Responsible Land Governance: Towards an Evidence Based Approach
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Establishing an intra-organizational fit for purpose land rights policy. Comparison of successes, lessons learned and best practices across projects.

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Introduction

ZOA is an international NGO working in around 15 countries, in three countries with projects focusing on land rights issues (Burundi, Uganda, Democratic Republic of Congo). In two of these countries (Uganda and Burundi) the land rights projects are in advanced stages and have recently been expanded. These projects have a land registration component, a peacebuilding component and a food security component. In this way, they follow an integrated approach of addressing land rights, which is informed by current international discourses around land rights and development cooperation. The programs are shaped to adhere to guiding principles such as the *Voluntary Guidelines on the Responsible Governance of Tenure* (VGGT) and their aim is constant improvement of the projects in line with the needs of target groups, insights from on-the-ground-experiences and research and globally agreed standards. For the organization, the explicit engagement with land rights issues is still a somewhat new playing field but one in which much expertise has been developed over the past years. Innovative tools such as *Solutions for Open Land Administration* (SOLA) are being applied and create new opportunities for addressing the often sensitive issue of land rights. ZOA views land rights from the perspective of an organization, which is primarily concerned with humanitarian aid and early recovery. Thus, land rights are addressed as an issue, which relates to reconciliation within divided societies as well as to the rebuilding of governance structures and livelihoods. In this sense, ZOA's work must also be considered as part of efforts for linking relief, rehabilitation and recovery (LRRD). The aim of this paper is to compare the successes and lessons from the different projects, which the organization has already implemented and those it is currently running, to evaluate how best practices might be applied in other contexts and how they can be integrated into an internal and fit for purpose land rights policy. This is done based on a review of current developments in the broader field of land rights on the international level and measuring the approaches applied by ZOA against the latest concepts as well as the opportunities provided by the latest technologies of the field. The paper lays out the projects in Burundi and Uganda and presents the land rights related problems encountered in the DRC. This is followed by a comparison of the successes and challenges that can be identified in relation to the projects in Burundi and Uganda. Based on this, best practices are identified, which are in line with the state of the art and might also add to or specify prescriptions such as those made

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in discourses around *Fit for Purpose* approaches, LRRD and *Policy Coherence*[2]. The paper assesses in how far these experiences can contribute to developing targeted and sustainable interventions in the complex setting of the DRC as well as others. The overall purpose is to condense the experiences from past and current projects and existing recommendations from the international level into coherent and fit for purpose internal policies, which can guide ZOA's land rights related work in in diverse contexts. The broadly applied *Fit For Purpose Land Administration* framework (FFP) developed by the World Bank and the *International Federation of Surveyors* (FIG) provides valuable guidelines for organizations working on land tenure related issues in developing countries. Nevertheless, it is necessary for an organization like ZOA, with a very particular profile and target group, to develop its own internal approach, providing its staff with more specific guidelines. Furthermore, the ongoing discourse concerned with practical ways of integrating land tenure administration into broader development frameworks and linking the issue with other key aspects of sustainable development can strongly profit from linking practical, on-the-ground experiences of specific projects with the existing broader frameworks and guidelines.

Figure 1: Building intra-organizational policies from global frameworks and practical experiences.
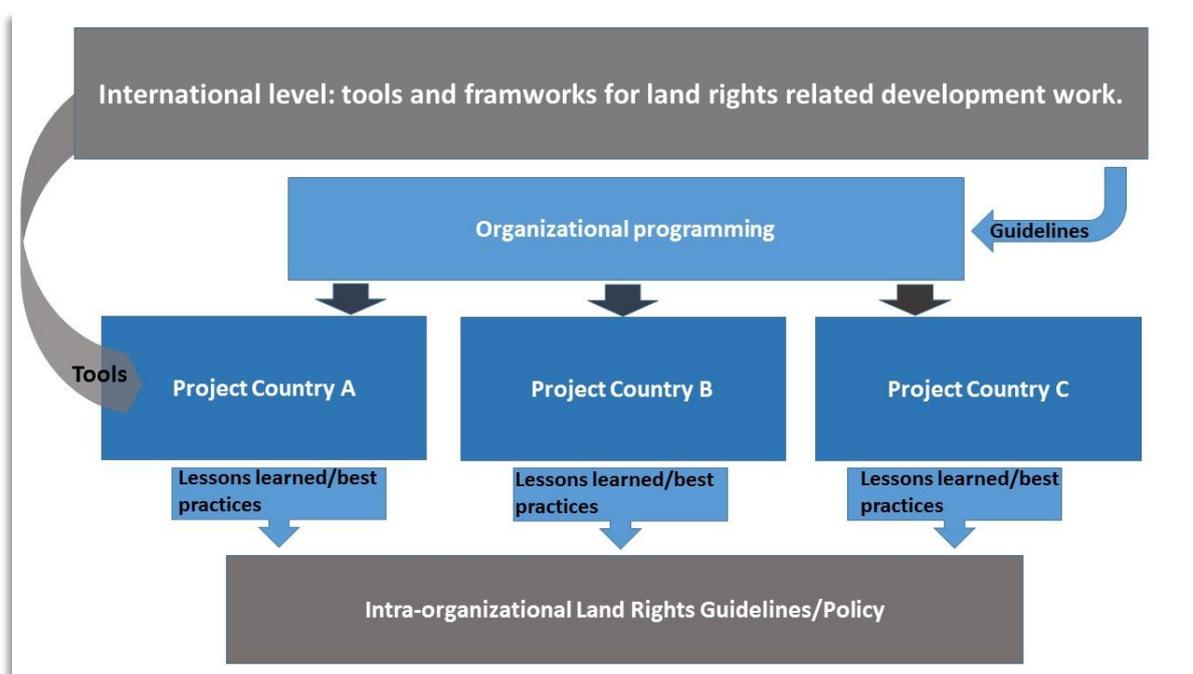
Source: Authors

