

Land Privatization Practices in Different Countries - Lessons on Transparency -

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Key words: Land Privatization, Transparency, Transition Countries, Property Right, Uncertainty

SUMMARY

Many researchers and international organizations such as the World Bank, FAO, ADB, UN/ECE and USAID have implemented projects and published numerous papers to support land reform programs or land privatization in transition economies. However, compared to the early stage of transition, many countries completed land reforms and land titles have been issued, but land administration is still lacking in many terms such as accessibility, participation involvement to intensify land privatization and to provide a better service to citizens. The aim of this study in different countries is to learn from other countries experiences with respect to transparency, which will support to add a valuable empirical data to strengthen the research proposition *“More transparent land allocation procedures, then more efficient and effective implementation of land privatization law under uncertainty”*.

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1. INTRODUCTION

“The life of the law has not been logic; it has been experience” (de Soto and Cheneval 2006). Every country has its own political view, socio-economic situation and differs in their institutional behaviors and culture as well. Globally, there is no unique solution to enforce a new law successfully to meet demand of people and the society. However, learning experiences from other developed and developing countries is an important step to achieve our final goal. A successful implementation of land privatization law supports to establish a healthy land market and to promote social and economic development in both urban and rural areas of transition countries. Land reform is a key component in achieving these goals, by addressing the problem of lack of access and control over land resources by the landless and near landless rural poor (Fort, Ruben et al. 2006). Land privatization is also a form of land reform and it has been initiated in many transition countries¹ such as Mongolia, to provide individual land ownership rights to citizens, in order to enhance the access to land and other land related benefits.

However, international organizations such as the World Bank, FAO, ADB, UN/ECE and USAID have implemented projects and published numerous papers to support land reform program or land privatization in transition economies. In addition, many researchers and practitioners have analyzed negative and positive effects of land restitution in Central and Eastern Europe, and land distribution in CIC countries. More specifically, intensive economic oriented studies have analyzed rural land market development in many transition countries (Lerman 2003; Spoor 2003; Swinnen and Vranken 2005). Although, analysis of legal and institutional aspects of privatization in agriculture land is been investigated by many researchers (Rozelle and Swinnen 2000; Ho and Spoor 2006; Lerman and Shagaida 2007). That way, it is making significant progress and already provides enormous academic and managerial contributions for the implementation of land privatization law in transition nations.

Thus, compared to the early stage of transition many countries completed land reforms and issued land titles (Swinnen and Vranken 2004), but land administration is still lacking in many terms such as accessibility, participation involvement to intensify land privatization and to provide a better services to citizens (Deininger 2003; Nixson and Walters 2006; Lerman and Shagaida 2007; Bagdai, Veen et al. 2009). In many CIC nations, the evolution of legal, institutional, and financial issues associated with real property ownership and the protection of

¹ CEE countries: Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Bosnia & Herzegovina, Croatia, Republic of Macedonia, Montenegro, Serbia; CIC countries: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan; Asian countries: China, Cambodia, Laos, Mongolia, Thailand, Vietnam.

property rights of those with interests in real property are lacking (MacNeill, Ford et al. 1998) and remaining constraints on the development of land markets in transition still exist, because of lack of institutions for enforcing contracts and lack of transparency and information (Swinnen and Vranken 2004; Burger 2006).

Many countries produced a large numbers of decrees and laws, but most remained paper tigers, in the absence of enforcement mechanisms (Spoor 2003). In a previous study, a pilot study in Mongolia (Bagdai, Veen et al. 2009) demonstrated that the current processes for land privatization are incomplete and slow, with many steps, lack of coordination between stakeholders and considerable duplication. The degree of uncertainty, as experienced by citizens and officials is high, which hampers a successful implementation of the new land privatization law. However, a research proposition is developed based on academic evidence, and it is supported by empirical data: *“If more transparent registration procedures then more efficient and effective implementation of land privatization law under uncertainty”*. Access to information, participation and corruption are key elements to describe transparency in relation to land privatization and the specific indicators were identified to test the proposition. The aim of this comparative study in different countries is to learn from other countries experiences, which supported to add valuable empirical data to strengthen the research proposition and to increase reliability of the research.

2. LAND PRIVATIZATION AND CHALLENGES

Land privatization should serve the people, and result in benefits to government and vice versa. In fact, that is not always a case in real life situation, particularly in transition countries. Understanding the origins of property rights and their evolution over time is important to appreciate how property rights to land affect households' behavior and it can, in turn, be influenced by government policy (Deininger 2003). A general theoretical framework related to land policy and land privatization is described in this section. Tenure security is highly valued, but in many contexts, existing land administration fails to provide land ownership security because of lack of transparency at institutional level. The reason, security of property rights is discussed as a fundamental issue to establish a healthy land market and to facilitate socio-economic development of the country.

