

# Good Governance in Land Administration

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**Key words:** accountability, good governance, land administration, land management, land policy, land reform, Millennium Development Goals, tenure security, transparency

## SUMMARY

Good governance is increasingly recognized as critical to effective development. Governments with a record of transparency, accountability and responsiveness are far more likely to attract investment, provide high-quality public services and manage resources more cost-effectively than those which activities are opaque and not open to public scrutiny. Corruption may breed where government officials have discretion without accountability, especially in government agencies involved in provision of services to the public including land, health and education. Experience suggests that governments typically do not welcome public scrutiny. While there are many examples of governments opening themselves to the public through mechanisms such as freedom of information laws, and others have adopted well-publicized anti-corruption programs, sometimes under external pressure from donors, the record of “supply-side” reform has often had mixed results.

Previously, insufficient attention has been given in land-related development cooperation to the integration of good governance and safeguards in the design, implementation and impact monitoring of land administration and management projects. The emphasis has been on establishing first-time property rights and building capacity, especially within the civil service. Further emphasis has been in the areas of policy reform, institutional development and new technology. However, it is only more recently, as increasing attention to issues of accountability and transparency, and indeed corruption, which have been consistently raised by civil society organizations (CSOs) and non-government organizations (NGOs), that attention has been turned to governance. Good governance is fundamental to achieving the benefits of the protection of property rights and the development of efficient and effective land and property markets. In addition, good governance is essential for the efficient and effective stewardship of the environment and natural resources.

Good governance in land administration is not a new issue, and is as important in the developing world as it is in developed countries. Efficient, effective, transparent and accountable land administration services are as much about the administration of land as they are about the civil service that operates within any country. Typically, reform of land administration in any country is a long-term prospect requiring decades of sustained commitment. It is a major investment of capital and human resources and requires strong and consistent leadership in order to achieve effective, sustainable outcomes. The World Bank, with the support of development partners and civil society organizations, are continuing to support land projects throughout the world. These projects have had varying emphases on social equity and economic development. In post-conflict countries, tenure security and access to land are major factors in providing long-term stability. Whilst much has been achieved over the past few decades of support from the World Bank, it is clear that increasing attention must be given to good governance. This paper outlines the World Bank’s support

for improving governance in land administration development projects. Specific emphasis is given to government-driven good governance initiatives.

# **Good Governance in Land Administration and Management**

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## **1. INTRODUCTION**

Land continues to be a cause of social, ethnic, cultural and religious conflict. For many centuries, many wars and revolutions have been fought over rights to land. Throughout history, virtually all civilizations have devoted considerable efforts to defining rights to land and in establishing institutions to administer these rights, i.e. land administration systems. Land and property are generally the major assets in any economy, wherein, land may account for between half to three-quarters of national wealth. Land is a fundamental factor for agricultural production and is thus directly linked to food security. Security of land tenure is an important foundation for economic development, social stability, environmental management, and also for supporting reconstruction following a disaster or conflict.

There are many complexities, dimensions and themes associated with land administration and management. Securing land rights is particularly relevant to vulnerable groups such as the poor, women, orphans, displaced persons and ethnic minority groups. Fees and taxes on land are often a significant source of government revenue, particularly at the local level. In most societies, there are many competing demands on land including development, agriculture, pasture, forestry, industry, infrastructure, urbanization, biodiversity, customary rights, ecological and environmental protection. Most countries have great difficulty in balancing the needs of these competing demands.

Reform of land administration in any country is a long-term prospect requiring decades of sustained commitment. It is a major investment of capital and human resources and requires strong, consistent, transparent and accountable leadership, in order to achieve effective, sustainable outcomes. The World Bank, with the support of development partners and civil society organizations, are continuing to support, land projects throughout the world. These projects have varying degrees of emphasis on social equity and economic development. In post-conflict countries, tenure security and access to land are major factors in providing long-term stability. Reform is often inhibited or even undermined by poor governance. Good land administration is often as much related to land administration issues as it is to the quality of the civil service, especially its transparency and accountability.

## **2. OVERVIEW OF WORLD BANK SUPPORT TO THE LAND SECTOR**

The World Bank has been directly engaged in supporting the land sector for more than thirty years. This work can be broadly divided into key areas: (i) support for policy development, (ii) analytical and advisory (AAA) research; and (iii) investment lending to support development and reconstruction. Land issues are deeply rooted in countries' histories and are often sensitive politically, implying that attempts to address them need to be solidly grounded in empirical research, often building on carefully evaluated pilots. The Bank's strong analytical capacity and intellectual leadership have allowed its activities to draw on cutting edge research to show the importance of land issues for overall economic development and to help countries formulate and build consensus around national strategies to deal with land in a

prioritized and well-sequenced manner. In many cases (e.g. China, Mexico, Ethiopia, India, South Africa, and Brazil) demand for the Bank’s analytical work is equal to or greater than that for Bank lending for land projects. Strong links to academic and civil society institutions in client countries and with development partners, continue to allow the Bank to translate analytical inputs into effective solutions to support development and reconstruction.

