

# **The Lao Land Titling Project - Innovative Land Tools in Lao PDR**

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**Key words:** land administration, systematic registration, land registration, education, legislation, gender, management, sustainability.

## **SUMMARY**

Projects such as the Lao Land Titling Project provide the opportunity to critically assess what has worked and what has not worked during the implementation of a land administration project. Before the project started there was only a limited but basically non functioning land registration system in Laos. The project has developed over a period of ten years from a low organisational, management, technical and educational base, to a functioning land administration system that has registered in excess of 328,000 land parcels in nine of the 18 provinces. A fully functioning Land Parcel Registration System now exists to support this.

A number of innovative land tools were utilised in developing the land registration system, which provide opportunities for future development of land administration projects. These tools include the benefits of working together with development partners, benefits from piloting proposed project activities before starting the main project, early introduction of supporting legislation, and the importance of establishing a sound education base from which capacity to support the project can grow.

Just as importantly, lessons are learnt from activities that were not successfully implemented. These include the development of inappropriate institutional structures, the importance of accepting appropriate educational and community related programs to ensure that there is adequate dissemination of project information, delays in commencing key studies, and the importance of training to build capacity and ensure sustainability.

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## **1. INTRODUCTION**

In 1986 the Government of the Lao PDR adopted a New Economic Mechanism aimed at creating a market based economy. This approach was reinforced during the Fifth Party Congress in March 1991 that identified land administration as a major factor in economic growth. A commitment was made by the Government of Laos to the development of a land titling system to serve as a base for secure land tenure, the establishment of credit markets, encouragement of private sector investment, and as a source of government revenue.

Since 1995, the major government initiative adopted to support the development of land management activities has been the implementation of the Lao PDR Land Titling Project (LLTP). The Project commenced on 1 July 1997, while the second phase commenced in October 2003. The second phase is funded for five years through a development credit agreement between the Government of Laos and the World Bank (IDA). The Technical Assistance (TA) is funded as a five year grant to the Government of Laos by the Australian Government. This is being provided and managed by Land Equity International.

By developing land management capacity, and providing a foundation for land based administrative revenue and taxation from land, the project will also broaden the country's revenue base and contribute to economic development and poverty reduction goals, including the National Growth and Poverty Eradication Strategy. Secure land tenure and confidence in land use rights will assist in mobilising domestic resources for investment.

Primary responsibility for implementing the Lao Land Titling Project lies with the Department of Lands in the Ministry of Finance and Provincial Land Offices are responsible for the day-to-day operations of the systematic registration and land registration activities. The Lao Women's Union (LWU) has an active involvement in upholding project policies of community awareness and gender equity at the central level and supports project implementation at provincial, district and village levels. At the central level the National Geographic Department (NGD), the Department of National Land Use Planning and Development (DONLUPAD), and the Department of State Assets (DSA), are closely involved in Project implementation.

The Lao Land Titling project has supported the implementation of a Land Parcel Registration System (LPRS) Registration of land parcels in Laos have commenced with an initial focus on urban and peri-urban areas in nine of the 18 provinces where in excess of 400,000 land parcels have been adjudicated. In addition the Land Titling Project has strongly supported the development of government land policy, creation of a valuation system, and the development of a High Diploma in Surveying and Land Administration at the Polytechnic School.

Increasing revenue generation and investment, especially in Vientiane Capital City where Project activities first started, is evidence that key objectives are being achieved and the Land Titling Project is maturing.

## **2. LESSONS LEARNT – INNOVATIVE TOOLS**

Since the commencement of the Project in 1997 there have been a number of major sector outcomes that can be summarised as:

- Improved social and economic status of more than 300,000 households through security of tenure to land and property;
- Education and capacity building in the establishment of a High Diploma in Surveying and Land Administration at the Polytechnic School;
- Improved governance through a gradual shift in DoL responsibility to decentralised project management, with a focus on the Provincial Land Offices as the primary service delivery points for land administration;
- The introduction of a transparent systematic registration program.