2.1 Land privatization a form of Land reform

Many global and national policy documents challenge that land administration systems need to adopt a new strategies to cope with a poor land management, sustainable development and economic growth (Molen 2006). Land policy is a part of the national policy on promoting such objectives as economic development, social justice and equity and political stability. Land policies associated with land privatization include security of tenure; land markets (particularly land transactions and access to credit); real property taxation; sustainable management and control of land use, natural resources and the environment; the provision of land for poor, ethnic minorities and woman; and measures to prevent land speculation and to manage land disputes (Enemark 2005). The term “Land reform” has different meanings (UN/ECE 1996), and it is concerned with intervention in the prevailing pattern of land

ownership, control and usage (Macmillan 2000). May (2007) addressed in his research that land reform involves the restoration of land rights to the previous owners, a process known as land restitution. Land reform may involve the redistribution of land rights, land consolidation and changes in land tenure.

Land privatization is also a form of land reform. The main goal of land privatization is to improve livelihood opportunities and to enhancing access to land (May and Lahiff 2007). However, land privatization is an unambiguous practice of subdivision/restitution, when state land ownership is transferred to individual citizens with a bundle of rights². Unfortunately, not all countries are providing full ownership rights during privatization and there are some restrictions. Particularly, § 4.1.2 discusses on land rights in different transition country context. In general, regarding to privatization Savas (1987) conceptualized that privatization capitalizes on this underappreciated truism and takes advantage of the full array of ownership and operating relations to serve the public interests by satisfying people's wants and needs. This paper argues that transparency in land administration can be a vital issue to implement land privatization to serve people better by improving access to information and participation involvement. The theoretical background on transparency and their relationship with uncertainty has been discussed in a previous paper (Bagdai, Veen et al. 2009) and there is no obligation to repeat everything in this paper. However, some specific points will be highlighted.

In globally, land reforms have been successful in Asian countries such as Japan, the Republic of Korea, Taiwan and significantly contributed to the rapid growth of the region by eliminating the landlord class and providing the basis for an equitable distribution of the benefits of growth (Richard 2002; Deininger 2003), and yet, at the same time remain incomplete in many countries by various reasons. Rozelle and Swinnen (2000) specified some indicators on how to measure the success and failure case of land reforms. One of those indicators explicitly related to institutional aspect. They emphasize that why China and Vietnam have been successful in agricultural land reform, because producers have a good property rights and incentives, and once exchange is being facilitated by functioning market oriented institutions. However, transition has also led to increasing inequalities between the agricultural and non-agricultural population, and substantial institutional issues remain to be fully addressed (Jia and Fock 2007). Deninger (2003) stated that one of the success factors of land reform associated with increased security of tenure under different modalities of land ownership and the implementation process should be carried out in transparent way. The causes for the failure (or less successful) of Land Reform Programs can be very complex. The major problems with regards to the implementation of Land Reform are the following (GTZ 1998; Deininger 2003; Simoneti, Damijan et al. 2005; Swinnen and Vranken 2005; Ho and Spoor 2006; Lerman and Shagaida 2007):

- Unsatisfactory financing for ambitious land reform programs (lacking financial resources for purchasing of land or for compiling a new land register);

²Full bundle of land rights mean to be in legitimate control of land with the right to dispose of this land, 3.1.2 Land Law of Mongolia

- Unclearly formulated land laws and regulations or ad hoc legislation produce lengthy court trails delaying the reform;
- Uncertainties about existing land rights;
- Unsatisfactory competence of the administration for the implementation of the reforms and insufficient and often changing personnel and;
- Lack of institutional transparency
- Lack of information and complex land administration procedures.

Libecap (1989) states that a slow, incomplete and controversial privatization efforts contributed to a stagnation of the economies in Russia, the Ukraine, and other transition economies. Many EEC countries became members of the EU³, but the issue of land ownership is still a major concern in those countries such as Hungary. Burger (2006) explains that the land market is still weak in Hungary, because of uncertainties in the market compared to western European countries. A major cause is in the core of Europe; in those countries was industrialization, rapid growth occurred much earlier than in ECE, agricultural reforms were generally carried out in the 18th century (Swinen 2002; Burger 2006). In addition, in Estonia³ (which is now not on the list of transition countries) the registration of land and dissemination of land information is well organized, but lack of transparent land policy incapacitates the system from optimally serving land-management aims (Lemmens 2008).

2.2 Secure property rights to land – Why is it important?

Property rights are human rights and naturally linked to housing and land rights (de Soto and Cheneval 2006). This section seeks to explain more specifically why a secure land property right to land is an important issue, because secure property rights to land are a fundamental issue in the functioning of land markets and facilitating socio-economic development of the country. Soto (2003) argues that security is principally focused on producing trust in transactions so that people can more easily make their assets lead a parallel life as capital. Although, he argues that without security of tenure – whether formal, informal or in other traditional or customary forms – people's housing, land, and property rights are permanently under threat and the risk of forced eviction, displacement or other forms of dispossession are good ever-present (de Soto 2003). Primary issues to increase the security of property rights, legal and institutional issues need to be tackled⁴. The rapid transition from a command economy to a free market economy requires institutional change (Dekker 2001). Macmillan (2000) highlighted in his research that markets will only allocate resources efficiently if a range of institutional arrangements prevail, such as perfect land information and access to it.

³ Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia

⁴On the legal side, the definition of property rights to land and the way in which people can acquire them must be clear and equitable, in line with practice on the ground; rights must be sufficiently long term; and risks of losing them to discretionary bureaucratic behavior must be eliminated. From institutional side, procedures need to be formulated, and institutions need to be accessible, and service should be provided effectively and low cost Deininger, K. W. (2003). Land policies for growth and poverty reduction. Oxford etc. Washington, D.C., Oxford University Press
The World Bank.

Poor institutional arrangements and processes can lead to bureaucracy, slow and costly transactions, corruption, land appeal, and increase uncertainty in decision-making level. From the institutional side, land agencies have to deal with enormous amounts of uncertainties due to unstable and unclear strategies, institutional arrangements, incomplete land data, and procedures, and other uncertain factors such as human and technical resources (Bagdai, Veen et al. 2009).

In the west, every asset, every piece of land, every house, every chattel – is formally fixed in updated records governed by rules contained in the property system and their property rights are secure (de Soto 2003). However, in situation of transition countries, all have a formal property or land administration system; unfortunately the majority part of the population cannot gain access to system. Spoor (2004) emphasizes that in the case of Central Asian countries only scattered data are available, these indicate that substantial inequality in land ownership or access to land exists in Kazakhstan and Kyrgyzstan. Unfortunately, lack of access to information leads corruption and reared its head in the process of privatizing public land (USAID 2005); A pilot study in Mongolia also illustrated that land rights are allocated in a highly non-transparent manner (Bagdai, Veen et al. 2009). Land privatization provides a private ownership right to land and it is important to distinguish how secure rights are subsisting and how to create such rights in transition economies. Some empirical evidences based on key elements such as access to information, participation and corruption illustrated in § 4.2 to answer this question.

In addition, land use planning is one of the major issues for land allocation processes. Unfortunately, in many transition countries the land allocation process is not associated with land use planning, which is also creates uncertainty for potential landowners to own a piece of land. As stated in a previous paper, the land allocation process is not clear for Mongolian citizens and the lack of land use planning make potential landowners exhausted of their visits to all the various land related offices, to acquire a piece of land for ownership “where and how and how much” (Bagdai, Veen et al. 2009). Where discrepancies do exist between land titles or cadastral plans and the physical land pattern, then there is a high potential for disagreement and boundary disputes, which would cause significant disruption to land transactions and impede efficient operation of any land market (Cashin and McGrath 2006).

All this implies to improve security of land rights during the implementation of land privatization law, which are embedded in many transition countries. Along this line, this paper argues that as stated in the previous research, transparency means a way of improving access to information and participatory involvement, which is expected to increase security of land property, promote efficient processes and reduce corruption with respect to the successful implementation of land privatization law.

3. METHODS AND MATERIALS

In general, the research purpose is descriptive to describe a situation of special phenomena such as land privatization from a broad observation to particular country context in relation to the key elements. Descriptive research is used to obtain information concerning the current

status of the phenomena to describe “What exists” with respect to variables or condition in a situation⁵ and is a very popular approach used for social studies (Babbie 2003).

Comparative research methods have long been used in cross-cultural studies to identify, analyze and explain similarities and differences across societies (Hantrais 1995). This research seeks to examine land privatization practices in transition countries and to select an appropriate country out of 22 countries⁶ for detail variable- oriented analysis with respect to key elements such as access to information, public participation and corruption.

The extensive literature survey method was employed at this level to collect data and obtain a deeper understanding of this social phenomenon in the different country contexts. In this paper we do not test proposition, because of data constraints. However, the available empirical data in Russia and Sweden allow for a rich description of access to information, participation and corruption in order to describe transparency in land administration systems in different country contexts. The weakness of the study limits by literature survey.

4. LAND PRIVATIZATION PRACTICES IN TRANSITION COUNTRIES

The progress of the implementation of land privatization law in transition countries is diverse, and it depends on their policy, strategy and culture. However, such markets do not emerge automatically, it requires a high level of institutional and legal infrastructure that is still lacking in many of the transition countries (Deininger 2003). This section reviews the general strategies of land privatization policy in transition countries to describe the current situation of land privatization in transition, and to select an appropriate country for advanced analysis.

4.1 General observation

Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia have completed the transition process when they joined the EU on 1 May 2004⁵. The CEE countries all allow full private ownership of all types of land; generally privatized land by restituting it to its former owners in the form of physical plots (Deininger 2003), which is relatively different case compare to Mongolia. Nowadays, 25 countries are defined as transitional based on a set of indicators: large and small scale of privatization, governance, and price liberalization, foreign exchange system, competition policy, banking reform, securities markets and infrastructure reform⁶ (Table 1).