Linking Relief Rehabilitation and Development (LRRD) has long been an essential objective related to improvements regarding the resilience of societies and increasing the impact of various forms of assistance to conflict affected people (see: EU 2001). *Policy Coherence* is related to LRRD but goes beyond the LRRD concept. *Policy Coherence* essentially aims at improved coherence between various actors' actions and policies related to sustainable development, mainly governments but also NGOs, think-tanks and private sector actors. All UN members countries have committed to the objective of increasing policy coherence for sustainable development (see: OECD 2016).

Land rights in the context of development cooperation and humanitarian aid

There is widespread agreement in the literature on economic development that latent conflicts over land rights, which are prevalent in much of the so-called developing world, have a strong and largely negative impact on economic development (see e.g. Conning and Robinson 2007, de Soto 2001). The simple and intuitively convincing argument that the insufficient formalization of property rights prevents poor people from turning their assets into capital and disconnects them from the economy (de Soto 2001: 6-7) has led to increased efforts for a large-scale formalization of property- and in particular land rights in various developing countries.[3] Interventions aiming at the formalization of property rights to boost economic development have often failed to live up to expectations, because simplistic formalization and limited awareness of real needs in the context of top-down approaches tend to result in inadequate programs (Deininger and Feder 2009: 234). Furthermore, efforts at land tenure registration need to be aware of the fact that the distribution of landownership does not result from the operation of "perfect" markets, but reflects the respective power structures within a society (Deininger and Feder 2009: 238). The efficiency and effectiveness of land registration can be further reduced by dysfunctional or in some way (e.g. ethnically, economically) biased governance systems (Deininger and Feder 2009). In the worst case, this can lead to conflicts. Land conflicts have been at the core of crises in the past (e.g. in Zimbabwe where land rights questions have been among the central factors causing prolonged political and economic crisis) and they have been ignited or intensified by humanitarian crises caused by other factors (e.g. the LRA conflict in northern Uganda). Land rights questions are also central in the context of refugee crises. In the fragile post-conflict setting of Burundi, people who have returned from displacement have frequently found their land occupied by others, similarly in Uganda. In Burundi, Uganda and other contexts, non-governmental organizations have started to address land rights issues as part of broader humanitarian interventions in recent years. Despite the increasingly broad attention towards land rights, there is little hands-on experience and practical guidance for organizations encountering land rights problems in the context of their humanitarian work. Furthermore, many organizations still show limited sensitivity towards land rights issues as underlying or reinforcing factors in conflict settings and even less to the gender dimension of land rights issues. In many cases, sustainable solutions to land conflicts and land insecurity could provide the basis for creating stability and help to bridge the humanitarian–development gap (see also: Foley 2007).

In Burundi and Uganda the government has adopted legal and policy frameworks for land registration schemes, which are currently implemented with the support of NGOs but many challenges remain with regard to making conflict resolutions on the ground sustainable and protecting or possibly enhancing women's and vulnerable groups' rights to land. The crucial role of community engagement in the context of peacebuilding and the stabilization of humanitarian crises is broadly recognized (see: Schirch/Mancini-Griffoli 2016). Nevertheless, experiences from various countries

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[3] In 2005 the World Bank supervised a portfolio of more than 1 billion dollars of land administration projects (Deininger and Feder 2009: 258). Since then countries like e.g. Rwanda have started large-scale land tenure registration programs and international donors such as DFID increased their attention towards the issue (Henley/Hofler 2016).

indicate that land registration programs often have a strong focus on capacity building for scaled-up registrations but somewhat less on participatory approaches and community engagement, which would contribute, inter alia, to peace building and resilience. Furthermore, since practical guidelines for initiating such processes are largely missing, many NGOs refrain from engaging with this complex and sensitive issue. There is strong evidence that gender sensitive approaches are urgently needed in the context of humanitarian assistance (SIDA 2015), but again little to no practically proven guidelines exist on how to incorporate this in land rights related interventions, which means that there is little praxis in this area. Finally, the currently dominant approaches for land tenure registration have only limited relevance in contexts of humanitarian emergencies. All of these mentioned issues are of importance for ZOA. Internal policies (or guidelines) need to provide for a holistic and sensitive approach while at the same time remaining general to a certain degree in order to present guidance in various contexts. This paper aims to lay the groundwork to achieve this.

ZOA's work in Burundi

Burundi is one of the poorest countries in the world. Its economy is largely dependent on the agricultural sector and the productivity of the sector is constrained (USAID n.d.). The country also faces a very severe food security problem, which is not least a result of land scarcity and land conflicts, which show a high prevalence of violence (IDLO n.d.). The pressure on land, which results from the strong population growth and the lack of alternatives to agricultural work, is further intensified by the return of refugees who fled the country's several internal armed conflicts over the past decades. Many of those who returned (mostly from neighbouring Tanzania) found their land occupied (respectively the land, which they believed had belonged to their families two or three decades ago). Approximately 15 percent of the population are landless and around eighty percent of those who were displaced by conflict (USAID n.d.). To address the various problems related to land insecurity, the Burundian government, together with international partners, initiated land registration programs aiming at systematic and comprehensive registration of the land rights of individuals (cf. IDLO n.d.). A new land code was adopted in 2011 to provide a legal basis for these endeavours.