These sector outcomes were supported by a number of significant outputs which involved innovative approaches to implementation, as well as solutions required to resolve specific and unique project problems. Innovative project tools range from the importance of cooperating development partners, pilot project activities, legislation activities, educational support, improved land registration, land valuation activities, and development of gender equity as a major component to ensure public participation and confidence.

### **2.1 Development Partners**

Development partners are playing key roles in the development of land administration activities in the Lao PDR. The Lao Land Titling Project (LLTP) is a Government of Lao initiative to accelerate the issue of land titles in order to foster efficient use of land for improved economic and social development. It is not possible for the Government of Lao to implement such an ambitious program without support from external partners.

The Project is a co-financed project with operational support and loan funds being provided through a World Bank International Development Assistance (IDA) loan supported by counterpart funding from the Government of the Lao PDR. A grant for technical assistance is funded by the Government of Australia, through AusAID, and the international expertise is provided by Land Equity International<sup>1</sup>. Since September 2005, GTZ has provided support for the development of land policy activities.

The flexibility of development partners in providing technical advice and assistance to resolve and minimise implementation problems, was important in the success of the project's development. Although such cooperation between development partners is not unique, it is a

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<sup>1</sup> Funding for Phase I and Phase II of the LLTP will be GoL, US\$1.10 m; World Bank (IDA), US\$24.49 m and AusAID, US\$13.00 m.

model that is well suited to the LLTP. Many of the innovative tools outlined in the remainder of this paper have emanated from the close cooperation between the development partners.

## **2.2 Pilot Project Activities**

Between 1995 and 1997 a series of pilot project activities were undertaken, prior to the commencement of the main project, to identify issues relating to the development of systematic land registration activities, to assess the Department of Lands' capability to implement the project and then build appropriate levels of capacity. Pilot projects were considered necessary to gauge the capabilities of the then Department of Land and Housing Management to implement a large land registration project. At the commencement of the pilot project the department comprised 11 staff, of whom only three had technical backgrounds.

The pilot activities proved successful and expeditious in identifying issues, and addressing them before the main project started.

## **2.3 Legislation**

Lao PDR's first Land Law was promulgated on 31 May 1997, superseding the Decree on Land (No 99/PM) which had been in effect since December 1992. The main thrust of the Law on Land is to facilitate effective and efficient management of land (a national resource) in the national interest. To that end, the law incorporates principles of conservation and development; establishes transferable land use rights; links land use rights with land use practices and obligations; seeks to prevent illegal occupation and land speculation; and provides for a formal and uniform system of land registration.

The promulgation of the Land Law prior to the commencement of the main project activities provided an excellent opportunity for development of project activities required to support land registration. Fundamental legislation introduced during the early years of project included:

- Ø Ministerial Direction on Systematic Adjudication of Land Use Rights, MD 997/MoF, 1998
- Ø Ministerial Direction on Sporadic Adjudication of Land Use Rights, MD 998/MoF,
- Ø Ministerial Direction on Land Parcel Registration System, MD 996/MoF, 1998
- Ø Ministerial Direction on Land and Building Valuation Information System, MD 1677/MoF, 1999
- Ø Ministerial Direction on Cadastral Surveying and Cadastral Mapping, 748/MoF, 2000

Early development of legislative initiatives provided the project with a unique opportunity to engage promptly in implementation. This is often not available in land administration projects where legislative reform extends many years into a project before operational implementation is possible.

## 2.4 Education Support

During the design of the Lao Land Titling Project the establishment of a relevant education system, within a tertiary institution to support the project activities, was a high priority if sustainability in land administration was to be achieved. The Project introduced many new initiatives and concepts to the Lao people involved in project implementation. However, human resource development was severely inhibited due to the low capacity and personal educational and skill levels of project staff, specifically those employed in the government. Sustainability of the project was also doubtful due to poor staffing, organisation and operations of tertiary institutions.

