



Localized land tenure registration in Burundi and eastern DR Congo: Contributing to sustainable peace?

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ABSTRACT

The last two decades, a variety of –mostly donor-led– initiatives have aimed at ‘localizing’ land tenure registration, specifically in conflict-affected settings, making the registration of land rights more accessible to rural smallholders. In such settings, land registration is seen not just as instrumental to tenure security and economic development; but also to prevent land-related violence and promote sustainable peace. However, to reach such goals proves extremely complex. This paper explores discourses and practices of localized land tenure registration in Burundi and the eastern Democratic Republic of Congo (DRC). More specifically, we explore how these efforts are marked by the absence of reliable state action, by institutional competition, and by the risk of elite capture. We organize our discussion around three common assumptions about land registration interventions: that they will 1) contribute to clarifying and protecting land rights; 2) help the most tenure insecure, notably women, to strengthen their rights to land; and 3) prevent disputes. Based on our findings from Burundi and the eastern DRC we suggest that the expectations of registration efforts need to be tempered. On the one hand, localized land tenure registration risks to become part of the dynamics that reproduce conflict. On the other hand, it is not able, on its own, to create the more fundamental changes necessary for a sustainable peace.

1. Introduction

This paper explores experiences with localized land tenure registration in Burundi and the eastern Democratic Republic of Congo (DRC), and calls for a better understanding of its impacts on conflict-related tenure insecurity and land disputes, as well as its impact on peacebuilding processes.

Policymakers and development practitioners working in conflict-affected settings have come to consider land tenure insecurity and land disputes as a key dimension of instability, if not a core concern for peacebuilding (see e.g. Anseeuw and Alden, 2010; Unruh and Williams, 2013; Unruh & Shalaby, 2022). Research has highlighted important interactions between tenure insecurity, land disputes and violent conflict. Violent conflict aggravates land tenure insecurity and competing claims related to massive displacement and complex return processes, as well as irregular land acquisitions by military and political elites

(Grajales, 2011; van der Haar and van Leeuwen, 2013). State failure to protect land rights may fuel perceptions of injustice and distrust of the state. Such grievances may resonate with a wider history of perceived wrongdoings by the state (Unruh & Shalaby, 2022). If unaddressed, tenure insecurity and land disputes may continue insecurity (De Schutter & Rajagopal, 2020) –captured by the notion of a ‘land (time) bomb’ (ICG, 2003)–; and undermine economic recovery (Pantuliano, 2009), and sustainable livelihood and land use after conflict (e.g. Cousins, 2002; Deininger et al., 2008; Saint-Macary et al., 2010; Lemmen et al., 2015; Cioffo, 2014). This explains why promoting land tenure security has become an important ambition of peacebuilding and development interventions in conflict-affected settings.

Efforts to promote land tenure security have been documented for much longer in less conflictive environments. Conventional discourses hold that secure land rights enable investment in land, and boost agricultural production and economic growth (World Bank, 2003; Deininger

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& Feder, 2009), and food security (FAO, 2002). But expected benefits are not limited to that. Exemplary is the inclusion of secure land rights in the Sustainable Development Goals (see indicator 1.4.2) as a key lever for improving food security and sustainable land use, for alleviating poverty, and for increasing gender equality. For long, the idea prevailed that protecting land rights was best achieved through titling and privatization. However, experiences with state-led centrally organized individual titling programs are mixed. Titling often remains inaccessible and too expensive to the rural masses. Furthermore, such programmes risk creating tenure insecurity, as they tend to disregard communal and women's land rights, and ignore the variety of rights of different people on the same property (see e.g. Ansoms et al., 2018; Colin et al., 2009; German, 2022; Musembi, 2007; Nyenyezi Bisoka and Ansoms, 2019; Sjaastad and Cousins, 2008).

The realization that land titling does not automatically lead to more tenure security and productivity (Place, 2009; Abdulai & Ochieng, 2017; Singirankabo & Ertsen, 2020), has motivated experiments with what we call in this paper 'localized' land tenure registration. "Land [tenure] registration is the official recording of legally recognized interests in land" (FIG 1991, in: Ciparisse, 2003:89). While land titling is conventionally understood to convey full, statutory ownership, including rights to use and transfer, land registration caters for recording land rights beyond statutory ones such as customary rights or partial and temporary rights. With the adjective 'localized' we refer to a variety of approaches, developed over the last two decades, including 'Fit-for-Purpose' or 'Propoor' land administration, implemented in cases like Ethiopia, Burkina Faso, Rwanda, and Uganda (see e.g. Hilhorst, 2010; Zevenbergen et al., 2013; Enemark et al., 2014; Hendriks et al., 2019; UN-Habitat/GLTN, 2016). These typically involve the establishment of decentralized, community-based (and hence, more accessible) land registration facilities; participatory procedures for mapping and recording claims; and collaboration or shared responsibilities between local state administration and customary institutions. The ambition is that through these approaches records of land rights are created that are recognized by the state, but remain accessible and modifiable at the local level. Localized land tenure registration is assumed to capitalize on local knowledge of existing land rights while mobilizing the implementing capacity of local institutions in order to clarify ambiguous claims (Hilhorst, 2010), and would result in more accountable and legitimate land governance (e.g. Bruce and Knox, 2009).

Such approaches of localized land tenure registration have since also been introduced in conflict-affected settings, such as Burundi and the eastern Democratic Republic of Congo (DRC). In such settings, there is an additional expectation of localized land registration beyond its contribution to more productive and sustainable land use and poverty eradication as in 'regular' development settings. It is seen as a key instrument to resolve tenure insecurity and land disputes resulting from violent conflict, removing one of the threats to peacebuilding (see e.g. UN, 2019). Peacebuilding refers to societal processes as well as intended measures to create or sustain peace, especially in areas already affected by violent conflict. There is certain consensus that to achieve *sustainable* or lasting peace, peacebuilding should encompass more than only resolving existing disputes and ending violence. It should also address the underlying or structural causes of conflict, and develop structures and processes to resolve differences peacefully, and so lay foundations to prevent future violent conflict (see e.g. UN, 2007). It is understood as a long-term process, including repairing of relationships, reducing inequalities and reforming institutions. From a peacebuilding perspective, clarifying land rights is seen as essential for successful return, reintegration of and enhancing relationships between refugees and displaced (e.g. UN, 2019). Some practitioners and academics see land registration contribute to solving underlying causes of land disputes, promoting equal access to resources, and fair land tenure. Some suggest that localized land tenure registration may enhance 'good governance' in the land arena, which can contribute to the 'rule of law' and can help the local state to (re)gain legitimacy (Unruh & Williams, 2013; Betge,

2019; Veldman, 2020; Vanelli & Ochoa Peralta, 2022).