In 2013, the Dutch Humanitarian organization ZOA started a project financed by the Dutch Embassy in Bujumbura, designed to indicate ways of bridging the gap between the various decentralized land registration projects and an envisioned scaled-up land registration program initiated on the national level (ZOA 2013). ZOA targets areas with high levels of repatriation of former refugees and displaced people and puts a special focus on safeguarding the interests of women in the process of land rights registration. Furthermore, ensuring the financial sustainability of the communal land services set up to facilitate the registration program was a central objective. ZOA cooperates with its local partner Mi-Parec (Ministry for Peace and Reconciliation under the Cross), which supports the project in resolving conflicts related to land. The combination of land registration and conflict resolution is essential to the project. Mediation between conflict parties, particularly between returnees and residents, and a recording of the results of these mediations are seen as the basis for ensuring sustainable conflict

resolution and tenure security of all parties (ibid.). Therefore, MiParec supports communal recognition commissions that conduct the demarcation exercises with training in mediation practices and takes over mediations in particularly complex cases. A study on the challenges related to the Burundian land registration process published in 2013 indicated that better capacities of national-level actors and an integration of the ground level efforts with national policies and objectives are needed, while at the same time a strong focus needs to be put on the local acceptance of the measures (Hilhorst 2013). The land tenure registration projects in Burundi are also seen as essential aspects of broader efforts to increase not only peace and stability but for creating food security for the population (Netherlands Embassy Office Bujumbura-Burundi 2011). In order to achieve these objectives several conditions have to be met. First, land conflicts must be resolved before a piece of land is registered. It is also important to ensure the acceptance of registration procedures by the local communities and not least the local traditional authorities. The process of registration must also not contribute to the weakening of existing rights such as customary rights of women. If all these conditions are met, people receiving land certificates need to be ensured that these certificates will in fact contribute to their tenure security. Therefore, local state authorities need to have the capacities to enforce the land rights of individuals. They also need to be informed of all land transfers after the issuing of certificates, because otherwise the registry will become unreliable. Thus, for the land registration program to be successful increased capacities of state authorities are equally essential as an understanding and acceptance of the program purpose and process by the local population and effective, participatory conflict resolution through community-oriented processes. As a basis for the Burundian land tenure program communal land services (SFC) were set up, where the data is assessed, stored, certificates are given out and objections to the registration can be raised. The first step of the actual implementation was an assessment of land conflicts in the intervention area. This was followed by a mediation of the identified conflicts. The resulting solutions were then fixed by the registration of plots. While conflict resolution institutions existed in the Burundian context on the colline4 level such as the elected leaders of the colline and traditional bashingantahe ('men of integrity' serving as conflict mediators and justices), the land code of 2011 made it necessary to create an additional institution capable of handling a relatively large number of conflicts. Therefore, the recognition committees on colline level (CRC) were created. These committees publicly establish whether land disputes exist regarding a plot, determine who occupies that land, who holds the de facto rights to it and conduct plot surveys using handheld GPS devices, mobile phones with Kobo collect software and aerial photos. All of the neighbors of the particular plot and local authorities participate in this exercise. The outcomes of the process are published and if after a period of 15 days no objection is made a certificate can be issued. The owner needs to retrieve the certificate from the communal land service office. After this has happened there follows another 30 day period during which objections to the registration can be voiced. In case that someone disagrees with the registration and the conflict cannot be mediated, the case is taken to the national commission set up to

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4 Colline means 'hill' and is the second smallest administrative unit in the country, the smallest are the sous-collines (Fransen 2011). People in rural Burundi mostly do not live in dense villages with fields surrounding the village, but rather spread over a hill with their homestead surrounded by their plot.

handle cases of conflict around land between repatriates and residents or to a responsible court.

Some noteworthy developments correlate with ZOA's land registration project in Burundi. First, there has been an increase in land transactions over the last three years, which has even picked up since the registration process started. This suggests that the registration facilitates transaction of real estate, even though the causal relationship is not clear (IDLO/ZOA 2016). Second, the initial registrations seemed to correlate with a decrease in criminal cases related to land. In later phases of the program, this correlation was less clear and the data available does not allow for inferences on causal relations. Nevertheless, decreasing the number of criminal cases and violence related to land conflicts is a central objective of the program and indications that the registration in combination with conflict mediation has a positive impact in this regard are encouraging. Despite this, the overall rate of conflicts has increased, the reason of which is not yet completely clear (IDLO/ZOA 2016: 61). It could well be that during the registration process latent conflicts surface, increasing the total of recognized conflicts. In any case, this finding indicates the importance of quality conflict resolution in the areas where registration happens. So far, the resolution of conflicts in the program areas appears to go well. The reports of CRCs and the testimony of beneficiaries show that people decide to have their conflicts mediated instead of taking them to court and some people also withdrew their cases from court and decided to go through a mediation instead. In order to contribute to stable, sustainable solutions people need to accept the conflict resolutions also after the registration is conducted (ibid.). The findings from the ZOA program relate to other research indicating that land registration can have positive impacts on conflicts but effective conflict mediation needs to be in place (see e.g. Holden et al 2011). There are many indications in the broader literature that whether land registration has a positive or a negative impact on conflicts is very much context dependent and the specific setup of the registration is crucial. The respondents of the mid-term study on ZOA's land registration program almost unanimously declared that they perceived a positive impact on conflicts and reported a reduction particularly of boundary conflicts through the program (ZOA/IDLO 2016 p. 34). Continuous learning and a flexible approach to the project were necessary to achieve positive results in this regard. A central challenge in the beginning was the attendance rate of the sensitization campaigns. The idea was to conduct meetings at the colline level to inform people about all the aspects of the land registration process. It showed that people were strongly occupied by their agricultural activities and did not attend the meetings. Of those attending, men were the majority while women were vastly underrepresented. ZOA then decided to conduct door-to-door information campaigns. To this end 'vulgarisateurs' or outreach-persons from the communities were selected to conduct the information visits. This strategy was much more effective than the group meetings and is replicated in a new USAID funded project ZOA started in 2017 (ZOA 2015). The mid-term study confirmed that in the areas where registration was put in place people are broadly informed about the process and aware of its objectives to improve land tenure security and resolve land conflicts (IDLO/ZOA 2016). A second and newly developed strategy to reach people is the public performance of informational sketches in central places such as church squares and other common meeting places at the