### **World Bank Funding for Land Administration Projects**

On the lending side, Bank-funded land projects generally seek to alleviate poverty and enhance economic growth by improving the security of land tenure and efficiency of land markets. This necessitates the development of an efficient system of land titling and administration that is based on clear and consistent policies and laws, gender-responsiveness and supported by an appropriate institutional structure. Lending projects typically involve: (i) legal, regulatory and policy reform; (ii) institutional reform; (iii) systematic land registration (first time titling); (iv) support for on-demand titling and development of subsequent land transactions; (v) land valuation; (vi) improved service delivery for land agencies; and (vii) capacity building for government, private sector and academe (Bell, 2005).

Table 1 displays total World Bank lending for land administration by fiscal year (FY) and region. It highlights a significant, though regionally highly uneven, increase in total lending with the total amount of lending under supervision currently standing at \$1.1 billion. Total commitments in FY01-06 were above \$1 billion, compared to \$760 million in FY95-00, and only \$172 million before FY95. However, the regional distribution is not uniform, with two regions, Europe and Central Asia Region (ECA) and Latin America and Caribbean Region (LAC), making up almost 90% of the size of the portfolio, followed by East Asia and Pacific Region (EAP), and virtually no lending in Africa (AFR), South Asia Region (SAR), and Middle East North Africa Region (MNA). One of the key reasons for such a vast difference is that the background work needed to underpin land administration projects in the MNA has really only just started. Given the importance of land policy for a wide range of situations, plus the Bank’s shift from project- towards policy-based lending, it is not surprising to find an increasing number of projects with land policy or administration components.

**Table 1: Lending for dedicated land administration projects (US \$Million.)**

<b>Region</b>	<b>Under supervision</b>	<b>FY01- FY06</b>	<b>FY95-FY00</b>	<b>Before FY95</b>
Africa	48	48	46	
East Asia Pacific	124	129	219	30
Europe & Central Asia	451	426	109	80
Latin America & Caribbean	447	430	386	29
Middle East North Africa				33
South Asia	5	5		
<b>Total</b>	<b>1,074</b>	<b>1,037</b>	<b>760</b>	<b>172</b>

*Source: World Bank, Lending Database, 2006*

In terms of the actual number of Bank-funded projects, Table 2 illustrates that the number of these interventions amounted to 74 in FY01-06. That is, there are currently about 70 land projects under implementation at this point

**Table 2: Number of projects with land administration component/s**

Region	FY01-FY06	FY95-FY00	Before FY95
Africa	28	15	16
East Asia Pacific	13	9	9
Europe & Central Asia	16	10	3
Latin America & Caribbean	8	9	13
Middle East North Africa	3	3	5
South Asia	6	3	5
<b>Total</b>	<b>74</b>	<b>49</b>	<b>51</b>

*Source: World Bank, Lending Database, 2006*

Given the complexity and long-term nature of land-related institutional development, work on land would not be possible without having strong partnerships with a wide range of development partners, civil society organizations and academic institutions (Deininger, 2006). The Bank actively contributes to recent initiatives such as the High Level Commission for Legal Empowerment of the Poor, the Global Land Tools Network and is in regular contact with the private sector through institutions such as the International Federation of Surveyors (FIG) and with non-government organizations such through the International Land Coalition. The Bank maintains close relationships with United Nations organizations working in the land sector including Habitat, the Food and Agricultural Organization (FAO) and United Nations Development Program (UNDP).

### “Evolution” of World Bank Supported Land Projects

Table 3 summarizes the evolution of development of land administration and management projects. It should be noted that this evolution has largely manifested by responding to lessons learned in earlier projects, demands of government, changes in technology and the experiences of donors.

**Table 3: Evolution of Land Administration and Management Projects supported by World Bank**

Generation	Period	Scope	Some Examples
1 <sup>st</sup>	1980-1995	1. First registration 2. Capacity building in government 3. Limited reform	Thailand – 1 <sup>st</sup> & 2 <sup>nd</sup> Land Titling Projects Indonesia – Land Administration Project
2 <sup>nd</sup>	1995-2000	1. First registration 2. Streamlining laws 3. Institutional reform 4. Capacity building in government and private	Philippines – 1 <sup>st</sup> & 2 <sup>nd</sup> Land Administration and Management Projects Lao PDR – 1 <sup>st</sup> & 2 <sup>nd</sup> Land Titling Projects

		sector 5. Valuation and tax 6. Service delivery	ECA – most projects LAC – most projects
3 <sup>rd</sup>	2000-2006	1. Expansion of 1 <sup>st</sup> & 2 <sup>nd</sup> generation activities 2. Wider policy reform 3. State land mgt 4. Land Use Planning and development 5. Good governance	Cambodia – Land Management and Administration Project Indonesia – Land Management Policy and Distribution Project Albania – Land Management project (& other new ECA projects)
4 <sup>th</sup>	2006-present	1. Implementation of some areas of 1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> generation projects. 2. NSDI 3. Further enhancements of good governance and civil service reforms	Russia – Real Estate Vietnam – Vietnam Land Administration Project (under preparation)

The initial World Bank supported projects, commencing in the early 1980s were primarily focused on first time registration of property rights. The early Thailand Land Titling Projects have generally been regarded as best practice for achieving first time registration in a developing country. For these early projects, only limited support was provided to legal or institutional reforms.