Yet, broad evidence on the outcomes of localized land registration is mixed. Assessments of earlier experiences of localised land registration raise questions about the sustainability of interventions; and point to a lack of uptake and local government capacity; and to the risks of such interventions becoming political instruments. Questions also remain about (gender) inclusivity and the loss rather than the protection of customary and smallholder land rights (Alden Wily, 2011; Cangelosi and Pallas, 2014; Jonckheere et al., 2013; for an overview, see German & Braga, 2021; German, 2022). These concerns are even more critical for conflict-affected settings. There, additional complexity derives from large numbers of competing claims between returning refugees and on-staying population. In addition, violent conflict has often resulted in the loss of legitimacy of state and customary land governance institutions (Ansons et al., 2020; Nyenyezi Bisoka and Ansons, 2014), bringing on the additional challenge of (re-)establishing legitimate governance. Persistent inequalities in resource access and decision-taking between different (ethnic) communities, and risks of elite capture further complicate land registration (Ansons & Hilhorst, 2014). It is against this background that we seek to understand: to what extent can localized land tenure registration effectively deal with conflict-related tenure insecurity and land disputes? And how does this contribute to peacebuilding processes?

This paper brings together findings from different case-studies in the 'Securing Tenure, Sustainable Peace?' project, exploring experiences with localized land registration in eastern DRC and Burundi, over the 2019–2022 period. Through in-depth fieldwork in pilot sites that experimented with new approaches for localized land tenure registration, this project aimed to gain a better understanding of the challenges of strengthening tenure security in conflict-affected settings. Our research has focused on how these approaches actually shape land tenure relations and notions of tenure security; and how these reforms are appropriated and adapted by different stakeholders. In a previous paper we explored the (de)politicization of such interventions (van Leeuwen et al., 2021). In this paper, we are particularly interested in how localized land tenure registration impinges on peacebuilding processes.

The interventions upon which we focused were in the midst of implementation, allowing us to learn from ongoing reflections with interveners whilst being less conclusive about longer term impacts. Moreover, the case-study locations were diverse and were selected for instructiveness (such as experimentation with novel ways of land registration) and access, rather than representativeness. This is an accepted way of case selection in the social sciences which allows for drawing insights about highly complex dynamics. In this paper, we structure our findings around three key assumptions about localized land registration in conflict-affected settings, namely that it will 1) contribute to clarifying and protecting land rights; 2) help the most tenure insecure, notably women, to access land; and 3) prevent disputes. Findings from case studies in Burundi and eastern DRC temper our expectations about land registration as an instrument for peace building. On the one hand, localized land tenure registration risks to become part of the dynamics that reproduce conflict. On the other hand, it is not able –on its own– to create the more fundamental changes necessary for a sustainable peace.

We consider such a reflection also relevant for wider research in the field of transformation studies. Critical transformation scholars have already underscored that societal transformation always takes place in a context of power differences, social differentiation and contestation on what values to be promoted, what future is desirable and how to get there (Patterson et al., 2017). The experiences from Burundi and the eastern DRC that localized land tenure registration can effectively undermine peace points to the risks involved in efforts for transformation, and the need for a reality-check of how efforts work out.

2. Data collection

Research for this paper took place as part of ‘Securing Tenure, Sustainable Peace?’, a project that studied efforts to localize land tenure registration in Burundi and eastern DRC. At the start of the project, in both countries, a diversity of new approaches on localized land registration were piloted, ongoing or recently concluded. Both contexts face a difficult period of post-conflict recovery and intermitted relapses into violence. The entire region also experiences high pressure on land due to high dependence on agriculture, high levels of tenure insecurity, and numerous land disputes. In both contexts, property issues are critical for the safe return and successful reintegration of refugees and displaced. And in both contexts, contradictions in state legislation, a fledgling judicial system, and erosion of traditional land governing institutions pose challenges to the resolution of these disputes (Mathys and Vlasenroot, 2016; Kohlhaagen, 2010).

Yet, both regions differ in terms of the strength and coherence of state authority. In Burundi, civil war ended in 2005 in power-sharing, however, since 2015 the state has become increasingly authoritarian. While violence resurfaced, the state remained firmly in power. In the eastern provinces of DR Congo, on the other hand, instability persists despite a series of peace agreements and elections in 2006. The presence of numerous militia and indigenous Mai-mai movements and other local defence forces results in a situation wherein large swathes of territory are effectively beyond the control of the state. An important difference is also that Burundi since 2011 avails of legislation enabling local registration at the municipal level. By 2021, with the help of donors and NGOs, land registration offices had been established in 76 out of 119 municipalities. Such a conducive legislative environment is lacking in DRC, where efforts at national land reform got stuck, leaving the legal recognition of local registration open ended. Land tenure programmes studied were more diverse in nature than in Burundi, comprising efforts to regularize customary land administration as well as registration and collective titles. It is impossible to provide reliable figures on the scope of land administration initiatives.

Research for this paper has been largely ethnographic in nature, trying to understand patterns of social organization and ideational systems, from an insider perspective (Wolcott, 2008). Ethnography aimed to clarify the practices and perspectives of local residents and beneficiaries of land registration, representatives of the local state and customary authorities, NGO staff, national level policy makers, or a combination of these. To this purpose, we conducted case studies (Burawoy, 1998) of specific localities in Burundi and eastern DRC where NGOs (both international, and Burundian and Congolese) implemented projects to enhance tenure security through registration or other mechanisms, as well as localities where such interventions had not (yet) taken place. Cases were selected for representing a diversity of modalities of localizing land registration. Data collection involved in-depth, extensive fieldwork, including interviews, focus-group discussions, participant observation, and discourse analysis, as well as surveys and innovative forms of participatory theatre (see below table for an overview of case-studies). Interviews and Focus Group Discussions (FGD) covered themes like:

- local practices of land access and control; experiences and evolving notions of land tenure (in)security and disputes;
- experiences with and perceptions of (the establishment of) localized land tenure registration, expectations of, and hesitance in recourse to localized land registration
- experiences with and perceptions of the land governance practices of state and customary authorities and civil society, notably experiences with and perceptions of mediation and dispute resolution activities.