colline and sub-colline level. People are called for "Tumeny'Ivy'Amatongo yacu" meetings, meaning approximately: "Let's know all that concerns our plots of land" in Kirundi. After the performances, questions related to land rights and the registration process are asked to the attendees and for correct answers people can win useful prizes such as hoes, bottles, the land code book or mobile phones. These campaigns reached much more people than the original village level meetings and members of the recognition committees (CRCs) expressed their regret that this method was not used from the beginning, because in their opinion it would have been highly useful for reaching all stakeholders to inform them on the land registration process from the start. Another challenge was that the members of the CRCs and the outreach people are all volunteers. The time-consuming work in the context of the registration program led to domestic conflicts for some volunteers who had to justify the amount of energy and time, which they invested. They therefore asked for some kind of (financial) recognition. The different project partners discussed a solution and the commune indicated that there was no budget for any compensation. ZOA's project manager therefore proposed that the CRCs and the outreach groups could form savings associations. For these associations ZOA would pay a certain and relatively small input, which these then could invest in form of micro credits, earning them a small interest. This proved to be an acceptable solution to the CRCs and outreach groups. These then continued with their work and reported to be strongly motivated again. The mid-term review found overall evidence that the population targeted by the program was generally much more confident about their situation, envisaging a future without conflicts (IDLO/ZOA 2016).

On a more technical note, the use of the Kobo software and the integration of the demarcated plots into ArcGis maps has proven to be very useful and the demarcation teams have developed impressive skills in using these tools. The usage of aerial photos serves to correct errors of the GPS measuring, which usually has an accuracy of around 2 meters (the photos have an accuracy of 50cm). Nevertheless, there are not many people in Burundi who are capable of using these tools and there is a strong need for extensive training if the tenure program is to be taken to scale. Furthermore, the technical infrastructure on the communal level and on the higher levels of government is quite limited. This means that e.g. the collected data still is not stored on central government servers but solely in the cloud and on individual computers. Improving the technical infrastructure is just one of a number of challenges, which need to be addressed in the future.

ZOA's work in Uganda

Similar to the Burundian context, land is the basis of income, sustenance, and identity for the majority of Ugandans (Hannay 2014). Agriculture dominates Uganda's economy accounting for 80 percent of its export earnings and around 80 percent of employment nationwide (ibid.). The vast majority of Ugandans resides in rural areas, 85 percent of whom are involved in subsistence agriculture (ibid.). 90 percent of rural women work in agriculture and produce an estimated 80 percent of food crops. Uganda has a pluralistic legal system and pre-independence British law, Ugandan civil law, and customary law make up the country's legal structure (ibid.). Uganda has a high

prevalence of land conflicts. One of the reasons for this is the return of people who had fled from the armed conflict in the North of Uganda and were forced to live in protected villages to escape the Lord's Resistance Army (LRA). The returnees often found their land occupied by others, sometimes family members and often strangers (IRIN 2012). The Government of Uganda has adopted a National Land Policy, a Land Sector Strategy, and several pieces of legislation to address the various problems related to land rights. Land tenure registration and certification are integral and important parts of this agenda. The tenure registration essentially consists of systematically identifying land holdings and the persons who hold the rights to these lands. The results are recorded in a registry and proof of ownership is given to the rights holder. Innovative about the Ugandan approach to registration and certification is the fact that it provides for registration of customary rights. Certificates of Customary Ownership (CCOs) can be used as evidence of customary ownership of the rights holders. Holders of a CCO can lease, mortgage, pledge, transfer and sell the land, subject to limitations provided for by customary law. In most other countries in the region, registration and certification lead to a transformation of customary rights to rights under formal law. Since rights are differently structured under the two systems, this can lead to a series of problems, notably for women and vulnerable groups, who frequently end up dispossessed – which could also be seen in the Burundian case.