Group No	Transition countries ⁶
1. Asia	Cambodia, China, Laos, Mongolia, Vietnam
2. Central/Eastern Europe	Albania, Bosnia & Herzegovina, Croatia, Republic of Macedonia Montenegro, Serbia
3. CIC countries	Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic Moldova, Russia, Tajikistan, Ukraine, Uzbekistan

Table 1; List of transition countries by year 2009

⁵ <http://www.okstate.edu>

⁶ http://en.wikipedia.org/wiki/Transition_economy (this page was last visited on 11 March 2009)

Main question in this section is how to select an appropriate country out of 22, which is similar to Mongolia for detailed analysis? In order to make a right selection, in below three general steps are described below to sort out countries based on the following criteria:

- political reason
- main characteristics of land privatization
- availability of scientific materials

4.1.1. Political reason

The political situation is a starting point for every country's development and a significant issue in decision-making on legal aspect, such as land privatization. Countries Albania, Bosnia & Herzegovina, Croatia, Republic of, Macedonia, Montenegro, and Serbia are special in political situation compared to other transition countries, particularly to Mongolia. Besides, privatization process started over a decade ago (Gerber and Giovarelli 2005), but political instability of the country inducing a high negative impact on the development of an efficient and effective land market.

Private ownership of land is a legal reality in all *Balkans* countries, but ongoing political instability has impeded the land market development⁹, which are relatively different than other transition countries. As stated in an FAO document, in the *In Albania*, by 1994, over 94 percent of all land available for distribution had been de-collectivized and privatized; in Former Yugoslav Republic of *Macedonia* approximately 85 percent of agriculture land is privately owned and farmed. In *Bosnia and Herzegovina*, about 94 percent of agriculture land is privately owned; in *Serbia* and *Montenegro* about 86 percent and in *Croatia* 83 percent of agriculture land privately owned. Statistical data shows that high percentage of private land exists in *Balkans* countries, but land transactions and land markets in these countries are normally infrequent, instable, risky, inefficient and ineffective. Albania has progressed to develop a land market compared to other *Balkans* countries and it is the only country outside of the former Soviet Union that had to switch from exclusive state ownership to private ownership of land (Zvi, Csaba et al. 2004).

4.1.2 Main characteristics of land privatization

16 countries remain left for the next analysis. However, it is important to distinguish how a pattern of land privatization differentiates among countries. In general, countries in transition are varying from each other by their history, strategy, legal transferability and the size of cropland, which are main characteristics of land privatization were performed to select the specific country for further analysis.

Related land laws and land privatization strategy

The result of descriptive comparison shows that *China and Vietnam* have a relatively long-term land strategy. In *China* the approach started from year 1949 in terms of land policy such

as redistribution, cooperatives, collectives and household responsibility system. The government of *Vietnam* has undertaken radical land reforms towards land privatization following the Doi Moi reform policies launched in 1986³. In 1988, the first Land law passed by National Assembly to regulate land from cooperatives to individual households (Vo 2005). Although, it is enough to demonstrate the statistical information in order to differentiate *China* from other transition countries. Roughly seven hundred and fifty to eight hundred million of *China's* 1.3 billion people live in the countryside, and 200 million farm families to the land they farm continue to change, in ways that may well be decisive for *China's* continuing economic success and its prospects for political evolution (de Soto and Cheneval 2006).

Cambodia began to privatize land in 1989 to provide private land rights from collectively owned land to the population. Unfortunately, land not properly documented through the land reform 1989-1992, and massive land grabbing started especially in Phnom Penh. However, the 2001 Land Law of *Cambodia* provides a foundation for land administration, land management and land distribution with objectives (1) strengthen land tenure security and land markets; (2) manage land and natural resources in an equitable, sustainable matter; (3) promote equitable land distribution⁷. *Laos* is in beginning stage of transition period; compare with the other progressive neighbors *Cambodia*, *Vietnam* and *Thailand*. The passage of the Land Law by *Laos's* National Assembly on July 20, 2001 is a major step forward toward land reform in the country. In fact, land distributed using lottery method, for example Ballard (2003) is study in Ban Pha Thao area shows that the distribution was unequal because of limited land resources in terms of both quality and quantity. The legal and institutional framework in those countries is still weak to implement the law successfully.

Transition from planned economy to market oriented economy in the Commonwealth of Independent States (CIS) is a more intricate and long-lasting process the same as *Mongolia*. In particular, privatization was effected in a non-transparent and chaotic manner, which in the case of *Russia* and land reform was mostly very partial and restructuring of the farm sector slow (Spoor 2003). All CIS countries were characterized by large-scale collective farming (Deininger 2003), which started early 1990s. The CIS countries are characterized by greater variation than CEE countries concerning the recognition of private ownership rights (Deininger 2003). However, even within the CIS countries land privatization strategy varies from nation to nation; many of them experienced with the land distribution for farm restructuring except countries *Belarus*, *Kazakhstan*, *Tajikistan*, and *Uzbekistan*, which are remain unclear on their strategies regard to land privatization.

