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**POST-CONFLICT LAND ADMINISTRATION  
A FACILITATOR OF  
POST-CONFLICT STATE BUILDING IN THE  
CASE OF TIMOR-LESTE**

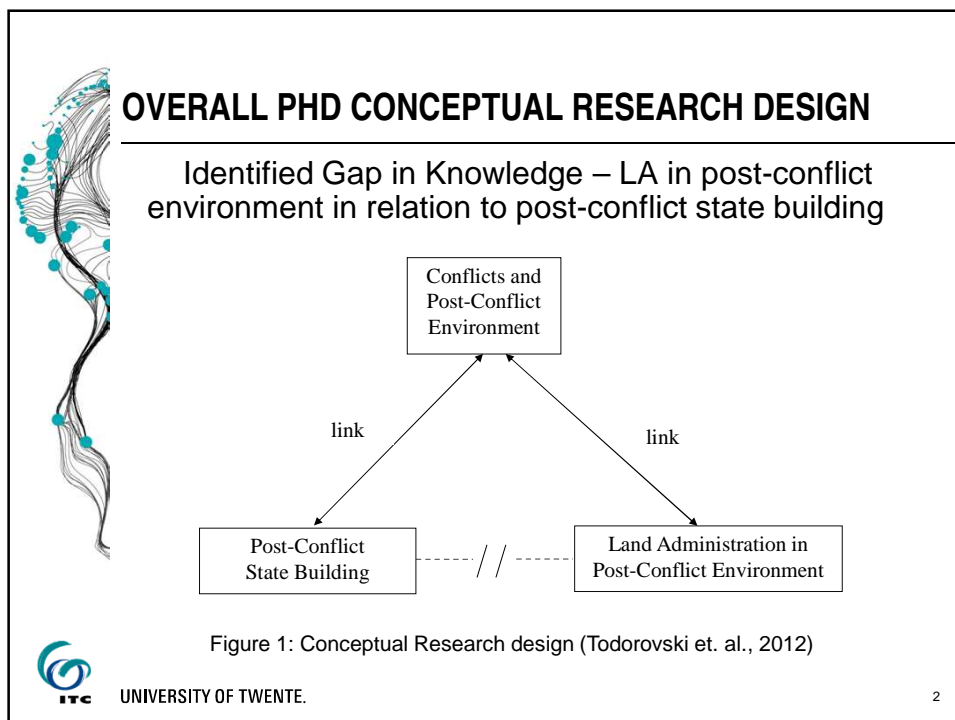
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AND JAAP ZEVENBERGEN


20 May, 2015  
Sofia, Bulgaria

**FIG Working Week**  
17 - 21 May, Bulgaria  
From the wisdom of the ages  
to the challenges of modern world


 






## TIMOR-LESTE, A SUPPORTIVE CASE STUDY

- Main Case Studies - with fieldwork:
  - Case Kosovo, ISI Journal Paper
  - Case Rwanda, ISI Book Chapter
- Supportive Cases (Literature) – Conference papers on:
  - Case Mozambique, FIG Working Week 2013
  - Case Cambodia, FIG Congress 2014
  - Case TIMOR-LESTE, FIG Working Week 2015




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## HISTORY OF CONFLICTS IN TIMOR-LESTE 1

- Colony of Portugal (and the Netherlands until 1771) since 1500
- Independence in 1974 and civil war until Dec 1975
- Indonesia occupation – new colonial period: 1975 - 1999
- Period of many conflicts and violence in human rights
- Number of people died app.183.000
- Several waves of displacement of population
- **Turning point: 1991 Santa Cruz massacre – filmed by international media (since then more int. presence)**
- UN involvement in 1998 via UNAMET mission
- **1999 Popular Consultation Referendum – 78.5% rejected the proposal for special autonomy within Indonesia**



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## HISTORY OF CONFLICTS IN TIMOR-LESTE 2

- After 1999 Referendum Indonesia started withdrawal but in very destructive way
- 250.000 people were driven over the border in Indonesia
- 300.000 fled their homes from rural to urban
- Widespread destruction of houses and infrastructure
- Loss of public and private records – land records also
- New UN mission – UNTAET in 1999
- Full independence of Timor-Leste 2002
- Difficult period ahead (economic crises and social unrest)
- 2006 Crises: 150.000 displaced / 1650 houses destroyed / new UN mission UNMIT in 2007
- Only after mid 2008 real peace and state building started




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## Land administration during the Conflict period 1

- Historically land and property in Timor-Leste were under the customary traditions/law called 'tara bunda'
- For colonial administration, Portuguese civil law was used and latter Indonesian laws were applied
- Study in 2003 showed that 47.000 formal land records were recorded until 2000
  - 2.700 from Portuguese time
  - 44.000 from Indonesian era (mainly for urban areas)
- Massive displacement and destruction of houses occur
- During the withdrawal from the capital Dili 80% of the land records were destroyed by Indonesian Militia
- In other regions destruction of land records was bigger
- Most land professionals fled Timor-Leste in 1999



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## Land administration during the Conflict period 2

- Agreement Document 1999 included creation of:
  - Land Claims Commission
  - Developments of Land Administration
- On request of UNTAET, UN-HABITAT undertook this task
  - Developments in the National Cabinet in 2000 froze the creation of the Land Claims Commission

Situation at the end of the conflict was chaotic:

- Ad hoc property occupation – caused by displacement and destroyed housing
- Allocation of public and abandoned properties
- A need for re-establishment of land administration (Fitzpatrick, 2002)




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## Land administration in the Post-Conflict period 1