ZOA has set up a tenure registration program supported by the Dutch Pharus foundation in Nwoya district. The program centred on setting up demarcation teams (Area Land Committees) consisting of traditional and state authorities as well as volunteers. These prepare the tenure registration by meeting with all stakeholders involved in a plot registration, in particular all occupants and neighbours, preparing the registration by making sure that there are no conflicts or respectively resolving them and establishing that all borders are agreed on. Finally, the land is demarcated. To this end, tablets with Solution for Open Land Administration (SOLA Open Tenure) software are used. Google earth satellite images and GPS coordinates enable the teams to capture information on boundaries. These data are then complemented by scans of all hard copy application- and support documents, and stored on a server. The aim of this process is to generate data, which shows conclusive evidence of boundaries, and can be migrated to the National Land Information System currently under development in Uganda. The goal is that digital information about registered customary land is accessible at the national level as well as the local level as is already the case for freehold or leasehold titles. This is preventing double titling and overlapping claims. The borders of the plot can be marked on a digital map and all necessary information regarding the occupants, owners, neighbours and rights such as easements can be entered into the database. The tenure registration itself is flanked by campaigns to inform the local population and traditional authorities about the process and its objectives, facilitate conflict resolution through ZOA's local partner the Acholi Religious Leadership Peace Initiative (ARLPI) and inter-community communication about these various issues. Essential are the support of capacity building of local state actors and linking all of these efforts with actors and processes on higher levels of government including the national ministries.

The program has so far led to a number of successes. The provisions governing customary tenure registration within the existing legal and regulatory framework were

largely unknown before the intervention. Widespread misinformation led to mistrust among political and traditional leaders in Northern Uganda in general, and the Acholi sub-region in specific, against CCOs, which were suspected to be an instrument of land grabbing or commoditization of customary land. Through exposure visits for opinion leaders from the political, religious and administrative leadership, radio talk shows, radio spot messages, drama and community dialogue meetings at the village level, information about the urgent need for land conflict resolution and opportunities for increased tenure security through registration of customary were disseminated. The District leadership took the lead in building widespread support for land registration by conducting stakeholder workshops and outreach activities within the community. The demand for CCOs in Northern Uganda has surged as a result of the first successful issuance of CCOs in Nwoya District. Other Districts in Northern Uganda have sent requests for support to ZOA and the Ministry of Lands has asked for rolling out customary land registration services. The Ministry of Land, Housing and Urban Development (MLHUD) has carried out readiness assessments for 10 Districts in Northern Uganda to assess the existing capacity of land administration structures to manage the process. According to officials from the Ministry of Lands, Housing and Urban Development, the CCOs issued in Nwoya are the first ones following the entire process for customary land registration as outlined in the Land Regulations step by step. This precedence is important for the MLHUD and District and sub-county based land administration structures to demonstrate that full compliance with the existing law is achievable. For the land rights holders full compliance with the law means that the documentation they receive in form of the CCO can withstand legal challenges in a court of law. Beyond fulfilling the current legal requirements, use of SOLA Open Tenure software was so far very successful. By improving on accuracy of boundary demarcation and integrating data of CCOs into a national database, the Certificate of Customary Ownership is de facto upgraded in terms of the technical standards applying to freehold and leasehold titles. It therefore fulfils the requirements for the Customary Certificate of Title, a technically improved instrument for customary tenure registration foreseen as a possible upgrade to the CCO in the National Land Policy. The project in Nwoya is providing an evidence base for the argument that technical upgrades are possible by integrating low-cost, fit for purpose solutions into the existing process for CCOs. Therefore, Uganda might be able to avoid a lengthy and costly political and administrative process of developing a completely new instrument.

The vast majority of land conflicts are resolved by members of the demarcation teams before or during the land inspection, which is part of the CCO application process. 71 percent of land conflicts are resolved either by the Area Land Committee members or the Rwot Kweris, a traditional leader elected by the community at sub-village level with responsibilities for land management (ZOA 2016). Only 29 percent of conflicts are referred for mediation conducted by a local partner organization specialized in alternative dispute resolution (ADR), especially for land conflicts. Of those cases referred to mediation by the demarcation teams, 85 percent have been mediated successfully with the outcomes monitored for a period of one year after resolution is signed (ibid.). 95 percent of land conflicts registered during the demarcation exercise in Nwoya District have been resolved using ADR, with only 1 single case referred to court (ibid.). Next to the good results regrading conflict mediation there are also positive

