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Strengthening local land registration in conflict-affected northern Uganda

Main findings and policy recommendations

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The project 'Grounded Legitimacy' explored how interventions in land governance by development organizations feed into the legitimacy of state and non-state public authorities, and how these development organizations may better take 'legitimacy' into account. This policy note presents key findings and their implications for policy makers.

Introduction

In the Acholi and Teso (sub)regions of northern Uganda, state legitimacy is highly contested. Weak governance structures, tensions between customary and statutory authorities and the rules they apply, as well as the legacy of a North-South divide originating in colonial times, create a situation in which state and non-state actors compete for legitimacy. The complexity of 'legitimacy' strongly manifests itself around land governance. How authorities deal with land issues has important consequences for citizens' appreciation and acceptance of state power.

Over the last two decades, the Government of Uganda has introduced a series of important land reforms to deal with prevailing tenure insecurity and land disputes. These reforms notably promote formalization of tenure and decentralization of land administration, and enable the acquisition of 'Certificates of Customary Ownership' (CCO) for land under customary tenure. But what do these reforms mean for the legitimacy of the state? How do they transform citizens' images of the state, in light of historical perceptions of exclusion of people from the North, and ongoing contestation around customary land? Furthermore, how do they affect the roles and reputation of non-state actors?

Such questions are highly relevant for development organizations that support the capacities of local land administration, as their interventions are likely to affect the legitimacy of local actors and their practices of governing land. Interventions may legitimize or disqualify certain state and customary authorities. They may contribute to credibility and transparent practices, or instead (unwittingly) marginalize local conventions, or consolidate patronage. Moreover, intervening organizations tend to adhere to very particular understandings of legitimacy, and to promote their own norms, for instance on women's land rights.

The challenge for development organizations is to better understand how their interventions and assumptions influence local dynamics of legitimation, and how this affects their own legitimacy. This project thus explored how programmes that aim to strengthen local governance practices may become more sensitive to questions of legitimacy, starting from the following questions:

- How do practices of decentralized land registration impact on the local legitimacy of state and non-state authorities in northern Uganda?
- How do development organizations' interventions to enhance local government capacities for land services provision feed into dynamics of legitimation?
- How can intervening organizations better take 'legitimacy' into account, and so implement their work in a more conflict-sensitive way?

Through ethnographic fieldwork in the Acholi and Teso (sub-) regions of Uganda, Doreen Kobusingye and Josh Maiyo, assisted by Ronald Otim, Gladis Lamunu, Stephen Anolo, and Esther Akello explored the dynamics of legitimation, including expectations and imaginations of the state and of customary authorities, and how reforms and development interventions fed into these.

Workshops with development practitioners that included the use of participatory theatre resulted in a training-package on legitimacy and interventions in land governance, including dramatized video-clips, for staff of development organizations working on land issues in Uganda and elsewhere.



Main findings

Empirical findings brought out diverse ways in which interventions in the arena of land governance feed into local legitimation practices. First, interventions legitimize particular stakeholders by shifting the **division of roles and responsibilities**. This happens through prioritizing (or excluding) certain stakeholders in capacity building; through making the work of certain stakeholders visible; or by taking over roles of existing institutions. Examples from our fieldwork include the following:

- Projects for issuance of CCOs increased state presence, and enhanced the state's 'output legitimacy'. Training and financial facilitation enhanced the implementing capacity of local government institutions. Interviewees observed that the state was more visible, with officials making regular visits to local communities. Some interviewees feared though that the projects helped the state to impose itself, and might facilitate taxation.
- At the same time, interventions seemed to decrease responsibilities and legitimacy of some customary institutions in land administration. Responsibility for the procedure of registering CCOs was attributed to the state administration, while intervening organizations worked on sensitization among communities,

but primarily in collaboration with statutory structures. Newly established dispute resolution committees in many instances effectively ignored and replaced customary dispute resolution structures. During registration, 'ownership' was frequently restricted to immediate family members only, thereby side-lining extended family and clan leadership, which diminished or eliminated their oversight roles in land governance.