The need to upgrade the existing education system for land administration was identified, and it was recommended that the first priority was to improve technical level education, and the second priority to introduce a professional level course. In developing an education strategy to support the Land Titling Project activities, a number of options were reviewed. These included; (i) using courses that already existed in Thailand; (ii) maintaining the status quo; and (iii) improving the existing courses and facilities at the Polytechnic School in Vientiane. It was considered that there were significant advantages in improving the existing courses and facilities at the Polytechnic.

A project report<sup>2</sup> proposed the establishment of an “In Country Course”<sup>3</sup> (ICC) designed to upgrade the skills of land surveyors employed by the Department of Lands, provincial land offices, other government departments, and lecturing staff from the Polytechnic School working on the Lao Land Titling Project. Twenty six students were involved in the two year ICC program.

The delivery and accreditation of the In Country Course was contracted to an Australian Education Institution, the Western Australian Central TAFE, which was required to present the modules at a level equivalent to an Australian TAFE Certificate IV or Diploma. The modules covered during the In Country Course were; (i) Land Valuation; (ii) Surveying, Maths and Survey Computations; (iii) Surveying, Maths and Survey Computations (2 modules); (iv) Total Stations and GPS; (v) Land Administration and Registration; (vi) Cadastral Surveying and Mapping; and (vii) Survey Project Management

Presentation of the eight modules was successfully completed in May 2002. With approval for funding for a 14 month extension of TA, AusAID agreed to fund the remaining three modules of the original design for the In Country Course. These modules were delivered from December 2002 through to May 2003, and comprised; (i) Land Adjudication; (ii) Customer Relations and Service/Gender and Development; and (iii) Control Surveys.

Following the successful completion of the course, the Ministry of Education eventually agreed to recognise it and each student was awarded a High Diploma in Surveying and Land

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<sup>2</sup> "Final Report On Surveying Education Strategy and Draft Course Curriculum",

<sup>3</sup> The term “In Country Course” is commonly used in Lao PDR to denote a locally delivered education program as opposed to students studying overseas.

Administration. The awards of the High Diplomas were recognised at a special ceremony held at the Polytechnic School on 5 December 2003. Most participants in the ICC course now play important roles in guiding the implementation and direction of the Lao Land Titling Project.

The Food and Agricultural Organisation of the United Nations (FAO) commissioned a study and a paper to be prepared on capacity building in land administration<sup>4</sup>. The objective of the paper was to analyse emerging needs for capacity-building in land administration and strategies and approaches for responding to those needs. The paper specifically refers to the successful capacity building activities that were undertaken as part of the Lao Land Titling Project. The paper recommended that:

*“Smaller countries may need to accomplish the same ends through international university training and upgrading of vocational training, such as in the example of the High Diploma in Surveying and Land Administration now being offered by the Polytechnic School in Laos.”*

## **2.5 Improved Land Registration**

This component focused on implementing the Land Parcel Registration System (LPRS) in each province where systematic registration is implemented. The regulations supporting the LPRS were designed to facilitate decentralisation to the district level and to formalise the existing unregulated system of land document registration. A work instruction and training manual on the system were prepared and a handbook on document registration was prepared for the *Nai Baan* (village head) and District Land Office staff. Land registration training was successfully provided to the *Nai Baan*, other village officials, notaries and bank staff on the theory and practical applications of work instructions and operation manuals. Publicity on security of land title, steps in completing contracts and registration document lodgement, and the subsequent use of land titles as collateral, were prepared to supplement the handbooks.

In the past 12 months, 17,000 land transactions were recorded for titled land within the new LPRS. This very encouraging figure directly indicates substantial Government revenue generation. The increased LPRS activity is most pronounced in Vientiane Capital City, which, as the most economically active region in the Lao PDR, has been a priority area for systematic registration. There are presently no data or research material available that suggest what percentage of actual land transactions are being registered.