developments in relation to the registration of women's land rights. Customary land in Nwoya District is predominantly registered as family land. CCOs can include an unlimited number of names of land rights holders. In Nwoya, there are nuclear and extended families applying for CCOs and CCO applications including 40 or more names have been processed. As of January 2017, 33.7 percent of applicants for CCOs in Nwoya District were women (ZOA 2016). While not yet fully equitable, this relatively high proportion of female applicants is remarkable considering the severe challenges and restrictions to women's land rights within Acholi culture, especially regarding ownership of land. This can be seen as an achievement of large-scale communication processes on women's land rights as well as training of land administration authorities on how to identify and include vulnerable land rights holders, especially women. Women have expressed their hope that through proper documentation, their tenure security will be strengthened and discriminatory cultural practices will change. One innovation in the CCO registration process in Nwoya is the introduction of a comprehensive list of all land rights holders, including children, as a support document in the official registers copy. The list also includes a simplified family tree. No official legal status has been attached to this document. However, it might prove useful in the future, as the Ministry of Lands is yet to develop guidelines for subsequent transactions for CCOs. There is ongoing debate about the how people hold land in Acholi and how to best secure tenure. While the overwhelming preference in Nwoya District has been for registration of family land through CCOs for nuclear or extended family, there are voices calling for registration of land at the level of clans (in Acholi, clans consist of thousands of members), or even incorporations of clans who can hold land in trust (Troicaire). Others are suggesting that the CCO is inadequate in its current form and land should be secured through boundary tree planting and the documentation of family land rights trees. This debate is ongoing and results partly from confusion about the definition of legal concepts and terms. Commonly confused concepts in the Acholi context include: communal land vs. customary land, clan land vs. communal land, extended family land vs. clan land, etc. with some of these concepts used inappropriately and interchangeable. ZOA is actively engaging stakeholders working on land in Northern Uganda. This is done through frequent exchanges and active participation and presentation of results and challenges in dialogue platforms such as the Northern Uganda Land Platform and the EU and FAO hosted land development partners working group. The Ugandan program meets some challenges similar to those encountered in the Burundian context. For example, though land may have been successfully demarcated and land rights comprehensively documented, subsequent transactions, which occur frequently, are rarely recorded. This is not a mere question of limited awareness of the intended beneficiaries. Awareness plays a role, but, in areas with a history like that of Acholiland, limited confidence of the government's capacity to effectively guarantee land rights also plays a role, as does a general reluctance and also inability to pay the fees. As of January 2017, the national government is yet to issue guidelines for subsequent transactions of CCOs. To support this process, ZOA Uganda is constantly engaging with the Ministry of Lands, with officials visiting the Nwoya District and observing the challenges for administrators and land rights holders to inform the guidelines. Crucially, the guidelines for transactions on CCOs must include references to the customary restrictions of land rights holders mentioned in the CCOs, demanding for example consent from the clan leadership

before selling or leasing land. Another difficulty relates to the capacities of local state actors. Essential positions for managing the customary land registration process, especially the SOLA Open Tenure component, within the District local government have not yet been filled. The District has not recruited a Land Management Officer (LMO), whose role it would be to approve records in hard copy and in the digital version on SOLA Open Tenure. It so far borrows the services of a LMO from a nearby District. Without the recruitment and training of core staff, the District will not be able to harmonise the operation of Open Tenure and traditional CCO issuance process and sustain the issuance of CCOs as a public service (Makarere University 2016). ZOA is discussing with the local District government the inclusion of the positions into the budget and recruitment plan. ZOA has signed a tri-party Memorandum of Understanding with MLHUD and Nwoya District Local Government. This is a strong instrument to strengthen accountability of all three partners in the project. An internal review of the existing MoU between ZOA, MLHUD and Nwoya District Local Government will serve to evaluate compliance and accelerate the process of recruitment and training of core staff.

Land related challenges for ZOA in the DRC

ZOA is working in the Democratic Republic of Congo on various issues such as livelihoods and food security, water, sanitation and hygiene but also starting to focus on the improvement of land governance with North Kivu and South Kivu as the current main program areas. In a newly initiated project, ZOA will work on addressing the root causes of conflict in the Hauts Plateaux de Kalehe in the East of the country close to Lake Kivu. Another project addressing land rights issues is planned in the Ituri region in the North-East. One driver of conflict in the region is the insecurity of property rights in the context of land degradation and the constant exploitation of new land areas by farmers, as well as limited governance by state actors. Women are particularly vulnerable in this setting because their land rights are mostly dependent on those of their husband or family. The situation is further exacerbated because people often have a complicated relationship with the government. For example, in conflicts between smallholder farmers and large landowners, the government is viewed to rather side with the large farmers. Even more complexity is added by the fact that in the DRC different laws apply with regard to the governance of land, creating a certain degree of incoherence in the legislation and the application of the law (cf. Mathys 2016). Next to the formal legislation, the law also recognizes customary rights but without a clear role and statute for the customary systems (Mathys 2016: 2). The property law itself is highly complex and the acquisition of land rights requires a number of steps as well as the consent of different state authorities, depending on the size of the plot. Five steps are required to acquire land:

1) The verification on the ground of the limits of the plot demanded.
2) An identification of the people found on the plot, or the activities being performed on the plot.
3) A description of the site, and an inventory of what is found on the site pertaining to bushes, forests, water ways, roads etc.

4) An audience with the persons who formulate their reclamations or observations with regards to the concession that is asked for verbally.

5) 5) A registration of all information and an analysis of all the written information (Mathys 2016: 4).

Various issues complicate the fulfillment to this process. The distance between the capital Kinshasa and the provinces in which ZOA works is so great that often the survey required by law is not conducted. Furthermore, the technical and institutional capacities to conduct such surveys are often lacking (ibid.). In particular, customary land rights are negatively affected by this. Because the legally required survey is not conducted, the legal status of these rights becomes vulnerable (see also: Mathieu/Tsongo 1998). This is exacerbated by deals, which customary authorities sometimes make with investors to acquire land to the detriment of the local communities (Mathys 2016). The incidence of severe violence in the North-East of Congo is high and violent encounters in the recent past have frequently been related to conflicts around land but are also intertwined with larger conflicts on the regional level (Mathys 2016: 10). Land conflicts also strongly occupy the courts in the region and put a strain on the judiciary. The capacity of civil society actors to engage constructively with land rights issues in a peace and mediation-oriented way varies strongly within the region (Mathys 2016: 20). Various interventions have so far largely failed to address the root causes of the conflicts related to political and social problems with a long history (Mathys 2016: 26). ZOA intends to focus on various aspects related to address such root causes. It will support the strengthening of the conflict resolution capacities of local actors and focus on linking these efforts with state actors on various levels in order to create understanding and ownership of conflict resolution processes on the side of authorities, which will be necessary to make these efforts sustainable. Ownership also needs to be created on the local level, meaning that local populations must not perceive conflict mediation structures as being the projects of some NGO (cf. Mathys 2016). The results of conflict mediations will also have to be binding in the long-term, as this is the only way to prevent future conflicts. Not least in this regard, state actors have to play an essential role (see: Mathys 2016: 27). There is a certain degree of competition between different institutions for conflict mediation on the local level, e.g. because different actors have set up their own structures. These institutions also have the potential to undermine the local state authorities since they often serve as alternative rather than complementary structures (Mathys 2016: 28). ZOA faces the challenge of consciously addressing these complexities in a coherent program focusing on different levels of governance and involving various social groups. Given ZOA's mission to serve the most vulnerable, the solutions found must in particular improve the rights and opportunities of the heterogenic groups of the poorest and dispossessed while involving the complex range of stakeholders and interests into the process.