Over the next 15 years, the second generation of land projects, embraced broader issues. In addition to support for first time registration, these projects gave greater emphasis to supporting the streamlining of laws and regulations. They also supported specific institutional reforms, which were generally premised on the need for a single land administration agency within government. A further key area was capacity building. Indeed, although the term governance may not have been specifically applied at that time, these early efforts were indeed paving out early efforts for the improvement of governance. Many of these projects specifically included support for the improvement of land administration service delivery, in order to facilitate greater accountability and transparency.

Perhaps, commencing around 2000, a third generation of projects, more explicitly dealt with issues of corruption and accountability, with some projects including anti-corruption plans, good governance monitors and internal audit functions. More formal engagement of CSOs and NGOs in some of these projects has also been facilitated. It is perhaps too early to judge the success of these projects. Many are still under the initial phase of implementation. Success will be best judged over the long-term, and hopefully a good balance has been struck between the commitment of the respective governments to reform, and the requirements of donors.

The most recently designed projects are now investing more in the development of national spatial data infrastructure (NSDI), or at least whole-of-government land information (system) coordination. For example, a new project under preparation at this time is the Vietnam Land Administration Project (VLAP). The focus of VLAP is on information about land that will support the land administration system (LAS). It will not undertake land administration and management activities per se. The establishment of a consistent land information database would contribute to improved land administration governance, where decision-making is

based on complete and reliable data. Computerization of land administration systems will not only improve access to information and decision making, but also enables governments to better implement legislation that is intended to protect the environment and the rights of people, especially vulnerable groups. Too often, decisions are made to exploit such lands because there is a high degree of uncertainty over the tenure status and other attributes of such lands. Also, agencies tasked with monitoring such decisions, do not have access to complete data.

### 3. WHAT IS MEANT BY GOOD GOVERNANCE

Generally speaking, “governance” may be defined as the exercising of authority or control. Over the past decade, governance assumed significant prominence due to very high profile corporate failures. In the corporate sense, “corporate governance” may be defined as the system by which companies are controlled. This may include the specific laws and regulations for companies set by government, the specific articles of incorporation for the company, the operation of the board of directors, reporting to shareholders and so forth.

For government institutions, there are the related issues of “government” and “governance”. “Government” is generally considered to be the exercise of authority over a state. For government institutions “governance” is therefore the “system by which the state exercises its control. This includes the system by which government assumes office, the laws and regulations, and the civil service which implements the authority of the government. The FAO (2007) paper on good governance in land administration defines governance as the process of governing:

*“It is the way in which society is managed and how the competing priorities and interests of different groups are reconciled. It includes the formal institutions of government but also informal arrangements for achieving these ends. Governance is concerned with the processes by which citizens participate in decision-making, how government is accountable to its citizens, and how society obliges its members to observe its rules and laws.”*

One of the key mechanisms used by government to exercise its authority and implement its policies is through the civil service. The overall functionality of the civil service is generally affected by the nature of the system of government, its laws, policies and institutional arrangements. It is also affected by its capacity, especially competency, qualifications, its independence from the executive (political) arm of government and its culture of public service.

The quality of the civil service is generally assessed in terms of its performance against its mandate. Specifically it is measured in terms of accountability, transparency, efficiency and effectiveness. The accountability and transparency of the civil service may be judged in terms of its openness and honesty in its reporting of its operation and the decisions it makes. The civil service must be held accountable for its implementation of government policies, its use of resources, especially finances, its stewardship or management of state (government) assets, especially land, the environment and natural resources. Efficiency and effectiveness of the civil service are two commonly used terms that are often misunderstood. Efficiency is essentially about “doing things right” whilst effectiveness is about “doing the right things”.

What is considered desirable in terms of efficiency and effectiveness is driven by specific societal norms, and often heavily influenced by donors. The quality of the civil service is generally affected by the nature of the system of government, its laws, policies and institutional arrangements. It is also affected by the capacity of its civil service, especially competency, qualifications, its independence from the executive (political) arm of government and the culture of public service.

Thus, good governance is concerned with how well the government exercises its mandate to generate outcomes which are consistent with its policy objectives. There is more to good governance than avoidance, or reducing corruption. A failure in governance does not mean that corruption has occurred. Conversely, success in governance may not mean that corruption does not exist. Failures in governance may be due to any number of other causes including:

- Laws which may be poorly designed or implemented, inconsistent or outdated
- Inappropriate policies and procedures
- Complex institutional structures, where mandates are unclear, overlapping or duplicated
- Incorrect or inadequate information, especially spatial data, to support decision making
- Inadequate civil service resources
- Lack of capacity in the civil service.