In addition, we conducted interviews with representatives of donors, (inter)national development organizations and government (28 in

Bukavu, 12 in Bujumbura) and a perusal of project documents, to explore assumptions about localized land tenure registration, as well as their intervention strategies and experiences. Through knowledge-sharing workshops (2 in each country) with donors, NGOs and local governments, findings were jointly reflected upon and implications for policies and intervention practices were discussed.

Overview of case-study locations, and justification of their selection.

Localities, Period	Researchers + Main research partners	Justification for the selection of the case	Main methods
Kabare, South Kivu, DRC October 2019-July 2020	ISDR-Bukavu (Institut Supérieur de Développement Rural de Bukavu), Kabare Chiefdom, IFDP (Innovation et Formation pour le Développement et la Paix)	clarification/improvement of procedures of customary land administration; issuing of customary land certificates	13 semi-structured interviews; 10 Key informant interviews, 3 FGD; Archive study
Kalehe, South Kivu, DRC April-August 2019, November-December 2019, July 2020	ISDR-Bukavu, UCL (Université Catholique de Louvain), APC (Action pour la Paix et la Concorde)	strengthening of customary land governance; Issuing of customary land certificates; strong mediation component	142 semi-structured interviews; 11 FGD; 4 workshops; 3 dialogues (between tenants and concession holders); archive study
Walungu, South Kivu, DRC April-August 2019	ISDR-Bukavu, UCL, ASOP (Action Sociale et Organisation Paysanne)	Issuing of customary land certificates	59 semi-structured interviews; 2 FGDs
Uvira, South Kivu, DRC April-August 2019	ISDR-Bukavu, UCL, ZOA-DRC	Group titling	16 semi-structured interviews; 1 FGD with state and non-state land governance actors and local residents
Butembo and Beni, North Kivu, DRC November 2020	UCBC (Université Chrétienne Bilingue du Congo), ISDR-Bukavu, UN-Habitat/GLTN, SYDIP (Syndicat pour la Défense des Intérêts Paysans), FAT (Forum des Amis de la Terre)	land registration in a peri-urban setting; codification of customary land principles; promotion of inclusive/participatory customary land governance.	3 Key informant interviews, 5 FGDs
Rutshuru, North Kivu, DRC November-December 2020	UCBC, UN-Habitat/GLTN	Land registration in a context of concession agriculture and inter-community conflict.	4 Key informant interviews, 4 FGDs
Bukemba, Rutana, Burundi August 2019 – February 2020	RU (Radboud University), WUR (Wageningen University)	land services established by municipal authorities themselves, without outside support	34 open-ended interviews; 4 FGDs
Nyanza Lac, Makamba, Burundi March – April 2022	RU, UCL, ZOA-Burundi	land registration programme about to be started after massive return of refugees and high number of land disputes	435 household surveys; 12 FGDs

3. Analytical approach

Our analytical starting point is to understand land registration, and its effects, as related to socially and historically situated practices of claim-making. Land rights do not so much turn around the relationship between an individual and a piece of land, but rather around relationships between people and how these impinge on land access and use (Hann, 1998). With ‘claim-making practices’, we refer to the different strategies that actors develop to define and defend their claims (van der Haar et al., 2020). This includes analysing how actors make their claims discursively credible; how they reproduce, reappropriate, or resist rules and local conventions; and how they strategically use networks in their community as well as with local state and non-state institutions. Land registration projects were assessed in terms of both the opportunities and risks they produce to local actors, but also in how they change the ‘rules of the game’.

In seeking to make their claims ‘authoritative’, actors engage different authorities (Sikor & Lund, 2009) in a context of ‘institutional competition’. In customary settings in sub-Saharan Africa we tend to find different forms of competition and accommodation between and among state and non-state authorities about who is in charge of land governance and what rules apply (Cousins, 2002; Berry, 2002; von Benda-Beckmann, 2008; Olivier de Sardan, 2008; Sikor & Lund, 2009; Lund & Boone, 2013). Local land claimants strategically search for those authorities who will help them protect their claims, thereby legitimizing their power (Sikor and Lund, 2009). Vice versa, state and customary authorities may strategically support certain land-claimants if this enhances their position. Interventions to support land registration can be expected to feed such institutional competition by attributing responsibility to certain authorities, and promoting certain normative frameworks (van Leeuwen et al., 2018). These dynamics are more intense in conflict-affected settings where state and customary institutions have lost legitimacy while new notions of property emerge (Ansoms and Hilhorst, 2014; Korf and Funfgeld, 2006; Sikor and Lund, 2009; Unruh, 2003).

Claim making to land is shaped by and interacts with power relations. Scholars in political ecology have highlighted how land registration programmes contribute to the (re)production of inequality (see e.g. Bryant, 1992; Peluso and Watts, 2001; Robbins, 2004), and the role of ideology in their design (Gautier and Benjaminsen, 2012; Bashizi et al., 2017; Bashizi, 2020). Others have pointed to the intrinsically conflictive nature of land access dynamics (Cramer and Richards, 2011), and how formalization of land tenure always implies a transformation or redistribution of rights (Boone, 2019). As a result, land reform processes are deeply political as they reinforce particular claims at the costs of others, and lead to tensions between winners and losers. Interventions potentially facilitate elite capture (Ansoms and Hilhorst, 2014; van Leeuwen and van der Haar, 2016), or reinforce the systematic exclusion of women, young people, migrants, or ethnic minorities. There are also notable symbolic impacts on perceptions of tenure security, and expectations of the state in protecting land rights.

The researchers in the ‘Securing Tenure; Sustainable Peace?’-project have been particularly interested in how localized land tenure registration fits into broader geographies of power and violent conflict. Academic literature provides ample evidence of how transformations in local tenure may feed into higher-level power struggles (for overviews, see Unruh and Shalaby, 2022; van Leeuwen and van der Haar, 2016). Examples from various conflict-affected settings illustrate how political leaders strategically mobilize ‘injustices’ around land tenure in order to gain support for their political ambitions (Hoffman et al., 2020; Tchatchoua-Djomo et al., 2020). Likewise, wider economic and ethno-political contestation may provide opportunities for successful local claim making (Lund, 2008; van der Haar et al., 2020; van Leeuwen et al., 2018). Land registration can become particularly problematic, when (perceived to be) legitimizing the land claims of specific (ethnic) communities, migrants (Justin and van Leeuwen, 2016; Pritchard, 2016),

minorities (Lavers, 2018) or returnees whose claims of autochthony are contested (Mathys & Vlassenroot, 2016).