Conclusions for an intra-organizational land rights policy

The complexities of land tenure programs, in particular in conflict-affected settings, require programs, which pay attention to technical, social and governance issues (Deininger and Feder 2009). The review of ZOA's work on land rights and the future

challenges essentially confirm key considerations on which the FFP and the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) are based on. There needs to be an integration of land rights projects across various levels of government and in this context, a focus on the potential conflicts between statutory frameworks and customary law is central. A second important aspect is that local as well as higher-level state actors need to see the benefits of conducting land tenure registration not only for the local communities and individuals whose rights are secured but also as a potential instrument for establishing spatial infrastructure datasets for development of infrastructure and support e.g. to agricultural development. While policy coherence is a concept usually applied to governments and international organizations the experiences from ZOA's work show that it is also the task of actors involved on the local level to pay attention to policy coherence. They need to inform other actors about instances in which contradicting laws, incoherent policies or competing strategies and interventions have negative impacts on the outcomes of projects and programs on the ground. Furthermore, NGOs and other actors involved in land tenure programs and other land rights related projects need to be aware that it is highly unlikely that one organization can tackle the complexities related to land rights issues. This requires all actors involved to pay particular attention to issues of coherence, between policies, projects, and funding dedicated to particular organizations and purposes. The review of the pilot projects indicates that for successful land tenure registration projects in fragile contexts strong efforts and expertise are needed at least in three areas:

1. Conflict resolution and the facilitation of dialogue on the local level.
2. Sustainable land tenure registration – with capacity building on local and higher levels of government.
3. Improvement of agricultural practices complementing the registration.

One recommendation resulting from the evaluation is, that experts with specific knowledge in one of these areas need to be equally involved in the development of land rights related projects. Particularly if land tenure programs are envisaged to be rolled out on a large scale, sensitive analyses are needed with regard to the conflict potential of land rights related interventions as well as with regard to the necessity and potential of an integration with food production and livelihoods related interventions. Land rights registration can never be an end in itself – it needs to be integrated with other project components benefitting the target groups and it needs to be sustained through the ownership and commitment of local communities as well as state actors on various levels of government. A further important aspect is the extreme level of complexity related to addressing gender rights[5] in land rights projects. The project evaluation shows that while advocacy and awareness-raising can be useful components of projects, quick fixes cannot be expected in this regard. Land rights- and particularly gender-issues need to be resolved through social solutions, meaning legal and technical solutions will never be sustainable on their own (cf. Mathys 2016). The first task of an organization planning an intervention in this context is therefore a thorough actor analysis based on in-depth understanding of the social and political context. Communication with all stakeholders must be inclusive and cannot be based solely on one form of interaction and source of information such as "key informants", "focus groups" or the like (see also: Ruppert et al 2016). Second, while long-term

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[5] And also youth rights, even though these were not explicitly mentioned above.

sustainable solutions can only be achieved if the necessary political commitment and capacity of state actors are there, the complexity of multi-level interventions is extremely high, therefore, organizations need to be very conscious of the levels they want to target and in how far their objectives are reasonable regarding the complexities they face and their own capacities. One of the most important issues on the ground is the creation of effective communication structures with all stakeholders, independent of the targeted impact. Feedback links must be established to enable a true two-way communication between local people and other actors involved in land rights related projects (cf. Ruppert et al 2016). This includes effective and comprehensive communication with other non-governmental actors working on similar issues and/or in the same areas as well as the sharing of crucial information and the coordination of efforts. Land right projects are clearly a way to bridge relief efforts with recovery and development programs (see: Foley 2007). This means, that actors involved in these different but interconnected stages need to coordinate their efforts. A clear recommendation from the ZOA programs as well as the literature is that the results of conflict resolutions need to be institutionalized beyond mere oral agreements. Independent of the targeted range and impact of land rights related interventions, tools like SOLA or the Sustainable Tenure Domain Model (STDM) can potentially be applied in this context. In any case, conflict resolution needs to aim at achieving some form of formalized outcome (cf. Mathys 2016). The crucial issue of women's rights can only be coherently addressed through encompassing, participative communication processes, involving men and women, state and customary authorities and enabling a full and clear understanding of the legal and social implications of registering women's rights to land. This means that organizations facilitating such exchange need to have a solid understanding of these issues and they need a strong internal consensus in this regard. Based on these findings and deliberations a few initial recommendations can be made for the development of an intra-organizational policy on land rights interventions. It is necessary in this context to stress that land rights interventions (maybe more than other interventions) need to be highly sensitive to the specific context and a one-size-fits all approach is impossible. Nevertheless, the discussion above shows that certain approaches and considerations seem to be particularly useful in the broader context of planning a land rights project.