Throughout the world, land-related development cooperation is giving increasing attention to integrating governance principles and safeguards into the design, implementation and impact monitoring of land administration and management projects. Although secure tenure and access to land have been universally accepted as the basis for economic and social development, recent privatization of land, liberalization of land markets, and increasing demand and competition for land, have in many developing countries led to greater tenure insecurity, enrichment of the wealthy and powerful, and the further deprivation of the poor. A primary cause of this is weak governance in land administration. Deininger (2005) notes that if institutions are weak, this can be a "hot-spot of red tape and corruption", as in the case of India where a recent study estimated annual bribes paid in the land sector at a staggering US \$700 million.

While technical solutions for supporting land administration are generally accessible, affordable and appropriate, poor public sector management, problems caused by corruption and the general lack of law and order have become recognized as the key barriers to land administration reform, development of formal land markets, public confidence and investment. Good governance in land administration aims to protect property rights of individuals as well as of the state by introducing principles such as transparency, accountability, efficient and effective public administration, the rule of law, equity, participation and effectiveness into land related public sector management.

The public administration of land, including the management of state lands, has a high potential for abuse. In many countries, corruption and abuse of power have resulted in the undermining of tenure security. As a consequence this has adversely impacted the business climate and economic activities due to increased costs of doing business, lack of confidence of the private sector, and under-utilization of land. At the same time, high costs and

inefficient and prolonged procedures due to corrupted land registration systems discourage people to register their land, and encourage them to operate within the informal land market sectors. This also impacts land tax revenue, and reduces government spending on the provision of public services and infrastructure.

#### **4. THE IMPORTANCE OF GOOD GOVERNANCE IN LAND ADMINISTRATION**

##### **Good Governance is Not New**

The need for land administration good governance is anything but a recent phenomenon, despite a wave of contemporary land administration experts leading us to think otherwise. By way of example, consider 19<sup>th</sup> century Australia and the United States. The development of the Torrens titling system, initially in the then Australian colony (now state) of South Australia was intended to improve land administration governance, with the specific objectives of simplifying the title to land, facilitating dealings with it and securing indefeasibility of title to all registered proprietors. In the then Australian colony (now state) of Victoria, there were three Royal Commissions of Enquiry in the late 1800s which investigated corruption and incompetence in land administration and land surveying (Bell and Cleary, 2001). In many countries, government endeavors to regulate certain groups of land administration professionals such as surveyors, valuers, lawyers and real estate brokers has been driven by improving land administration governance.

The illegal grabbing of land, sometimes by government officials, the military or police is not a new issue. Although governments may have laws in place which prohibit such activities, they are often ignored or there is a lack of will to implement the laws. The land of vulnerable ethnic minority groups is grabbed to enable illegal, or government-sanctioned concessions to proceed. In 1875, in the United States, despite a treaty being put in place with the Sioux Indian nation, the then administration authorized the military to appropriate by force the Black Hills, only six years after the signing of the treaty. The Grant administration was determined to enable gold exploration to proceed at the time of a sagging economy.

If we go further back in history, we can only speculate regarding the exact purpose of the 11th Century Domesday Book, but it was most certainly concerned with governance. As the National Archives of the United Kingdom, (using some degree of literary licensing, whilst evoking the context of corporate governance), suggests:

”Some 940 years ago, an 11th century corporate raider found himself with both a problem and an opportunity. His victory in the contested takeover of England plc after a difficult shareholders’ meeting at Hastings and subsequent campaigns around the country had transformed him from William the Bastard, Duke of Normandy, into William the Conqueror, Duke of Normandy and King of England. One of his (no doubt myriad) problems was in defining exactly what it was he had acquired by his takeover bid and then in working out how best to make his new, enlarged enterprise more profitable.”

## **The Importance of Land**

Land and property are generally the major assets in any economy. In most countries, land accounts for between half to three-quarters of national wealth. Land is a fundamental factor for agriculture production and is thus directly linked to food security. Over the past two decades, much has been written about land being one of the main sources of collateral, used to obtain credit from established financial institutions such as banks, as well as from informal providers of credit.

Security of tenure is an important foundation for social and economic development. Fees and taxes on land are often a significant source of government revenue, particularly at the local level. Securing land rights is particularly relevant to vulnerable groups such as the poor, women and indigenous groups. In most societies, there are many competing demands on land including development, agriculture, pasture, forestry, industry, infrastructure, urbanization, biodiversity, customary rights, ecological and environmental protection. Many countries have great difficulty in balancing the needs of these competing demands. Land has been a cause of social, ethnic, cultural and religious conflict and many wars and revolutions have been fought over rights to land. Throughout history, virtually all civilizations have devoted considerable efforts to defining rights to land and in establishing institutions to administer these rights – land administration systems.