Ultimately, in the project, we were particularly interested in the impacts of localized land tenure registration on peacebuilding processes. Peace and conflict studies scholars have argued that ‘sustainable’ or enduring peace requires more than bringing an end to direct, interpersonal physical violence. According to these scholars, to build ‘sustainable peace’ requires structural transformations, including the redress of inequalities, nurturing locally-driven development, and the construction of legitimate governance (Galtung, 1996; Lederach, 1997; Fisher & Zimina, 2009; Richmond & MacGinty, 2015). The latter notion of ‘transformation’ seems to resonate with environmental studies, where it is taken to refer to systemic societal change (Hölscher et al., 2018). In the conclusion we reflect on the question whether and how localized land tenure registration may indeed be transformative, and do more than resolve and prevent land disputes, and so contribute to ‘sustainable peace’.

4. Localized land tenure registration in Burundi and the eastern DRC

Burundi

Localized land tenure registration in Burundi was initiated in 2007, with strong support from the international donor community. In the 2000 Arusha Peace Agreement, land tenure reform had been identified as a key priority for peacebuilding. Policy makers considered land tenure insecurity and land disputes a significant threat to stability (e.g. ICG, 2003). Ethno-political conflict in the country had gone along with widespread misappropriation of land holdings. This turned problematic with the massive return of refugees, some of whom had stayed away for almost 30 years, while in the meantime their lands had been occupied by others. The high numbers of land disputes in local courts suggested to policy makers and donors that the existing customary system was not able to cope and provide sufficient clarity on land rights. But land governance was problematic anyway, due to the parallel operation and institutional competition between state and local land governing systems. Since colonial times, customary authority in land matters had been formally replaced by state bureaucracy, and customary land had been converted into public land. However, as the state lacked governing capacity and state land administration services were distant and expensive, local institutions continued to play important roles in land administration and dispute resolution. This resulted in ambiguous land rights and in cases of endless procedures, with conflict parties opportunistically approaching different institutions in the hope of identifying one that would support their claim. The 2007 land reform therefore aimed to clarify the roles of competing institutions (Kohlhagen, 2010), and to give rural residents the opportunity to officially register their land. The hope was that this would enhance food security and sustainable peace (République du Burundi and Communauté Européenne, 2011; World Bank, 2012; Netherlands Embassy in Burundi, 2011). The 2008 Land Policy and 2011 Land Code recognized rights held under customary tenure, but also stated that these rights had to be registered either customarily or as private property to benefit from state protection. As centralized land tenure registration was too complex and costly, a decentralized system was developed, in which local government administration was given a prominent role.

The design of this program was largely inspired upon the land reform in Madagascar (Kohlhagen, 2010), and resonated with strategies for localized land tenure registration in other settings (e.g. Burkina Faso, Uganda). Key institutions are the so-called *Services Fonciers Communaux* (SFCs), which involve members of the municipal council and administrators (who are elected officials); as well as land agents employed by the municipal administration. Important innovations as compared to titling are the participatory identification and demarcation of plot boundaries and land right holders, and –where necessary– the

settlement of outstanding disputes. To facilitate the work of demarcation and land dispute mediation, the SFCs are assisted by so-called *Commissions de Reconnaissance Collinaire*. These voluntary land surveying committees are composed of nominated representatives of municipal and hill-level authorities; as well as locally elected persons and representatives of community-based organizations and traditional elders (*Bashingantahe*). The procedure eventually results in the registration of plots and right-holders at the local level, and the granting of certificates as an alternative to formal land titles.

Since 2007, (inter)national development organizations like the Swiss Development Cooperation, the Coopération Technique Belge, the EU, the International Fund for Agricultural Development (IFAD), the Dutch NGO ZOA as well as several Burundian NGOs, have funded and implemented pilots throughout the country. In 2011, a national coordination unit was set up by the Burundian government that increasingly took charge of the process. Over the years, the focus and modalities of the localized land tenure program evolved (Munezero et al. forthcoming). For instance, initially, the pilots envisaged a simplified low-cost procedure of providing *petits papiers* that clarified the boundary demarcations of land plots. But over time, the Burundian government increasingly insisted upon precise validation of claims and actual registration at commune level. Next to individual, on-demand registration, some organizations also experimented with 'systematic' registration of all plots of land in a designated area. In 2021, according to government data, land registration offices had been established in 76 out of Burundi's 119 communes.

The eastern DRC

In eastern DRC, efforts for localizing land tenure registration were initiated in a context of ongoing violent conflict. Research has highlighted how violence resulted in massive displacement and accompanied reshuffles of ownership, as well as resource capture by investors, mining companies and national parks. Issues around land came to resonate with wider conflict dynamics around ethnic belonging, competition between customary and state authorities, and political representation (Verweijen & Vlassenroot, 2015). In consequence, many international organizations understood land issues as a security issue, both resulting from and reinforcing ongoing violence. Congolese organizations in particular have also emphasized the need to address the more structural problems of conflict and tenure insecurity: exploitation of rural labour, expropriation of peasants' lands, erosion of customary protection mechanisms, and contestation about citizenship and land access (Baraka Akilimali et al., 2021, 2022).

While localized land tenure registration in Burundi was guided by state legislation, this was not the case in the eastern DRC. There, initiatives of localized land tenure registration took place in the context of a prolonged and ongoing discussion on legal land governance reforms (only after our fieldwork, in November 2021, a new land policy was approved). The centre-piece of existing state legislation in relation to land governance remained –for a very long time– the 1973 Land Law. This Law aimed to put an end to a dual system of parallel state and customary tenure, declaring all land to be state property. While the law included a provision that customary land could remain under the responsibility of customary authority, the presidential order to clarify this matter never materialized (Mushagalusa Mudinga et al., 2014). In practice though, customary chiefs managed to maintain their key role in land governance and dispute regulation. However, over time, the power of those authorities in land matters evolved and partially eroded (Claessens, 2017). In some cases, their legitimacy was undermined by official elites overruling local land rights. In other cases, customary authorities sold customary land to people from outside their communities, including state agents, military, and business people (Mugangu Matabaro, 2008). Yet, state-led registration of lands under customary rights remained too expensive for the majority of people –particularly those in rural areas– who thus continued to rely on informal agreements,

or documents signed by customary chiefs. Problems relating to insecure land rights remained prominent, particularly in more densely populated zones. The disarray of land administration resulted in competing claims on land, with numerous examples of multiple titles in relation to the same plot (Baraka Akilimali, 2021).