A proposal was developed for the gradual introduction of computerisation of the LPRS. The first phase of this system was the development of computer based records software for use by the Systematic Adjudication Teams (SATs). This will streamline preparation of documents and reports and facilitate the direct transfer of data from the field to the land office.

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<sup>4</sup> Capacity Building for Land Administration in East Asia: Seeking Effective Approaches for the 21<sup>st</sup> Century, Malcolm D. Childress; funded by the Food and Agricultural Organisation of the United Nations; Nov 2002

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## 2.6 Valuation System

The Valuation Information System (VIS), in both manual and computerised formats, were developed and established in Vientiane Prefecture and five of the project provinces. It provided an equitable and transparent system for the determination of taxes and charges based on land transactions and a foundation for increased GoL revenue. The result is that people know how much they will pay before a decision is made to buy or sell land, it is easy to calculate the registration fee, and there is no discretion about the fee to be charged.

The advantage of the valuation system developed is that, although property valuations are used to determine the values to be used in the valuation rate tables, the registration fee that is paid is not dependent upon the declared sale price, which in many cases is grossly understated.

## 2.7 Gender Equity

An early report on gender, funded by AusAID, indicated a number of deficiencies in Customer Relations and Services (CRS) effectiveness and women's awareness of their rights in land registration. As a result, a formal link was developed with the Lao Women's Union (LWU) to assist in conducting meetings at the village level, and providing better information on gender issues. Gender disaggregated data currently shows that 28% of all land parcels are registered in the name of a female only, 41% in joint names, and 20% in the name of a male. The remaining 11% mainly is State land.

In the Lao PDR, men and women are equally entitled to hold and register land. Land registered in the name of a woman prior to her marriage remains her individual property and is not included in the joint property acquired during marriage. Research undertaken by the advisers, and also the World Bank's Social Assessment Survey (SAS), indicates that this entitlement is being upheld. The SAS (2003) stated:

*“The women's sector has arguably received the greatest social benefit from the LLTP. Separate FGDs [focussed group discussions] for women in all the served provinces attest to the effectiveness of the LLTP, especially the Gender and Development component of the Customer Relations Services (CRS), in raising awareness of women over their rights to inherited and conjugal property and their indispensable participation in decision-making over the use, transfer, and sale or mortgage of these lands. An indicator for the empowerment of women is the increased number of land titles placed under their name or jointly with their husband's in the six served provinces. Compared to unserved provinces, the first six provinces have made considerable progress in this regard.”*

However the study also stated that:

*“...control and power over the use of resources accessed through the use of the title can still remain lopsidedly in the man's favour.”*

The study concluded that this was due to a number of factors including females' lower levels of education, and the male being perceived as the 'business person' in the family.

As stated in the FAO approach to land tenure, "Dissemination programmes are needed to complement legal reforms" (FAO, 2002) On the LLTP, specific women's only education and information programs have been developed that ensure women are provided with accurate, easily understood information on their rights, and procedures for ensuring their interests in land are protected. There is an opportunity for improvements to education programs to ensure women's rights are also protected after first time registration and during derivative registration activities.

### **3. LESSONS LEARNT – OPPORTUNITIES FOR IMPROVEMENT**

#### **3.1 Management**

The project represented a major and rapid injection of resources into a small and very inexperienced agency. The capacity of the implementing agency to manage and mobilise these resources to meet the project timetable was invariably over-estimated. This lesson can be learned from the low level of budget (loan) disbursement in the early stages of the project, and the extension of the project loan period. In practice, the capacity of the DoL to implement the project was affected by the low level of management skills in; (i) project planning, especially forward planning of land registration activities; (ii) general management in a situation where activities have increased in size and complexity over the duration of the project; (iii) policy development and implementation; and (iv) community development and awareness programs.