## **The Civil Service and Corruption**

The quality of the land administration system is dependent on the quality of the civil service, including the legal and institutional frameworks. In many developing countries, civil servants are poorly paid and this is often seen as a contributing factor to corruption. However, the corruption in land administration is a phenomenon that is not unique to the developing world. It also occurs in many developed countries, where civil service remuneration is often very reasonable. In developing countries, corruption is often common place in day-to-day transactions when people are required to pay informal fees for transfer and registration of property rights. They may pay informal fees to avoid paying higher transaction fees and capital gains taxes. Other forms of corruption include the illegal access to state land for economic concessions. In many countries, land grabbing is common place, and often takes place with the support of the military, police and government officials. Illegal exploitation of natural resources such as logging of state forests can be common place. Sometimes this can have catastrophic affects. For example, in 2005, illegal logging of state forests in one country in East Asia, reportedly with the involvement of government officials, led to severe land slides caused by rainfall during a typhoon with consequential significant loss of human life.

However, corruption in land administration is a phenomenon that is not unique to the developing world as it also occurs in many developed countries, where civil service remuneration is often very reasonable. In developed countries, corruption in land administration is more likely to be concerned with circumventing government land planning regulations to enable certain types of development to proceed, rather than the payments of informal fees on a transactional basis. Also, corruption may be related to obtaining the use of state land for applications that may adversely impact the environment, for natural resource exploitation or to usurp the rights of indigenous peoples.

In both developing and developed countries, access to the judicial system can be time consuming and very costly to the extent that justice is inequitable in that it favors the rich and educated. In some countries, even the judicial system may be corrupt, with the decisions of judges influenced by informal payments. Access to administrative forms of dispute resolution tend to be more equitable, generally more expedient and less costly. However, many developing countries either do not have administrative dispute resolution systems in place or they are still at early stages of implementation.

## **Governance and the Millennium Development Goals**

Lack of capacity, indeed competence, in the civil service is a cause of weak governance, which may be completely unrelated to corruption issues. In many developing countries, where land administration reform is being undertaken, lack of technical and management capacity is commonly found. Considerable effort from development partners is often provided through grants for technical assistance to support capacity building and training. Many countries are faced with complex institutional environments and legal frameworks which preclude good governance. Another frequently encountered challenge is inadequate resourcing, (viz. budget and staffing), available to government land administration agencies. As a result the provision of efficient and effective services is difficult and achievement of reform challenging, even with donor support. These challenges are consistent with the challenges faced in the implementation of the Millennium Development Goals (MDGs). From the perspective of international development support, and achievement of the MDGs, good governance is critical. The United Nations Department of Economic and Social Affairs (UNESDA) identified four key elements that are key to the achievement of the MDGs:

- enabling policy environment
- suitable institutional framework with technical and partnership capabilities
- improvement in service delivery
- more money.

Of these, the first three are key indicators of good governance. All three are especially relevant to land administration. Typically World Bank supported land administration projects have specific components which address these areas.

## **Completeness of Land Parcel Inventory**

A major driver for countries which seek to reform land administration systems is to ensure that comprehensive and complete inventories of state land are available to support decision-making and public administration of land (both state and private lands). The lack of accessible complete data continues to be a major impediment to the public administration of land. Government agencies responsible for the public administration of lands are better equipped to support decision making by knowing the full status and extent of all land.

## **Spatial Data Infrastructure**

Contrary to the perception that computerization of land information increases the risks to vulnerable societal groups and exploitation of land, the global experience is generally the opposite, with the governance over such important issues substantially improved and the implementation of safeguards enhanced. The experience thus far is that the production of

standard, consistent datasets, to which all parties can access, provides a uniform basis for spatial decision-making and the monitoring of decisions made. Although new spatial technology can play an important role in improving land administration and management, and governance, unless the appropriate legal and institutional frameworks are in place, with well-trained personnel and good civil service practices, the technology will be of little benefit, and indeed may be used to undermine good governance.

## 6. PRINCIPLES OF GOOD GOVERNANCE FOR LAND ADMINISTRATION

Zakout et al (2007) identifies eight key principles of good governance for land administration, summarized in the following table:

**Table 4: Principles of Good Governance in Land Administration**

Efficiency	Procedures to register property transactions should be short and simple. The fewer steps there are, the less opportunity for informal payments.
Effectiveness	The effectiveness of land administration depends on capacity building and financial provision, as well as on the general socio-political conditions, such as political will and commitment, the rule of law, regulatory quality and political stability.
Transparency, consistency and predictability	Transparent recruitment of staff and transparent service standards and costs of services will contribute to higher efficiency, accountability, fairness and confidence in agency integrity.
Integrity and accountability	Accountability in land administration can be improved through the implementation of uniform service standards that are monitored, codes of conduct for staff (as well as mechanisms of sanction) and incentives such as awards for outstanding employees.
Subsidiarity, autonomy and depoliticization	Increasing the autonomy of local land administration, while introducing checks and balances at the national level, can improve services and reduce corruption.
Civic engagement and public participation	Client orientation and responsiveness in land administration can be achieved through improved access to information, customer surveys to measure customers' satisfaction and hotlines to enable customers to report corruption and misconduct.
Equity, fairness and impartiality	All people should have the same access to service and receive the same service standards independent of their political or economic status. The introduction of counter offices and a numbering system for customers' arrival ("first come first served") may achieve this objective.
Legal security and rule of law	Good governance in land administration requires a consistent and coherent legal framework, a fair and transparent judiciary and general prevalence of the rule of law to protect property rights.

