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CAN LAND ADMINISTRATION IN POST-CONFLICT ENVIRONMENT, FACILITATE THE POST-CONFLICT STATE BUILDING? - A RESEARCH PROBLEM

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 **AGENDA**

- Introduction
  - Conflict and post-conflict environment
  - Land Administration in post-conflict environment
  - Post-conflict state building
- Knowledge gap & Conceptual research design
- Main Research Question / Objective(s)
- Methodology
- Research design model & Case study selection
- Expected outcome
- Operational plan

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## 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



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## 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'



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## CONFLICT AND POST-CONFLICT ENVIRONMENT

- Secondary Conflicts
- Land Conflicts – PhD theses by Wehrmann (2005)
- Changing Nature of Conflicts
  - From inter-state (in the past) to intra-state conflicts
  - From inter-communal to inter-class conflicts (often complicated with ethnic/religious concerns)
  - Mainly three types of conflicts: international conflict, civil wars and conflicts over state formation



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## 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
- 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)



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## CONFLICT AND POST-CONFLICT ENVIRONMENT






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## 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

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## 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



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## 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)

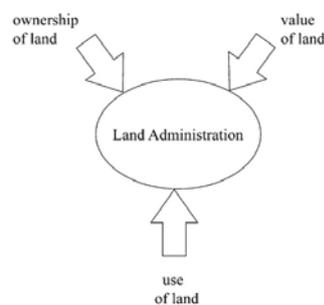


Figure 1: The broad concept of land administration (Molen, 2002)



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## 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)



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## 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



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## 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 powerful 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



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## 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



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## POST-CONFLICT STATE BUILDING

- After a war a new state is formed or the old one is coming out from the conflict, both need to follow a post-conflict state building process.
- Keep the peace
  - Two situations of peace: positive and negative peace
- Peace building



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## 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



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## 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



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## POST-CONFLICT STATE BUILDING

- Three main characteristics of war-torn societies:
  - Institutional weakness
  - Economic and social problems and
  - Serious security problems
- 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
- Doing justice – rule of law



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## POST-CONFLICT STATE BUILDING – LAND ISSUES

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



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## KNOWLEDGE GAP & CONCEPTUAL RESEARCH DESIGN

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

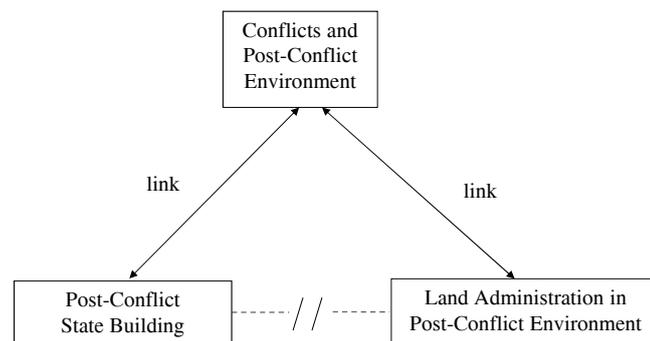


Figure 2: Conceptual Research design



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## 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



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## 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



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THANK YOU FOR YOUR ATTENTION

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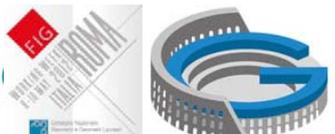


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