- State capacities to deal with land issues not adequate
- Urgent Institutional building was required in:
  - Land law
  - Land registration and
  - Land Claims Resolution
- UN-HABITAT and Int. Donors supported land sector
- Customary rights were recognized in the Constitution
- One of the first adopted laws was Land Law (1/2003)
- National Directorate for Land, Property and Cadastral Services (DNTPSC) was established (under 1/2003 Law)
- 1/2003 Law recognised regularisation of illegally occupation of state land



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## Land administration in the Post-Conflict period 2

- First procedures were lengthy (up to 4 months) and complex (requiring signature from Minister of Justice)
- Pilot projects used orthophotomaps R1:1000



Figure 1: Orthophotomap from the fieldwork used for preparation and issuing leases R=1:1000 (source: [\(De Sousa, 2005\)](#))



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## Land administration in the Post-Conflict period 3

- New legal framework simplified and speeded processes
  - Decree Law 19/2004 on State Property Administration/Leasing of State Property,
  - Law 12/2005 on Leasing Between Private Individuals
    - Lease agreements now signed by director of DNTPSC
    - Documents ready in one working day
    - Extract of Orthophotomap and copy of ID were needed
- Land Disputes were mapped on Orthophotomap shaded in red and publicly displayed on most frequent places



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## Land administration in the Post-Conflict period 4



Figure 2: Orhophotomap from public display of registered and disputed properties  
(Source: DNTPSC <http://itaniarai.mj.gov.tl/eng/index.html> accessed 12.02.2015)



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## Land administration in the Post-Conflict period 5

- Ministerial Regulation on the Cadastre No. 229/2008 was for systematic land registration
- The project **Strengthening Property Rights in Timor-Leste** with support of USAID assisted systematic land registration and it was given a Tenun name, 'In Nia Rai' (Our Land) or INR
- INR included pilot land registration in 13 district capitals
- Using orthophotomaps and interview with claimants
- Land disputes were mapped in red for public awareness
- If there was no disputes or after a dispute was solved measurements were done
- A period of 30 day for objection, before case closure
- INR Project ended in 2012



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## Land administration in the Post-Conflict period 6

- At the end of project still capacity building and training was needed in land administration sector for rural areas
- Additional legal framework development was required specifically in:
  - 1)no mechanism to convert Portuguese and Indonesian titles to Timorese equivalent;
  - 2)no legal mechanism to recognize ownership of a possessor who had never possessed a title; and
  - 3)no mechanism to resolve conflicts where Portuguese and Indonesian titles overlap (USAID, 2012)

Law on Ownership of Immovable Property; Expropriation and Real Estate Financial Fund were passed in parliament in 2012 but the president rejected the promulgation



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## POST-CONFLICT STATE BUILDING IN TIMOR-LESTE 1


- 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)
- General characteristic of war-torn societies (Ball, 2001):
  - Institutional weaknesses
  - Social and economic problems
  - Security problems

(all three were present in TIMOR-LESTE)



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## POST-CONFLICT STATE BUILDING IN TIMOR-LESTE 2

- First challenge: Peace keeping process [with UN forces](#)
- Peace building requires Doing Justice and Rule of Law
- Developments in the Land sector like:
  - Land Law(s),
  - Appointing organizations and
  - Participation of citizens, authorities and
  - Enforcement in courts

[Contributed to the realisation of the rule of law in the case of Timor-Leste](#)




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## POST-CONFLICT STATE BUILDING IN TIMOR-LESTE 3

**Institutional weaknesses:**

- Legitimacy of state was supported by UN-HABITAT in land sector
- Governmental structure was improved by DNTPSC (for land registration and administration, and registration of disputed properties)
- DNTPSC with help of UN and international donors improved the legal framework and operational procedures
- Training and education of the staff of DNTPSC was supported by capacity building projects funded by international donors



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## POST-CONFLICT STATE BUILDING IN TIMOR-LESTE 4

### Social and economic problems

- Land issues in the AD first step of involvement of specific land issues for better social and economic situation
- DNTPSC assisted in providing cadastral products and services to all users – when they become available
- The project Strengthening Property Rights in Timor-Leste and the National Recovery Strategy - successful
- Project and the strategy had beneficial impact on the social life and overall difficult economic situation
- Development of land administration, land records that were created, contributed service provision and significantly increased the security of the land rights
- All this support of the establishment of the land market



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## POST-CONFLICT STATE BUILDING IN TIMOR-LESTE 5

### Security problems

- After the conflict ended in 1999, the peacekeeping was realized with involvement of UNTAET and UN forces
- Creation of Land Claim Commission supports the security situation; so same degree (by recording and mapping disputed parcels) was a case in Timor-Leste
- This stopped the illegal land and property transactions; and conflicts over disputed properties were reduced
- Registration of land, lease agreements and land records, resulted in preventing the conflicts over land.



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## CONCLUSIONS

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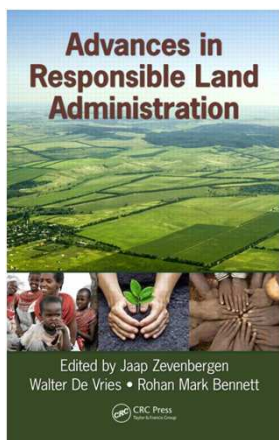
Post-conflict land administration contributes to the process of post-conflict state building especially in two out of the three:

- Strengthening the institutions and
- Social and economic situation
- to some degree it supported the security situation





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**Advances in Responsible Land Administration**

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**THANK YOU FOR YOUR ATTENTION**

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