These principles would generally apply to overall civil service good governance.

## 7. KEY BENEFITS OF LAND ADMINISTRATION GOOD GOVERNANCE

Among the many benefits that may accrue from better land administration governance, there are arguably six areas that may be considered to be especially significant:

- **Pro-poor Support** - Good governance in land administration provides more equitable access to the rule of law and protects the rights of citizens, especially those vulnerable societal groups such as women and widows, orphans, ethnic minorities and the general poor. It prevents illegal evictions from land of the vulnerable groups in society and protects the inheritance rights of widows and orphans.
- **Public Confidence** – Good governance in land administration enables greater public confidence, both from individuals and business, who are more likely to invest in property.
- **Economic Growth** – Good governance in land administration increases the overall security of land tenure which enables better access to credit and wealth generation. Transparent, accountable public administration ensures that transaction costs are regulated and taxation is more equitably borne.
- **Stewardship of the Environment** – Government becomes more responsible and accountable for its management of the environment and natural resources. Reliable and accessible spatial data underpins good environmental stewardship.
- **Protection of State Assets** – Transparent state land management helps to protect state assets from illegal exploitation. It also enables legitimate use of state land for social and economic concessions.
- **Overall More Effective and Efficient Public Administration of Land** – Weak governance and corruption in public land administration increases the cost of doing business both to the general public and business sectors and leads to loss of confidence in the land registration system and a higher level of informal land transactions. Good governance underpins the formal land market, and the wider use of the formal land registration system, the more reliable the system and the return of benefits from taxation and revenue sharing to public services.
- **Conflict Prevention and Resolution** – Overall equity, justice and social stability is enhanced through good governance in land administration. Access to affordable, transparent, efficient, equitable, timely and just dispute resolution reduces conflict.

## 8. EXAMPLES OF EFFORTS TO ACHIEVE GOOD GOVERNANCE IN EAST ASIA

In East Asia, there are many different approaches being undertaken to improve governance in land administration. Many of these are at different stages of development, and to date have achieved varying degrees of success. Perhaps it is too early to assess the successful implementation of governance reform. Nonetheless, the World Bank is cognizant of the need for a high degree of government commitment. Developing and adopting a particular good governance measure is one thing. Whether its will be fully embraced and the higher levels and fully implemented at the grass roots level is another thing.

Governments must establish mechanisms to monitor the implementation and effectiveness of good governance measures, and be prepared to take corrective action when failures, or evidence of failures are identified. Feedback from the public, from NGOs and CSOs can assist the overall monitoring. However, in order for such feedback to be generated, the

system of government must provide mechanisms for such feedback to be received and processed. Individuals and organizations must feel confident, and indeed safe, to raise concerns, and have expectations that government will process feedback impartially.

Strategies on good governance are more likely to be successful when piggy-backed on government policies and statements themselves. That is, a project may be best designed to actually build on the state intentions of government policy, with the various tools and systems within a project contributing to strengthen the policy.

World Bank efforts to support the improvement of governance in land administration have generally focused on four key areas:

- **Responsiveness:** What are the mechanisms by which the land related institutions: (i) learn about land owners (clients) needs and preferences; and (ii) incorporate what they learn into project design and planning? How are these monitored?
- **Accountability:** What mechanisms are used to hold staff responsible to clients for high-quality service delivery, and to hold different levels of staff responsible for good conduct within the institution? This is also related to service standards.
- **Transparency:** How has the institution tried to improve the sharing of information both within the agency and between the agency and clients? How has it attempted to reduce rent-seeking-opportunities in service provision?
- **Improving service delivery, especially to low-income households (marginal and small land holders):** How has the institution attempted to increase coverage and/or timely quality of service to poor land owners? Arguably, this is the real crux of the issue of good governance for many land projects.

Although there are many examples of the efforts of the respective governments, globally, to improve land administration governance, only a few specific examples from the East Asia Region are discussed below. Of course, in order for efforts to strengthen governance to be successful, there must be genuine commitment from the government. Although governments may be responding to donor pressure to improve governance, sustainability of good governance is often only possible if the commitment of government exists to enable the necessary reforms to be implemented. Experience shows that supply-driven governance reforms (i.e. from donors) achieve mixed results. Efforts by donors to properly “anchor” good governance, without strong government commitment and readiness for reform, may not be successful.