#### **3.2 Capacity Building and Organisational Arrangements**

As mentioned earlier, when the pilot project activities started in 1995, the then Department of Housing and Land comprised 11 staff of whom only three had a technical background in land administration related activities. The project expansion to a point where, in 2003, there were 660 personnel undertaking field adjudication activities, and in excess of 400 staff in nine provincial land offices, was a challenge.

During the early project years the outputs, especially in relation to systematic adjudication, were below planned targets, resulting in a significant under expenditure of International Development Assistance loan funds. Given the initial low level of capacity within the Department of Lands, this was not unexpected and justified the progressive and controlled expansion of project activities and capacity building. Limitations were placed on a number of operational procedures by the Government of Lao, due mainly to an unreasonably conservative approach that included inefficient committee procedures for checking documentation and onerous requirements for authorisation signatures, slower progress than anticipated resulted.

Continual pressure was placed on the Department of Lands to increase outputs with limited results. Over several years the pressure increased until the Government of Lao could see no other alternative but to create a new agency within which to run the project. This removed it



from what was seen as some of the inefficiencies within which it had to operate. It was unfortunate that there was limited consultation on this institutional solution arrangement and it became an increasing problem.

The decision resulted in the creation of two organisations; one for managing project related land registration activities, and one to manage land registration activities not related to the project. This created many problems. Some activities were funded by the project and others were not. All were dependent upon which parts of the old organisation ended up in the two new structures.

It took some time before it was realised that the split was creating major institutional and management difficulties with institutional capacity building impossible to implement. Ultimately the two organisations were brought back together as a more logically structured Department of Lands, but it was some time before it was possible to create a united department that could lead land administration development for the country.

### **3.3 Limited Technical Capacity**

The Lao PDR is coming from a comparatively low resource base, in terms of institutional size, staff numbers and skills for the region. People's ability to adapt to new techniques and procedures is commensurately low, and the introduction of new technology has required greater attention than anticipated.

The introduction of relatively sophisticated survey and computer equipment presented some management problems in itself. Failure by management to appreciate the large amount of training required to support the introduction of new procedures and technology has hampered the development of sustainability in a number of project areas. Operational delays were frustratingly made worse by the failure to budget the time and money for regular maintenance and the rotation of equipment for servicing. Although the introduction of technology created problems, it is necessary to continue to move the Project forward in a controlled way once the manual systems have been developed and institutionalised to provide efficiency and sustainability of operations.

### **3.4 Training**

Projects like the Lao Land Titling project are about introducing change and invariably this change process has the full endorsement of the government. The implementing agency must then ensure all efforts to achieve sustainability. On the Lao project, there has been an inadequate appreciation of the importance of training in developing sustainable activities and especially a sustainable national land registration system.

The failure to focus on training, especially in a situation where personnel have limited expertise, results in them having difficulties in identifying procedural problems, monitoring project activities, and in developing solutions to problems. There are a limited number of personnel available in the DoL with the necessary skills to perform important project and technical activities. This situation, and the fact that staff movements tend to be frequent and unplanned, renders sustainability vulnerable and not subject to normal management controls.

Another area of training that requires specific attention in countries like Laos is English language training. Software, training manuals and text books are not available in the Lao language. This means that staff are required to have a good understanding of English if widely available technology is to be successfully implemented. In the DoL there are very few staff who are able to communicate in English and only two in the technological sections of the Department. Unfortunately language training has been assigned a low priority with limited funding being assigned to it. Capacity building required to implement technology is compounded by limited English language skills and limited tertiary education.

A key lesson to be learnt from the Lao Land Titling Project is that to build sustainability there can never be too much money spent on well-designed, targeted, carefully planned and scheduled training.

### **3.5 Communal and Customary Rights**

The issue of communal and customary rights in Lao PDR still is unaddressed. A communal rights study was proposed in Phase I of the project but never eventuated. The study was proposed for the first year of Phase II but has been delayed. As the project expands beyond the urban and peri urban areas, communal rights issues gain increasing importance and must be addressed. Some initial research in completed project villages has already highlighted the fact that communal lands issues have been encountered. Without clear policy direction, the handling of communal rights is haphazard and often inequitable decisions are being made.