1. Strong outreach/communication components need to be part of every land rights related project. Legal information of the target groups needs to be part of these processes as well as the facilitation of dialogues on the social implications of land rights registration or documentation.
2. Any kind of documentation or registration of land rights needs to be based on a sustainable and fitted technical infrastructure. This means, organisations need to integrate this aspect into their planning from the beginning.
3. A conflict resolution component of some kind needs to be part of any program related to land rights registration or documentation.

A comprehensive internal policy will require further monitoring of the current programs, methodologically sound and comprehensive impact studies and most of all intensive and continuous exchange of experiences with other actors in the field.

Bibliography

Conning, Jonathan H. and James A. Robinson (2007), Property rights and the political organization of agriculture. Journal of Development Economics 82 (2007) 416–447, http://scholar.harvard.edu/files/jrobinson/files/jr_propertyrights.pdf Accessed: 14-12-2016

Deininger, Klaus and Gershon Feder (2009), Land Registration, Governance, and Development: Evidence and Implications for Policy. The World Bank Research Observer, Vol. 24, No. 2 (August 2009), pp. 233-266, Published by: Oxford University Press, Stable URL: http://www.jstor.org/stable/40649283, Accessed: 13-12-2016

De Soto, Hernan (2001), The Mystery of Capital – Why Capitalism Triumphs in the West And Fails Everywhere Else. Black Swan, London

EU (2001). Linking Relief, Rehabilitation and Development – An assessment. Commission of the European Communities. Brussels, 23.04.2001. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0153:FIN:EN:PDF Accessed: 14-02-2017

Foley, Conor (2007). Land Rights in Angola: poverty and plenty. Humanitarian Policy Group (HPG) Working Paper. https://www.files.ethz.ch/isn/91177/2007-11_Land%20Rights%20in%20Angola.pdf Accessed: 03-02-2017.

Fransen, Sonja (2011). Migration and Development: A World In Motion: Fieldwork Report Burundi: Methodology and Sampling. Maastricht Graduate School of Governance, Maastricht. http://mgsog.merit.unu.edu/ISacademie/docs/burundi_fieldworkreport.pdf Accessed: 17-01-2017

Hannay, Leslie (2014). Women's Land Rights in Uganda, Landesa Center for Women's Land Rights. https://www.landesa.org/wp-content/uploads/LandWise-Guide-Womens-land-rights-in-Uganda.pdf Accessed: 13-02-2017

Henley, Giles and Harriet Hofler (2016), DFID's land portfolio and programmes – An overview. LEGEND report, UK Aid.

Hilhorst, Thea and Nicolas Porchet (2012). Burundi – Food Security and Land Governance Fact Sheet, Landgovernance.org. http://www.landgovernance.org/system/files/Burundi%20Factsheet%20-%202012.pdf Accessed: 31-01-2017

IDLO (n.d.). International Development Law Organization. Promoting Land Ownership Certification in Burundi. Report: Impact Study: Phase 1 – Baseline, unpublished.

IDLO/ZOA (2016). Rapport de l'Etude à mi-parcours, Report conducted by the International Development Law Organization (IDLO) on behalf of ZOA, unpublished.

IRIN (2012). Land disputes threaten northern peace. IRIN News. http://www.irinnews.org/report/95322/uganda-land-disputes-threaten-northern-peace Accessed: 13-02-2017

Mathieu, Paul, and A. Mafikiri Tsongo. Guerres paysannes au Nord-Kivu (République démocratique du Congo), 1937-1994 (Peasant Wars in North Kivu – Congo, 1937-1994). Cahiers d'Études africaines: 401.

Mathys, Gillian (2016). Congolese land law and interventions into land conflicts and improving access to land for peasants. Report conducted on behalf of ZOA, unpublished.

Netherlands Embassy Office Bujumbura-Burundi (2011). Multi annual strategic plan 2012 – 2015. https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/jaarplannen/2012/02/15/meerjarige-strategische-plannen-burundi/meerjarige-strategische-plannen-burundi.pdf Accessed: 11-01-2017

OECD (2016). Better Policies for Sustainable Development 2016 – A new framework for policy coherence. OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264256996-en

Ruppert, Lotte and Elias Sagmeister, Julia Streets (2016). Listening to Communities in Insecure Environments. Secure Access in Volatile Environments (SAVE) Research Programme. http://www.gppi.net/publications/humanitarian-action/article/listening-to-communities-in-insecure-environments/ Accessed 13-02-2017

Schirch, Lisa and Deborah Mancini-Griffoli (2016). Local ownership in security. Case studies of peacebuilding approaches. The Alliance for Peacebuilding, The Hague, March 2016.

SIDA (2015). Gender Equality in Humanitarian Assistance. Gender Toolbox. Swedish International Development Cooperation Agency, Stockholm.

USAID (n.d.). Country Profile Property Rights and Resource Governance Burundi. https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Burundi_Profile.pdf Accessed: 13-02-2017

ZOA (2013). Communal Land Service in Mabanda and Vugizo communes in Makamba Province of Burundi. Planning Document, unpublished.

ZOA (2016). Land Security and Economic Development in Nwoya District. Donor Update, unpublished.