Potential private landownership and allocation strategy

Armenia, *Azerbaijan*, *Georgia*, the *Kyrgyz Republic*, *Moldova*, *Russia*, and *Ukraine* allow citizens to hold private property to all type of land, but still allocation strategy differs depend on their legal transferability of land. *Belarus* and *Kazakhstan* recognize rights only to household plots, other countries *Cambodia*, *China*, *Laos*, *Vietnam*, *Tajikistan* and *Uzbekistan* even do not recognize private ownership rights, only restricted by lease and use rights. Actually, in the case of *Armenia*, *Azerbaijan*, *Georgia* and *Moldova* recognized private ownership of land with a bundle of rights, which is more market oriented compare to other

transition countries. While the restrictions on land rights, their transferability and land shares made it more difficult for individuals to take the risk of establishing private farms (Deininger 2003) and less confident to make an investment in their land. For example, by 2000 only five percent of urban land had been privatized in *Russia* (Leonid 2002), because of lack of definitions provided by Russian law. However, in late 2001 Russia's new Land code came into effect and provided ownership right on urban land (Federation; 2001; Sarkisov and Cleasby 2002).

Legal transferability of land

In *China*, the first land redistribution activity started in early 1949 to eliminate landowning by elite, but nowadays all land in *China* is owned by the state or collectives and private land ownership does not exist (Renzhong and Chengyun 2006).

Security of land tenure is an actual problem in *Cambodia*; the term of "private land" is more an indication of the rights of decision-making rather than legal possession, which include habitation rights, usufruct rights, mortgages, and pledges (Halabi 2005). However, a new Land Law of Cambodia challenges to create a systematic registration of titles for all land in *Cambodia* with provisions to ensure transparent processes and established special commission to resolve land disputes⁷,

In *Laos*, all land is owned by the national community, although the state provides people with long-term land use rights, but not the right to actually own land as commodity (Brett 2003).

In Vietnam, farmers now hold long term use rights to land which can be transferred, exchanged, mortgaged, and inherited (UNDP 1993; Vien 2006). Vietnam followed a similar approach with China, which indicates that agriculture output also sharply increased during the first decade of reform (Rozelle and Swinnen 2000). However, landownership right is not recognized by individual citizens, land is still owned by the state.

There are three different kinds of views in terms of transferability; countries such as *Armenia*, *Azerbaijan*, *Georgia*, and *Moldova* allow citizens to hold private land ownership with a full bundle of rights. However, while uncertainty persists over ownership it is impossible to use land as collateral for mortgages (Cashin and McGrath 2006). *Russia*, *Ukraine* and *Uzbekistan* also legally recognize private ownership rights, but buying and selling restricted in practice. However, the Russian new Land Code (Sarkisov and Cleasby 2002), which creates legal basis to transfer state-owned urban land to private ownership with a bundle of rights. *Belarus*, *Kazakhstan*, *Tajikistan* and *Uzbekistan* legally do not recognize private land ownership, but land transaction approach is different in relation to their strategy (Zvi, Csaba et al. 2004).

As a result, in terms of their strategy from Asian countries China, Thailand, Vietnam, and from CIC Belarus, Kazakhstan, Tajikistan, Uzbekistan are different and also restricted

⁷ <http://www.adb.org>

transferability in relation to their strategy. In addition, countries such as Laos, Cambodia, and Kyrgyz Republic are varying land transferability or either none.

Statistical comparison on cropland

CIS countries have much experience to privatize agricultural land (agrarian reform), which is necessary pre-conditions for the development of agriculture land markets in Mongolia. However, the proportion of cropland to total land area is also an important factor to select a similar country to Mongolia for detailed analysis. Livestock production from pasturelands is a mainstay of the Mongolian economy and society (Tumenbayar, 2001), because more than 90% of agriculture land is under the pastureland. The statistical data for the year 2008 shows about 42.2 million head of livestock in Mongolia and number of animals increasing sharply every year. It is one of the few remaining countries with a nomadic lifestyle. In fact, land shall be allocated to Citizens for the following purposes: for family needs and for commercial purposes⁸ (GOM 2002), which only% of the total area.

Figure 1 summarizes that Moldova (54,5%) and Ukraine (53,8%), which are leading countries in cropland cultivation compared to other transition countries. In the next, Belarus (26,8%), Azerbaijan (20,6%), Cambodia (20,4), Armenia (16,8%), China (14,9%), Georgia (11,5%) and Uzbekistan (10,5%) that indicates the major part of the rural population dependent from the cropland development, which is the source of their livelihood. Other transition countries such as Kazakhstan (8,*3%), Russia (7,2%), Kyrgyz Republic (6,6%), and Laos (4%) much low than other transition countries, in fact still high compare to Mongolia. Nevertheless, countries like Armenia, Azerbaijan, Georgia and Moldova have been a similar to Mongolia by major characteristics of land privatization, but in terms of cropland growth they are very different, which could be less valuable to make a comparison with Mongolia. Institutional and legal infrastructure of those countries might be special to functioning land administration to develop farm sector.

⁸ Art.6.1. Land for purposes other than growing crops, shall be allocated to Citizens as follows:

Art. 6.1.1. all land except public land (streets, plazas, roads, areas for resorts, pleasure trips and sports, gardens, cemeteries, dump sites, and sanitation areas) on the territories of the Capital City, cities, centers and base cities of regions, aimag and soum centers and villages, or grazing land, forest and water basin area, land for special needs, lands used for highways, [electric] lines and networks.