## **Responsiveness**

a. **Community Education Services.** All of the land projects being implemented in the East Asia region have adopted approaches to actively include the participation of people in the formal determination of property rights. All of these efforts require a high degree of community education and awareness-raising to enable people to become familiar with their rights and also the processes of systematic land titling. The people need to know what will be delivered, how long it will take and how much it will cost. They also need to know their

rights, responsibilities, benefits and how to use the title to transfer ownership, to borrow money and for inheritance. Support for these activities may be undertaken by the government's land agencies, by NGOs or CSOs. In Laos, the Lao Women's Union (LWU) plays a key role in working with the government land agency. Typically the LWU is working with communities before the land agency moves into any village to do titling. The LWU remains in the village throughout the titling process to ensure people know and understand what is going on. After titling, the LWU returns to provide further support so people can use their titles. In Cambodia, efforts are currently being undertaken to "outsource" public awareness and community participation to independent private firms and NGOs.

b. **Complaints Handling.** A number of projects in East Asia have established formal complaints handling systems. In the Indonesian province of Aceh, a complaints handling monitor, has been engaged to independently receive complaints from the public and NGOs. In Cambodia, the system includes a telephone complaint handling hotline.

c. **Support for Women.** In Laos, the LWU plays a key role in increasing public awareness and community participation in the land titling project in Laos. It is the only institution in Laos that is formal recognized under the Constitution with having a formal responsibility for advocating women's rights and gender concerns. It plays an important role in influencing the policies, plans and practices of government including public administration of land. In Aceh, NGOs, CSOs and also the Syariah court play key roles in supporting women's rights for land.

d. **Community-driven Adjudication.** In the Indonesian province of Aceh, an innovative approach to systematic adjudication has been adopted, wherein NGO facilitators are working with village communities that survived the catastrophic December 2004 tsunami to obtain community agreement on land parcel ownership and boundary demarcation. Since 2005, almost 150,000 land parcels have been "mapped" under this process. On completion of the community land mapping and the signing of the community agreement, the National Land Agency then undertakes an official land survey and formally confirms the land ownership. Following the official process of survey and adjudication, the official cadastral plans are public displayed, together with the inventory of owner's names. Only after this process is completed, and provided there are no objections, may title be issued.

## **Accountability**

a. **Audit.** All World Bank funded projects have legal requirements for project funds to be independently audited on an annual basis. Such audits are undertaken by accredited audit firms. In Indonesia, the supreme audit authority undertakes this role.

b. **Internal Audit.** The Indonesian land projects have requirements for internal audit. This function is facilitated by the government audit agency. The land project in Cambodia includes an internal auditor, who is responsible for independent reviews of the financial and procurement operations and performance of the project to ensure that the project's systems and internal control are operating satisfactorily and also for monitoring that project funds are being used effectively and efficiently and for the purposes they have been provided. Internal auditor provide the land agency, and the project, with timely information on the financial and procurement operations and performance to enable the government to take timely corrective actions.

c. **Code of Conduct.** The Cambodia land project has recently adopted a Code of Conduct (2007), which is applied to all staff implementing the project. The Code requires all staff to apply a high level of commitment, and to act with "professional conscience, dignity, honesty, transparency and good governance in all aspects of work adhering at all times to this Code of Conduct with the aim of contributing to the Government's efforts to achieve sustainable progress and justice". In addition the Code covers matters such as discharging duties in accordance with the law, civil service standards of behavior, the public reputation and image of the land agency, not taking bribes and ethics.

d. **Regularization of illegally acquired state land.** Associated with efforts by governments to deal with illegal occupation and acquisition of state land, governments may give consideration to the "regularization" of state land that has been illegally occupied. Dependent on the needs of the state, and also environment, social, cultural heritage issues, there may be some circumstances where it is permissible for such occupation to continue with the land being legally transferred or leased, provided it is in the best interests of the state to do so. This is an area where considerably more policy work is required in most developing countries. The 2001 Cambodian Land Law has provisions under Article 18 to recover land belonging to the state that has been illegally acquired. This is an especially challenging area for the Land Ministry to address, and it is very early days for the measurement of success.

## **Transparency**

a. **Development of NSDI and use of Information Communication Technology (ICT).** A number of projects in East Asia are now taking steps to coordinate land information systems and establish NSDI. Whilst it is early days, the first steps involve the establishment of the geodetic framework and the completion of provincial cadastral base mapping. In Vietnam, the first phase of a new project will support implementation in up to fifteen provinces and will undertake the establishment of a consistent land information database that will computerize the land administration system and improve government and public access to land information. It is envisaged that this will enable the government to better implement legislation that is intended to protect the environment and the rights of people. Overall, ICT has the potential to improve land administration governance by improving accessibility to, and accountability of, land administration systems.

b. **Free-of-charge land titling in Aceh.** In order to reduce "rent seeking" from tsunami victims in Aceh, the government of Indonesia declared that all land titling in tsunami affected areas would be completely free-of-charge. Wide publicity has been undertaken, with the support of NGOs and CSOs to ensure that the public is well aware of this, and what to do if they encounter demand for informal payments.

