Year 1		Year 2		Year 3		Year 4	
Activities	Jul.11-Jan.12	Feb-Jun.12	Jul.12-Jan.13	Feb-Jun.13	Jul.13-Jan.13	Feb-Jun.14	Jul.14-Jan.15	Feb-Jul.15
Initial Research, Proposial Wititing, Peer Review Paper FIG 12 & Qualifier								
Course1, Literature review, Paper writing 1, Conference 1								
Fieldwork Preparations								
Fieldwork 1								
Paper Writing 2, Conference 2								
Fieldwork 2, Course 2, Literature review,								
Fieldwork 3, Analyses of the Fieldwork data								
Course 3, Analyses of Fieldwork data Paper Writing 3,								
Paper Writing 4, Workshop/Conference on the topic								
Thesis Compilation								
Defence								

Table 2: Proposed operational plan