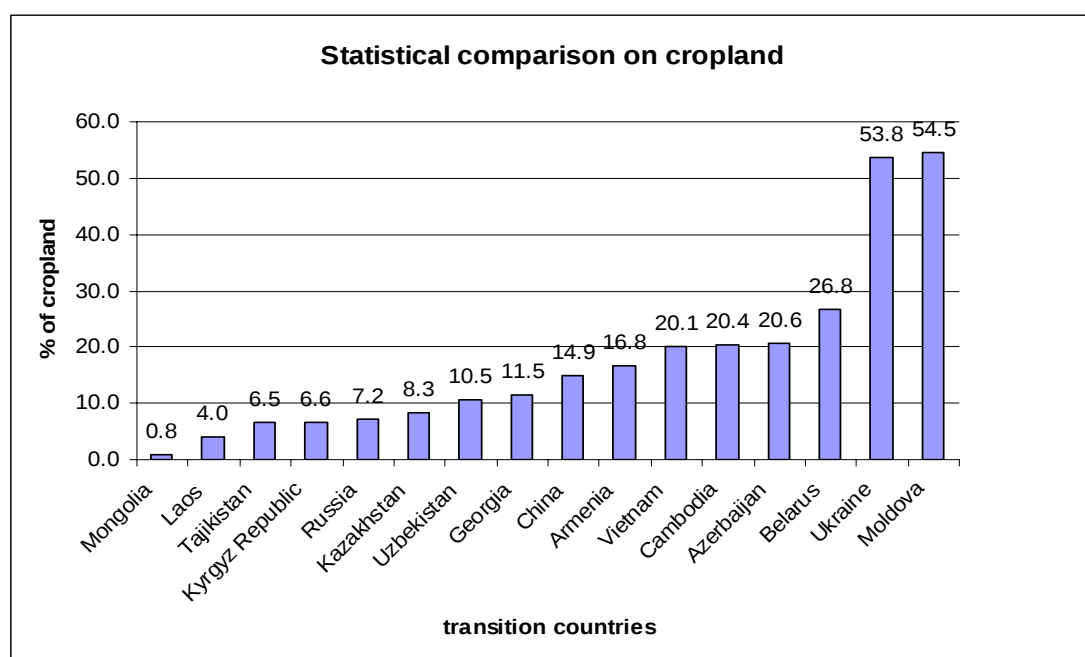


Figure 1; Statistical comparison on cropland

4.2 Variable oriented comparative analysis in different cases (Sweden and Russia)

The result of descriptive comparison demonstrates that countries are varying from each other by their land privatization history and strategy and less possibilities to find out exactly the same country to Mongolia. However, Russia, Tajikistan, Kyrgyz Republic, and Laos are available for detailed comparative analysis. In fact, many donor organizations such as World Bank⁹, USAID have been given considerable attention for the rural development of CIS countries to address land privatization problems in relation to the legal, institutional and technical aspects. That means, CIS countries must have a similar processes on land privatization that gives a signal one of CIS countries enough for further analysis. Unfortunately, the literature survey demonstrates that some countries have less data available such as Laos, by subsequent reasoning Russia was chosen purposively for the next comprehensive analysis. As we mentioned in § 4.2 detailed analysis focuses on very different cases. Sweden was selected as a case from the developed world, because land administration system is today a fully integrated and transparent system and meets the demand from the government and users on the market

In a previous study, the specific indicators were developed to describe transparency in terms of key elements such as access to information, public participation and corruption (Bagdai, Veen et al. 2009). We will discuss extensively the existing land administration procedures relation to transparency in different country context such as Sweden and Russia.

⁹ www.worldbank.com

4.2.1 Access to information

Russia – Zvi Lerman and Natalya Shagaida (2007) investigated the impacts of land reform on privatization and analyzed the development of land market transactions based on survey results carried out in 2003 in three big Russian provinces. The survey results show that there is a lack of market information pertinent to land transactions. The agents even do not have a sufficient knowledge of mechanisms and procedures necessary for registration of land transactions (Lerman and Shagaida 2007)²¹, which is in general very similar situation with Mongolia (Bagdai, Veen et al. 2009). Here we would like to demonstrate some survey results conducted by the authors in 2003 (Table 2) show that around 25% of respondents indicated lack of information on these matters was a problem for engaging in land transactions. In addition, high transaction costs and complex procedures are usually an obstacle to slow development of land market during the transition. Leonid (2002) emphasizes that lack of transparency, more specifically lack of accessibility and reliability of information was one of issues negatively affects land market development in Russia. However, one big step is that Russia's Freedom of Information (FOI)¹⁰ law was passed by the lower house of the legislature (State Duma) on January 21, 2009 and comes into effect on January 1, 2010.