## **Improving Service Delivery**

a. **Service Standards.** All of the currently World Bank supported land projects in the East Asia Region have incorporated the development and implementation of land administration service delivery standards, together with then independent monitoring of these standards. Different approaches are being taken in the respective countries. For example, in the Philippines, the approach taken is the establishment of "one-stop shops". In Lao PDR and

Indonesia clearly specified service delivery standards define the service provided, the timeframe for delivery of the service and a published list of regulated fees and charges. In this way, the public knows what level of service they are to receive and how much they are to pay.

b. **Administrative Means of Land Dispute Resolution.** Under the Cambodia land project, administrative means of land dispute resolution have been implemented through national and provincial cadastral commissions. As is the case in many countries, access to judicial means of dispute resolution is very expensive and has long delays. Over the several years the cadastral commissions have been operating approximately 30% of cases that have been referred to the commissions have been solved. Whilst some may argue that this resolution rate is not as high as the government would like, it is highly probably that these cases may not have been resolved at all if the cadastral commissions were not in place.

## **9. COOPERATION WITH FIG**

Since 2004, the World Bank and FIG have been working more closely together to foster knowledge sharing, information dissemination, policy dialogue, training and capacity building in land administration and management in the developing world. This is expected to be formalized in early 2007 with a formal Memorandum of Understanding (MOU). Such collaboration is aimed at improving global, regional and local capacity in land tenure related issues such as land reform, land administration and land management, land valuation and land use, and appropriate technologies which would facilitate increased access to land and security of tenure for all classes and sections in the community, but particularly in relation to the disadvantaged. Specifically, the World Bank and FIG have identified common objectives towards which they wish to cooperate together, including:

- advance the achievement of strengthening property rights and improving households' security of tenure,
- making land markets function better,
- reducing the time and cost of land transactions
- improving land access
- making improvements in governance and conflict resolution.

FIG has an especially important role to play in supporting good governance for land administration. As a United Nations accredited NGO, its prominent role with the professional surveying associations of more than 100 nations provides it with a significant focus in supporting knowledge sharing, capacity building and promotion of best practice. The World Bank is very pleased that FIG is represented on the land administration good governance steering committee that the World Bank has established. The World Bank and FIG propose to convene a joint summit in late 2008, in Washington D.C. The theme of the summit will be related to good governance in land administration and management.

## **10. CONCLUSION**

Although good governance in land administration is not a new issue, it is importantly an issue that will always remain of concern to donors, governments, NGOs and civil society. It is not a subject that will become unfashionable or redundant. Good governance in land administration is fundamental to the achievement of the Millennium Development Goals.

The importance of land administration good governance is highly relevant to the agendas of all countries, whether they are considered to be developed or developing. All World Bank supported land administration projects include specific measures and safeguards to support good governance. Governments with a record of transparency, accountability and responsiveness are far more likely to attract investment, provide high-quality public services and manage resources cost-effectively than those whose activities are opaque and not open to public scrutiny. The success and sustainability of good governance measures for land administration requires the commitment of governments to genuine reform rather than just responding to donor pressures.

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## BIOGRAPHICAL NOTES

**Keith C. Bell** joined the World Bank in 2003, after a distinguished career in both the public sector and the Army in Australia, culminating as the Surveyor-General of Victoria, 1999-2003. Prior to this he held a range of senior positions including: General Manager in Planning and Land Management of the Australian Capital Territory Government 1997-1999; Executive Officer (and Secretary) of the Australian New Zealand Land Information Council (ANZLIC); and Director of the National Land Data Center in the Australian Government. His early career saw him work in the exploration industry, hydrography and private sector land development. Within the World Bank, he has responsibility for supporting land administration projects throughout the East Asia Region, and works in Cambodia, Indonesia, Lao Peoples Democratic Republic, Philippines and Vietnam. In early 2005, he commenced leading efforts to deal with land and property rights in Aceh and North Sumatra following the tsunami disaster, and operated from Indonesia for some fifteen months. He has only recently returned to his substantive posting in Bank headquarters in Washington D.C. after a further extended assignment operating from Bangkok.

He is a licensed surveyor and engineer, and has higher degrees in science, human resource management and business administration. He is a Fellow of several professional institutions including: (i) the Institution of Engineers, Australia; (ii) the Institution of Surveyors, Australia; (iii) Australian Institute of Company Directors; and (iv) the Australian Institute of Management. He is also a Member of the American Society of Civil Engineers. In 2003, he was awarded a Doctor of Applied Science (*Honoris Causa*) from the Royal Melbourne Institute of Technology (RMIT) University. He has also received a number of military decorations and awards, and has continued with his reserve service. He has had a long involvement in FIG, which has previously included the Australian representation for FIG Commission 7, Cadastre and Land Administration. Within the World Bank, he provides the focal point for cooperative arrangements with FIG.

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