The land reform process started in 2012, but soon turned into a cumbersome process. Several rounds of public consultations resulted in the set-up of a *Comité de Coordination Nationale pour la Réforme du foncier*. But despite the coordinating role played by this instance, the reform remained difficult. There was ongoing discussion among stakeholders on the extent and modalities of decentralization in land governance, and on the role that customary authorities should or should not play in land registration. Pressing concerns persisted concerning elite land grabbing and regarding land rights of groups that are considered –by some– as non-autochthonous. Over time, there were several points at which the reform process came to a stand-still, largely due to a lack of political will.

With the failure of reform at national level, donors and NGOs have nonetheless undertaken various initiatives to enhance tenure security. International organizations tended to understand tenure insecurity as mostly deriving from continuing displacement and return movements resulting in overlapping claims on land. At the same time, new actors arrived in the land arena, reaching out to the potential of land for investment, mining, nature conservation, and urban expansion. Land disputes were also seen as rallying point for armed groups. Interventions thus focused on mediation and diverse strategies to enhance land tenure security at the local level. These include the promotion of written documents in land transactions on customary land (Mudinga and Nyenyezi, 2014). Some NGOs established locally-embedded structures which hand out certificates on customary land. Other initiatives have explored possibilities for collective land titles, thereby trying to maintain the notion that land belongs to communities rather than individuals. Several international and Congolese NGOs established structures for land dispute mediation; while others in turn have focused on the establishment and capacity building of customary land administrative systems (Mushagalusa Mudinga and Iguma Wakenge, 2021).

In the following sections we discuss experiences with initiatives of localized land tenure registration in Burundi and the eastern DRC, notably in relation to the three prominent assumptions of interveners that it would 1) result in a clarification of land rights and thus better protection; 2) improve the situation of the most tenure insecure, notably women, to negotiate land rights; and 3) prevent land disputes.

4.1. Localized land tenure registration as clarifying and protecting land rights

One of the key assumptions upon which localized land tenure registration initiatives are based, is that it will enhance tenure security by clarifying land rights, and so protect local landholders from dispossession by relatives, neighbours, government or powerful elites (Boone, 2019; German & Braga, 2021). This is considered of particular importance in conflict-affected settings, where there are so many competing claims to land due to massive displacement, and because of the fact that land governance has been disrupted. However, in Burundi and eastern DRC, while local demand exists for increased tenure security, we find that land registration efforts do not always offer that.

Persistence of tenure insecurity

The Burundian government as well as development interveners assumed that localized land tenure registration would end ambiguity in land claims, and that there would be wide-spread interest among citizens for this. The first pilot projects of localized land tenure registration, however, were confronted with limited enthusiasm among the population. This was explained by obstacles like the costs of certificates, the distance to land tenure registration offices, and limited commitment from community-based land administrations (Habwintaha et al., 2014). Intervening organizations tried to counter these hurdles by reducing the

costs of certificates, and by reverting to systematic land registration instead of registration on demand. Still, in pilots of systematic registration, many citizens did not proceed to payment in order to retrieve the certificates. Our own findings indicate that while policy makers assumed that rural land owners lacked formal evidence to support their claims, landholders themselves derive tenure security from the collective exercise of identifying and recognizing claims (see also Nibitanga & Munezero, 2018).

Moreover, our findings showed that the major source of tenure insecurity was often not the lack of evidence about boundaries. Fieldwork in Rutana (Munezero et al. forthcoming), points to more structural problems: there is uncertainty about arrangements for land access reached with local authorities in the past and whether these will hold up in the light of land tenure registration. This is an additional (if not a core) reason why people are hesitant to engage with (localized) land tenure registration. Due to a complex historical pattern of accessing land and changes in legislation, different and sometimes competing notions of legitimate land occupation prevail. Land in the so-called *paysannats* was allocated without clear specifications of the associated rights to this land, and people fear that in registration processes their claims might not hold. Likewise, after large groups of refugees fled the country in the 1970s, their land had been reallocated to remaining residents or new arrivals from elsewhere, again without clear specifications of the rights included. There was considerable anxiety about what the return of refugees would imply for such rights. So, when local authorities in Rutana established a land office, citizens' engagement with land tenure registration was low. Localized land tenure registration –and the associated clarification of rights– involved risks for landholders, who feared that their claims to the land they occupied would not be accepted by the state, and that they would lose the land. A quote from one Focus Group Discussion, which was restated in different words in several interviews with those that had settled in the *paysannat* after the 1972 exile, illustrates the feeling of precariousness: “One registers his/her land when he/she is fully sure of his/her rights. I cannot engage in registration if my land may be taken by someone else”.

This is deepened by a lack of trust in local authorities. Residents in Rutana have ambivalent feelings about the state as defender of their land claims. Over the past decade, there were numerous examples where official authorities based their judgement in land disputes upon political motivations, privileging those groups who were most important in terms of electoral support (Tchatchoua-Djomo et al., 2020). In addition, local residents suspect that local authorities could use land tenure registration systems for (irregular) taxation. Such fears were also encountered in other communes. Fears for irregular taxation are fuelled by experiences from collection of taxes in the past. Residents consider the receipts that they received at that time as proof of land ownership; and see the introduction of certificates as a new round of extortion, and thus superfluous. This was nicely expressed in a Focus Group Discussion in Nyanza Lac: “Are we expected to endlessly register our lands?”. Keeping claims silent, and not engaging with land tenure registration was seen by many local citizens as the most promising strategy to assure continued access to land (Munezero et al., forthcoming).