- In one case, the intervening organization transported members of local government's land demarcation teams in vehicles with its own logo. To community members this confirmed prevailing notions that this international organization was in charge of certification, rather than the Ugandan state. This was less the case in another locality, where land demarcation teams wore T-shirts with logos of both the government and of the intervening organization. Visibility is critical in attribution of responsibility and legitimacy of interventions.
- In some of the communities where the projects were implemented, political leaders appeared to take credit for these, in the hope of gaining votes, at the expense of their counterparts from communities where the projects had not reached.

Second, interventions affect legitimacy by promoting certain **practices and modes of land governance**. International development organizations propagate financial transparency and participation, and demonstrate these principles in their work (or not). They may introduce specific dispute resolution practices, e.g. promoting mediation or instead arbitration. In our fieldwork we noticed for instance:

- In areas where projects for issuance of CCOs took place, interviewees observed important shifts in 'institutional culture' of the state administration, noticing for instance more respect for time in appointments, or observing increasing presence of staff in government offices. The use of new technology also contributed to the legitimacy of state-led formal land administration, as a reliable and up-to-date service-provider.
- Many interviewees observed and appreciated that the statutory bodies involved in demarcation and dispute resolution, as well as those set up by intervening organizations, included women, youth and people with disabilities. Local landholders experienced mapping as a participatory exercise.

Third, interventions affect legitimacy by feeding into discussion of **norms, values and conventions**, including **how legitimacy is assessed**. Interventions (un)consciously propagate or disqualify certain notions of gender, youth, transparency, inclusiveness and citizen involvement; or on the roles of the state in services provision. Our fieldwork showed for instance:

- In some cases, interviewees pointed out how in preceding years, due to legacies of conflict and displacement, and their election in local councils, young men and women had gained influential roles in land governance. However, the CCOs again reinforce the notion that family heads are in charge of the land, at the cost of their sons and daughters. In some cases, women were not always recorded on the CCOs, thereby reaffirming prevailing notions about limited rights of women to family land.
- In other cases, intervening organizations and local authorities encouraged families to sub-divide land among their children during demarcation, thereby increasing youth access and control over land within the family, and promoted that provisions be made for daughters as well.

Overall, intervening organizations tend to have their own ideas about who and what is legitimate, and interventions feed into local competition between state and customary authorities, and may effectively legitimize or disqualify state and non-state actors and their roles in and practices of land governance and the rules applied.



Recommendations

The challenge for intervening organizations is to better understand how their interventions affect local dynamics of legitimation, including how they shape their own legitimacy. This should not only be a concern in conflict-affected settings, but in any setting where state legitimacy is low, or where there is ongoing competition between state and non-state authorities around land governance.

- **Concern with legitimacy should become standard practice in land governance interventions.** Sensitivity to legitimacy is particularly important in land related programmes, considering that land is a key theme around which state and non-state actors gain appreciation and acceptance by citizens. Intervening organizations are advised to train their staff to become more sensitive to questions of legitimacy, and facilitate the exchange of lessons learned on this.
- **Intervening organizations should better track how programmes influence legitimacy.** Including legitimacy assessments in baseline studies and monitoring can help in this. Establishing which actors are viewed as 'legitimate' in the context of land governance and tracking how this perception changes is key to monitoring the effect of interventions. Such an exercise may serve as a basis on which to take decisions regarding cooperation with certain actors.
- **Intervening organizations should document the rationales for cooperating with specific actors.** At the start of programmes, they should explicate their basis for working with certain actors (and their exclusion of others); and assess how their choices might create tensions; as well as spell out how they will justify their choices to local stakeholders. This enables transparency and consistent monitoring and evaluation; and induces reconsidering the intervention rationale throughout the project cycle.
- **Funding agencies should provide finances** for trainings related to legitimacy and for monitoring legitimation practices in interventions; and consider this aspect in evaluations.
- Projects for the registration of customary land should **carefully consider to what extent they take prevailing customary norms and values into account or not, and why.** Intervening organizations should be explicit to their partners about norms and principles that they would like to promote and search for in their partners.
- **The land rights of women and other vulnerable groups should always be considered in processes of registering customary land.** Registration should explicitly focus on the role of and their effect on families, to assure sustainable use and protection of the land for future generations.

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