Failure to address communal and customary rights as part of the broader land registration agenda has already resulted in conflict between customary systems and the legislative land registration system. It is reasonable to assume that in cases of disputes, communities will resort to resolving land issues through prevailing customary processes. This could result in the recognition of land use rights being, once again, moved outside of the formal land registration system.

It will be at least another 12 to 18 months before a communal rights study is completed and some significant period after that before relevant legislation and procedures are implemented. In the mean time, it is reasonable to assume that inappropriate and incorrect decisions will be made about land use rights on communal lands. This highlights the importance of prioritising project studies that address dominant social issues affecting land use practices and ensure they are undertaken early in a project so that appropriate safeguards can be developed and implemented in a timely manner.

### **3.6 Mixed Functions in the Department of Lands**

The principle role of the DoL is to register people's rights to land. The majority of its organisational structure is focussed on associated activities such as legislative support, cadastral surveying, land valuation and land registration. A small section within the department (four staff) has responsibility for managing the collection of land tax throughout the country. The implications to the department are that many government officials and members of the public still see the department as a land tax collection department and not

associated with land registration. Numerous times during the year many staff are taken away from Central office and PLO land registration activities to collect land tax.

The situation now is that revenue generated from land registration is increasing at a greater rate than land tax revenue, and this is gradually helping to change people's perceptions. One of the best ways to improve the public's perceptions of the Department is to transfer the land tax function to a more appropriate location within the Ministry of Finance.

### **3.7 Community Relations**

In the early years of the project the DoL management was reluctant to implement community relations activities as part of the systematic registration process. This reflected the absence of any culture of customer service within the public sector in general, and the DoL in particular. There was also some confusion in the combination of the terms Customer Relations and Services (CES) and Gender and Development (GAD).

The lesson is clear that CRS and GAD need to be much broader in scope than public relations and promotion. The term CRS in itself does not cover the full range of community awareness and education needed to maximise the social and economic benefits that might arise from the project. Historically, in many development projects around the World, the term extension has been used to describe the type of service that would benefit this project. Extension is a collection of activities that aim to extend and explain concepts, services and benefits to potential beneficiaries. The activities can include public forums, workshops, mass-media information campaigns, focus groups, training programmes, action research, amongst others. Beneficiaries must not only be aware that they will receive a title certificate manifesting their land rights, but they must also be informed of the value which accrues to the holder of such rights and the means by which the value can be realised. The present arrangements, rather than being community centred, tend to be "top down" in content and delivery.

The development of improved Information, Education and Communication (IEC) tools is gradually providing opportunities for better all round inclusion of the beneficiaries in the project. The new tools have also been invaluable in improving the knowledge, approach and operations of the staff at central level of DoL who are responsible for developing the communication programmes.

## **4. CONCLUSION**

The Lao Land Titling Project has undergone massive expansion since inception and the success of the project's operations is largely attributed to innovative tools designed specifically for the Project. The tools were designed to support the immediate growth and long term sustainability of the project. Establishing an In-Country Course addressed the very low skill level, trained staff and increased appropriate education facilities. Introducing the Land Parcel Registration Systems and supporting Valuation Information System now provides essential operations for a functioning land administration system in Laos. Commencing the project with the early support of legislation and continued cooperation between developments partners have considerably helped with project momentum.

Areas to improve the success and sustainability of the project are reflected in the lessons learnt during the past ten years of the Lao Land Titling Project operations. From these experiences the importance of developing the project in a controlled and progressive manner that is strongly supported by well designed institutional arrangements and an emphasis on appropriate education and up-skilling of staff are highly evident. In addition to these, mutual community awareness and communication between the project and the people are important. This aims to raise public participation and minimise disputes surfacing from introducing inappropriate systems for local practices.

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## BIOGRAPHICAL NOTES

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