Institutional competition prolongs or intensifies tenure insecurity

Also in the eastern DRC, we encountered many doubts about the status of land rights and the commitment of local authorities. As mentioned above, the 1973 land law failed to specify the precise jurisdiction of customary authorities. This leaves residents in uncertainty about the status of land under customary tenure and the land governing roles of customary authorities. Many chiefs continue to collect yearly tributes, suggesting that the system of customary contracts is still operational. But what about land attributions made by customary authorities; are they valid at the formal level? And what about customary land that has been sold, does it still fall under custom? This lack of clarity has in many locations even speeded up the sale of land by customary authorities, before this is no longer possible. An additional complication

is that –since the Mobutu Presidency– the chiefs have become integrated into the state administration. They now carry two responsibilities: as chiefs they guard the identity of their community and continue to operate as default land administrators; as administrators they represent the state. While the state considers them responsible for generating revenues for the decentralized government, chiefs consider the collection of taxes as part of their customary role and pocket these revenues and profits from land sales themselves (van Leeuwen and van der Haar, 2014). This makes it difficult for local residents to know what to expect of land governing authorities.

Interventions by development organizations to support localized land tenure registration feed into this institutional complexity. Fieldwork in Kabare demonstrated that localized land tenure registration often results in a loss of power of customary institutions. While new institutions established in Kalehe and Walungu to provide customary land certificates include customary chiefs, they push them into a subordinate role, in which they are no longer the only ones in charge of land administration. In the context of a project on improving customary land tenure registration services, it turned out that local customary chiefs continued to deliver parallel land deeds, next to the certificates given out with support of the project. There were also incidents where customarily title deeds given out by lower level customary authorities were not accepted at chiefdom level (Baraka Akilimali et al., 2021). At the same time, initiatives of localized land tenure registration fuelled rivalry between the new institutions established by development organizations and the existing statutory land administration. With the support from donors, the technicians of the new structures are often better equipped with ICT hardware and GIS tools than the surveyors of the state land services. This generates frustrations. Also the Congolese National Police (PNC) and the National Intelligence Agency (ANR) may feel trespassed: they historically played important roles in the resolution of land disputes, which also brought them an income. Donors' interventions in the land arena were seen by local authorities as a way to “cut off their food”. As a result, it was not uncommon for state actors to refute the legality of the certificate issued with the assistance of development organizations. In a similar fashion, the work of mediation and dispute resolving committees in Kalehe was not always welcomed by state actors, who saw their influence diminishing. A judicial officer interviewed stated that these committees sometimes reached compromises in land disputes, and then pardoned the criminal offenses that had taken place as part of these: “I do not allow myself to be dissuaded by the conciliatory acts of these [committees] when there is an offence [that requires criminal prosecution]. In spite of everything, I investigate and pass the case on to the public prosecutor's office depending on the seriousness of the facts reported in the community”.

Hence, localized land tenure registration is not just a matter of recording existing land claims, but interacts with local social relationships and practices of claim making around land. In the settings studied, programmes could not always clarify land rights and resolve differences and ambiguities in existing arrangements, meaning they would not under all conditions improve tenure security. In Burundi, uncertainty about land access arrangements with local authorities in the past made local residents hesitant to engage with land registration. In the eastern DRC, registration became a stake in ongoing competition between customary and state institutions, and between existing institutions and the new structures established by development interveners. As a consequence, localized land tenure registration did not necessarily improve tenure security, but also created new insecurities and conflict.

4.2. Localized land tenure registration as a way of helping the most tenure insecure, notably women

A second key assumption claims that localized land tenure registration may help protect the most tenure insecure. Compared to earlier, state-centred titling schemes, it would be better accessible to poorer people, and affordable as a result of economies of scale and (unpaid)

participation of local people and institutions. Localized land tenure registration is presented as offering key opportunities to enhance land rights of women (but see, for a critical review, German, 2022). Women are seen to have limited rights in customary tenure (e.g. Byamugisha, 2013), or customary protection mechanisms for women are no longer respected (e.g. FAO, 2002). This may be particularly the case in conflict-affected settings. Conflict tends to increase gender inequalities in land access, and is often accompanied by contestation of gender roles (UNIFEM, 2001). Land registration would enable women to access land and credit on their own behalf, and so enlarge their bargaining power. Other authors warn instead that localized land tenure registration fuels commodification and monetization of land access, which may in fact lead to loss of access of poor people (Chimhowu & Woodhouse, 2006, 2008), customary land users (Alden Wily, 2011), and women in particular (Ordioni, 2005). And while localized land tenure registration may protect against land-grabbing from outside, it may also enable elite capture at the local level (Ansoms & Hilhorst, 2014).

Protection of the most tenure insecure is not assured

It is clear that the protection of the most tenure insecure requires particular attention in the design of land tenure registration. In Burundi, the experience with registration on demand was that only few –and generally more wealthy– people registered their land. Moreover, registration programmes focus on registering land ownership. However, there might be a variety of ways to accessing land, notably land renting, sharecropping and land borrowing. Our survey in Nyanza Lac commune brought out that one third of land plots identified –including plots on which the house was built– belonged to other people, often from outside the community. Land tenure insecurity on rented plots was significantly higher than on land that had been bought or inherited. Single women were overrepresented among those people that relied on land belonging to others. Land tenure registration was not able to register the rights of these secondary rightsholders.

Effective protection of the most vulnerable also relies on the goodwill and commitment of land governing authorities. This is not necessarily the case. In Nyanza Lac, local administrators were accused of favouring some beneficiaries, of demanding a lot of money to defend land claims of vulnerable people, or of ignoring the will of the head of family. In other localities, vulnerable land holders found it difficult to mobilize witnesses and members of the *Commissions de Reconnaissance Collinaire*: even if they are supposedly working voluntarily, in practice, applicants had to pay for their participation.

Land registration offers both opportunities and risks for women land rights

Findings in our case studies in eastern DRC demonstrate that localized land tenure registration offers both opportunities and risks for women land rights. In several cases, localized land tenure registration may indeed be emancipatory. Interveners tended to promote including not only of the (eldest) sons on the certificate, but also women, widows, young girls and boys, and children born out of wedlock. The programme of a Congolese NGO in Kalehe provided more than fifty women affiliated to a local association with land titles in their own name, thereby circumventing resistance against women land ownership on customary grounds. In many land tenure registration programmes, the participation of witnesses –neighbours, family members, local chiefs– was formalized, and helped assure inclusion of the weakest land claimants, which are often excluded when the inheritance is distributed under customary practice. These groups could now express themselves in front of witnesses. There was also significant involvement of women in land mediation committees. Likewise, in Burundi, some interviewees pointed to the fact that committees for dispute resolution established in the context of local land registration were more sensitive to the claims of vulnerable women than the local court.