Table 2; Main constraints to land registration (percent of respondents)

Constraints identified by respondents	Categories of respondents			
	All respondents (n=558)	Corporate Farms (n=142)	Peasant farms (n=214)	Household plots (n=202)
No legal pressure to register	42	44	17	69
Lack of information	18	23	11	23
High costs	19	10	34	7
Complex procedures	16	15	25	6
Clear procedures, no problem	23	23	36	9

Note: The survey results from Zvi Lerman, Natalya Shagaida, 2007

Sweden – Swedish public administration is characterized by a high degree of decentralization, independently managed and open-transparent public agencies (Ciepielewski and Ringberg 2006). In Sweden every citizen has the right to access all public and land records, this is absolutely different than transition countries that we are discussed in above. The same time it guarantees security of the ownership of real property, and land related rights for the individual and third parties (Ciepielewski and Ringberg 2006). In 2008 “Lantmateriet” merged with the land registration authority to establish more effective “one stop shop” land registration and e-land administration providing a better quality in favor for all clients and the society in general. Thus, GEO/ICT plays a crucial role for the development e-land administration¹¹ in Sweden. In addition, The Open Sweden Campaign was initiated in

¹⁰ www.freedominfo.org, last accessed 4 August, 2009

¹¹ More information about e-land administration in Sweden available at Ciepielewski, E. and P. Ringberg (2006). Development of e-Land Administration in Sweden and the next Phase. *Shaping the Change*, XXIII FIG Congress, Munich, Germany.

November 2000 by the Minister for Democratic Issues and Public Administration to increase the awareness of the access to information (Boserup and Christensen 2005).

Another issue is how to legalize the right of access to information and how it can be guaranteed by law, which is missing in many transition countries. In this line, Sweden's first Freedom of the Press Act introduced as early as 1766 and the general principle of openness is stated in an access to information act and a couple of special acts¹².

4.2.2 Participation/Stakeholders

Russia – According to mainstream western economic theory, it is crucial for any market driven economy to have a clearly defined and well-established legal and institutional framework surrounding land and key to success or failure of land privatization in transition. (Simoneti, Damijan et al. 2005; Cashin and McGrath 2006). Even when the technical and legal aspects are well taken care of, bad organizational arrangements will still be a great problem (Zevenbergen 2002). The survey results from Zvi Lerman and Natalya Shagaida (Lerman and Shagaida 2007) show that the legal registration procedures are very cumbersome, costly and time-consuming, and the reason people avoiding land registration because of such bureaucratic barriers. That means the land allocation process and the same time land registration process is must be a simple and open to the public and it requires a good coordination between the stakeholders.

A major problem in CIS countries, due to this multiple-agency situation, initial attempts at establishing an effective registration procedure were slow and costly (Cashin and McGrath 2006). Mongolia is not only the case. Gregory Kisunko and Jacqueline Coolidge (2007) argue that the elimination of unnecessary administrative barriers should help to encourage further land privatization and the development of a competitive, secondary market in commercial land in Russia. They conducted a large survey covered 15 regions, which represents all 7 Federal districts of the Russian Federation. The survey results illustrate that the procedure of land privatization under buildings is too complex and mechanisms to privatize real estate, most are not yet transparent or fair. For example, this procedure involves an average of: 11 stages, 8 different agencies, 17 different documents, 220 days and about 70,000 rubles (2,400\$) of official fees. However, in many terms Russian land administration progressing from day to day supported by the World Bank loan project "2006-2011" to develop a new cadastral system with an emphasis on IT infrastructure (Meixnar 2007), which will support to improve coordination between organizations.

Sweden – Swedish land administration has a broad programme for the development of stakeholder co-operation to achieve well developed client-oriented services, which is beneficial both to citizens and government. In this mission, stakeholder co-operation/participation is a key activity for Lantmateriet to build up, maintain and supply geographic and land information for various stakeholders (Hallebro 2006). Sweden has a well-functioning and effective land administration, based on the integrated Land Information

¹² http://www.servat.unibe.ch/icl/sw03000_.html

System (LIS). Every organization or agency has a clear mandate in the processes and is responsible for its own development. The situation is different to transition countries, because who will supply information to and receive information from the information provision process is clear. Corner stones for successful participation, use and exchange of land information between organizations (producers and users) are the following (Hallebro 2006):

- common concepts and definitions;
- common information needs for both base data and meta data;
- common definitions of the objects the information describes;
- agreement on how objects will be described;
- system independent models for information exchange and dissemination, models that also allow exchange of altered data only;
- common technical interface, i.e. a standardized exchange format based on XML/GML. In order to define all requirements and standards of the system membership in the board from each organization is established by the government decision.

Registering property

Table 3 summarizes the real estate transfer process in Russia and Sweden. Registering property is part of the land administration process, but this is an excellent example to show how transparent system subsists in both countries. For example, in Russia registration place takes simultaneously with another process it is difficult to distinguish how long it will take and how much it will cost. The situation in Sweden is different it takes only two days to complete the registration process.