Yet, both in Burundi and DRC, despite ambitions of intervening organizations to include both husband and wife together on the certificate, in many projects registration tended to identify men only. Moreover,

fieldwork by (Mushagalusa Mudinga and Neema Bikungu, 2021) in eastern DRC underscores how localized land tenure registration may fail to take account of the actual ways in which women access land. Custom includes a variety of special provisions through which women actually access land, including gifts of land (*donation*), or agreements involving customary payments (*kalinzi*). Through such practices, women may receive a piece of land out of appreciation from their parents, irrespective of what they will receive as inheritance (*burhogole*). Other traditional ways of accessing available to women are land rental (sometimes in labour, as in the case of *salongo*; sometimes in the form of a percentage of the harvest, *bugabane*). Finally, women may get access through a polygamous union; at the decease of the husband, rather than that the land is distributed according to the number of children, the land remains with their mother. Such customary arrangements may be hard to capture in registration, while the promotion of localized land tenure registration may effectively disrupt such customary arrangements through which women access land. Likewise, in Burundi, few women possess enough resources to buy their own land; and according to custom only receive temporary land use rights in the form of '*igiseke*'. Fieldwork pointed out that, despite efforts to sensitize communities on women's land rights, localized land tenure registration often failed to include land accessed through *igiseke* due to resistance from male family members.

Furthermore, putting particular individual names –of men or women– on the certificate can be problematic. It promotes the notion that land is individually owned, rather than an asset belonging to the community at large, out of which certain rights can be temporarily delegated to a group, family or individual. In addition, the delegitimization of customary authorities and their practices of governing land may undercut certain customary arrangements that protect vulnerable land holders. At the same time, customary institutions are not static, and may respond and reform themselves to cater for the precarious situation of women through new solidarity mechanisms. And even when they do hold on to a traditional gender role in land relations, it is not assured that state institutions are more favourable towards women's claims to land, considering that the representatives of such institutions may uphold the same discriminatory practices as customary institutions (van Leeuwen, 2014).

Finally, the emphasis on disadvantaged women may overlook that many intrafamily disputes concern not only gender but also generational differences. Customarily, land governing authority resides with the elder generation. 'Inter-generational' disputes about land between young adults and their fathers do not only represent a struggle about how resources should be allocated, but are also about authority within the family. Localized land tenure registration may make these struggles more tangible and immediate. Some programmes for land tenure registration try to prevent such intrafamily disputes by stimulating families to divide the family land amongst the children already at the moment of land registration. However, this affects the authority of older generations.

Overall, the case material demonstrates that localized land tenure registration does not necessarily protect the interests of the most tenure insecure people. Both in Burundi and the eastern DRC, modalities of land tenure registration complied with ambitions for legal protection of women, but effectively undercut local institutions and were not always capable of realizing these ambitions. The complex remaining question is how interventions might support the development of local norms and arrangements, without disrupting existing arrangements that offer protection to women.

4.3. Localized land tenure registration as a strategy of conflict prevention and resolution

A final assumption on localized land registration claims that it would help prevent disputes; a particularly important point in conflict-prone environments. Localized land tenure registration would establish

transparency about the relations that different individuals or families have with the land, and keep a record of the details of transactions that can be locally consulted in case of doubts and disagreements. Some authors even consider that (localized) land tenure registration may help reduce disputes, by settling contested claims in the process of recording land (e.g. Kanji et al., 2005). However, the literature is ambiguous about whether land tenure registration has reduced (Holden et al., 2010, Biraro et al., 2015) or increased (Bosworth, 2003; Deininger and Castagnini 2004; Benjaminsen et al., 2009; Adenew and Abdi, 2005) the frequency of land disputes. Some suggest that there is at least an initial surge in disputes (Benjaminsen et al., 2009). Moreover, land tenure registration risks to effectively regularize contested claims, institutionalising injustice (see Grajales, 2011).

Challenges in addressing existing disputes

The idea that land registration would resolve disputes was an important rationale for policy makers' engagement in Burundi's policy reform (Bigirimana, 2013). Our fieldwork suggests that registration might indeed have helped to prevent or mitigate certain land conflicts. Interviews with local residents and representatives of community land administration indicated that land tenure registration provided a registry that was accessible and could be consulted when disagreements about land possession arose. Yet, registration was less effective in solving existing disputes. In many cases, land tenure registration reignited dormant land disputes, and put into question open ended arrangements such as borrowing, and temporary occupation.

Given that initial pilots of localized land tenure registration in Burundi were based on (individual) demand, registration was mainly asked for land that had been bought, rather than for land that had been inherited within the family. Development practitioners suspected this was due to the many disputes on family land (Habwintaha et al., 2014; Nindorera, 2017), which registration on demand could not cater for. In the further development of localized land registration, some development organizations thus initiated 'grouped' or 'systematic' land tenure registration. In systematic registration, it is often possible to record the boundaries of contested plots of land, even if the certificate may only be given out after the dispute has been settled. To nonetheless assure that everyone would benefit –including people experiencing disputes– programmes for systematic registration included a strong component of dispute mediation, through providing land surveying committees with mediation capacities.

Difficulties to address the most complex land disputes

Yet, while these committees might cater for disputes between neighbours about plot boundaries or contested sales, they had difficulties dealing with more complex and conflict-related land disputes. Intra-family disputes about the division of the inheritance, frequently surpassed the capacities and legitimacy of the land surveying committees (see also Wennink & Lankhorst, 2014). Interestingly, many of the disputes that arose during localized registration, had already been addressed by family heads and councils of traditional elders, or representatives of sub-hill and hill administration; or even been put forward to the district court of justice. Especially the many land disputes involving returnees and residents were difficult to deal with, as we saw in the Burundi fieldwork. With the new registration initiatives, returnees tended to retract previous informal arrangements of land sharing when on-staying persons sought to register their share. This particularly happened when the government and the national land commission shifted towards prioritizing the land claims of returnees above those of residents, which led to the calling into question of previous land conflicts that had temporarily been settled. Differences between returnees and on-staying population increased, and resulted in exclusion of the latter in the local administration. In Nyanza Lac, interviewees told that initial land-sharing arrangements were ignored by the returnees, who stated that “we share the country, Burundi, not the land”. Such entrenched positions made it very difficult for the land surveying

committees to find solutions for contested properties. As a consequence, contested properties remained unregistered, even if programmes involved a substantial dispute-resolution component.

Likewise, in eastern DRC, land registration programmes sometimes successfully resolved disputes. An example was a project by an international NGO in Uvira, that managed to reach agreement around land and water resources between antagonistic communities, and eventually provided these with group titles. As one resident told us: “young people from various communities were involved in the construction of the irrigation channels [...] This created trust between us because it was understood that the security of the irrigation schemes would benefit everyone and many young people left the armed groups to work in this [project] for a decent income”.

Other projects were less successful. In Rutshuru, eastern DRC, a land tenure registration programme aimed for a mediated solution to a dispute between former plantation labourers who had been dismissed, and the current concession holder. The latter had failed to provide land and labour to local residents, while the land of the concessions in the area remained largely underused. However, the outcome of mediation was problematic. Whereas some of the former labourers got access to and certificates for land in the concession, many of them were not included, while the compromise did not address the more fundamental problem of an unfair and increasingly criticised system of concession agriculture that failed to provide land and labour to local residents. In this case, allocation and registration of land plots on the concession was a fig leaf covering up the failure to address the underlying conflict (van Leeuwen et al., 2020).

Overall, fieldwork in Burundi and the eastern DRC shows that land tenure registration sometimes resolves disputes, but also underscores how programmes have difficulties to contribute to structural transformation of those land tenure arrangements that cause conflict, including how land is accessed within the family, and conflicting rights of residents and returnees. What land registration is not doing is addressing demands for a fairer access to and distribution of land, and in that sense it is missing an opportunity for peacebuilding.

5. Conclusion

This paper has discussed discourses and experiences of localized land registration in Burundi and eastern DRC. We have structured our findings around three key assumptions underlying interventions for localized land tenure registration in conflict affected settings. In this conclusion, we sum up our findings and discuss what these imply for sustainable peace.

Regarding the question whether localized land registration is instrumental to tenure security in conflict affected settings, our conclusion is nuanced. In our fieldwork in Burundi and eastern DRC, we encountered some evidence of success. Interventions sometimes indeed clarify ownership, help protect women, and prevent disputes. Yet, our fieldwork also shows that there is often a big gap between what is expected and how reality turns out. Precisely in those situations where people risk losing their land due to persistent ambiguities, where there is a lack of trust in local authorities, and where the risk of elite capture is high, land registration programmes seem unable to revert this situation. Land tenure insecurity for specific categories of users persists, interventions risk feeding institutional competition and a lack of protection of those with less political capital.

What does this imply for sustainable peace? Based on our findings, we conclude that localized land registration provides less of the solid foundations for peace than was hoped for. Instead, localized land tenure registration risks to become part of the dynamics that reproduce conflict. Our fieldwork demonstrates that rather than just a lack of protection of existing rights, the key problem of tenure insecurity is the contested nature of land claims. This is particularly problematic in conflict-affected settings. Interventions risk to contribute to this contested nature of land claims. In Burundi, localized land tenure registration was

seen as a threat to arrangements reached with local authorities in the past. Land occupants feared (and in some cases experienced) that the new power holders would not accept their claims and that land registration would favour the claims of returnees instead. Furthermore, residents were afraid that those authorities responsible for protecting local land rights would abuse land registration for irregular taxation. The challenge to localizing land tenure registration is thus to better engage with local understandings of tenure security and how it is threatened, for whom and by whom.

A solid foundation for peace also involves reducing critical inequalities. Organizations are already generally aware of the risk that land registration reproduces inequality. Both in Burundi and eastern DRC, localized land tenure registration interacted with ongoing local contestation about the land rights of women, and interveners tried to design their programmes in such a way that they limited the risks. Yet, the challenge remains how new norms and arrangements may be supported without distorting existing arrangements that protect women.

A risk that seems to deserve more attention is how interventions compromise the development of legitimate governance, which is another important element of peacebuilding. Fieldwork in eastern DRC illustrated how efforts to localize land tenure registration became part of local institutional competition, which resonated with the ongoing contestation between the state and customary institutions that is a key dynamic of the wider ongoing conflict in eastern DRC. Land registration programmes should be particularly alert as to how their interventions may impact and legitimize different state and non-state institutions at the local level.

Furthermore, we find that land tenure registration is not able, on its own, to create the more fundamental changes necessary for a sustainable peace. Fieldwork in Burundi and eastern DRC brought forward examples of how localized land tenure registration might comprise effective strategies to solve interpersonal conflicts. Yet, in both cases local land disputes resonate with wider geographies of power and violent conflict which surpass the conflict resolving capacities of land tenure registration facilities. These land disputes are not just a side-effect of war, to be solved by mediation, dispute resolution and more effective protection of rights. Instead, they are part and parcel of wider structural injustices in access to land and in the marginalization of particular land users, as well as in contested transformations in the organization of agricultural production, and the exclusion and dispossession that emerge (cf. Cramer & Richards, 2011). Finding an answer to these challenges requires transforming the underlying structural injustices and inequalities in land relations; as well as nurturing accountable and bottom-up land governance (see le Billon et al., 2020; Vanelli & Ochoa Peralta, 2022). The remaining question is how and to what extent programmes for land registration may move beyond resolving interpersonal dispute, and address these structural sources of tenure insecurity and land disputes.

Based on our findings, we suggest that development practitioners should be extremely careful regarding their ambitions to upscale localized land tenure registration in conflict affected settings. We echo the recent plea of Laura German, when she states that the potential benefits of programmes “must also be balanced against the risks involved, and the need to maintain whatever social safety nets currently exist for the most vulnerable” (German, 2022: 159). This is particularly the case if upscaling risks means sacrificing attention to understanding and interacting with the deeper roots of conflict. Lessons from the broader peacebuilding field are relevant here. Local embeddedness and ownership of interventions is crucial in order to interact with the context-specific needs in the land arena. This implies that rather than focus on professionalization of land administration, interventions should nurture space for existing practices to develop. Rather than promote alternative norms and arrangements for land governance, interventions should instead create local space for discussion on norms and inclusive practices of land governance. Rather than aim exclusively at emancipating women, they should enable families to take charge of their life and protect their property against commodification.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

The data that has been used is confidential.

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