Table 3; Registering property

No	Procedure	Time to complete	Cost to complete
Russia			
1	Seller obtain the technical passport	7-30 days	Coordinate individually
2	Seller obtain the cadastral map	7-30 days	Coordinate individually
3	Seller obtain the extracts	7 days	Coordinate individually
4	Buyer or seller obtains an extract	7 days	Coordinate individually
5	Notarization	1-2 days	Coordinate individually
6	Registration of the property	30 days	Coordinate individually
Sweden			
1	Registration	2 days	SEK 825 + 3% of the value of the property

Note: <http://www.doingbusiness.org>, last accessed in 2 August, 2009

4.2.3 Corruption

In general, regard to corruption it is enough to demonstrate in which place Russia and Sweden (Table 4) rank by the Corruption Perception Index (CPI) among 180 countries determined by expert assessments and opinion surveys of International Transparency (IT).

Table 4; 2008 Corruption perception index (CPI)

Country rank	Country name	2008 CPI score	No of survey used	Confidence range
3	Sweden	9,3	6	9,2-9,4

147	Russia	2,1	8	1,9-2,5
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However, there are some positive results according to the anti-corruption policy in Russia. According to CEFIR (Center for Economic and Financial Research) in Moscow, an increase in procedural transparency for both the purchasing and leasing of land has encouraged a significant decrease in the incidents of bribe pressure on the part of bureaucrats during this procedures (CEFIR 2007).

5. DISCUSSIONS

In general, our study shows that transparency is an important tool to develop a good land administration system, which will support to implement new legal acts such as land privatization law successfully providing better services to citizens and the society. In particular, de Soto (2003) stated that long term and incremental tactics are needed to implement a privatization strategy, with a strong legislation, publicly available information, stakeholder's relations effort to press privatization, which are all relevant factors to implement a land privatization successfully. Along this line, the primary issue to be settled in order to increase an efficiency and effectiveness of land privatization is access to information and participation, which is directly related to the legal and institutional aspects. General observation of the study in transition countries describes that if property law is not well enough formulated, and complicated institutional set-up exists, then it can not address what people and society want. In order to implement the law efficient and effective way the government requires making a strong attention to improve their institutions relation to access to information, participation and to combat corruption. Nearly every transition and former communist nation has a formal property system, but the problem is that most citizens cannot gain access to it (de Soto 2003) and a bureaucratic procedures still exists. The Russian case shows that the registration procedure involves an average of: 11 stages, 8 different agencies, 17 different documents, 220 days and about 70,000 rubles (2,400\$) of official fees or property registration is not clear how long it will continue and how costly to complete the process. The situation in Sweden is completely different, because real transfer process is fast, easy and secure; it takes only two days to complete the process.

Moreover, the result of the variable-oriented analysis in different cases shows that how significant access to information and participation for the development of legal and institutional aspect of land administration system. Today Swedish has a well functioning e-land administration, which challenges to improve communications with the clients and thus getting more knowledge about the client's needs, the quality and availability of real property and geographical information, and developing the case handling system with modern techniques (Ciepielewski and Ringberg 2006). The Swedish system has an all the key factors for making information accessible and a better positioned to provide a good land administration in an efficient manner. Although, the Swedish experience shows that the one of the powerful tool to establish such transparent system is GEO/ICT. Besides, a common interest between stakeholders is a decisive, and transfer of personal data between authorities regulated by national law with obligation to serve a legitimate aim. Moreover, it is important that the right to access to information is guaranteed by laws. Bellver and Kaufmann (2005)

state that countries, which adopted the FOI laws, are the ones where citizens enjoy a greater voice and are able to demand enforce such laws and vice versa. Russia and Sweden differs a lot in the history and quality of the information they provide to citizens and other stakeholders. In addition, table 4 shows a difference between the two countries by CPI and simply can be one of the evidences for a level of transparency.

As explained in the section on theoretical background, land reform or land privatization is extremely accountable task and a long-term strategy, because every country has making a revolution on land property from state to private with a bundle of rights. Thus, security of property rights is highly valued, but in many contexts, existing land administration service is failing to provide landownership security because of lack of access to information and participation in the process. Secure rights to land encourage people to invest in improved dwellings and the land itself; the can also enable people access to public services and sources for credit (UN/HABITAT, 2008; Deininger, 2003). At this stage, it is difficult to give clear evidences on the effectiveness and efficiency of the system in both countries, because of the availability of statistical data. However, this study suggests that the research proposition can be tested and validated in different country contexts using the specified key elements and indicators.

6. CONCLUSION

From the comparative results obtained we conclude that transparency is an important issue in land administration to provide better services to citizens and other related stakeholders. This fact points toward an efficient and effective land administration system, which is beneficial to both government and citizens. The major problem regarding to the implementation of land privatization law because of lack of access to information and participation, the reason existing land administration system is fails to support a new legal arrangements in many transition countries. From a theoretical perspective, security of land rights is highly valued, but in transition countries, the existing land administration systems fail to provide land ownership security because of lack of access to land information and participation.

In many transition countries such as in Russia there is limited access to land and property information and registration procedure is timely and costly because of complexity with bureaucratic barriers. However, the Swedish case shows that access to information and participation is essential within land administration systems and it works for the people and the society. In general, data obtained from the literature survey regard to access to information and participation gives as a big overview of the importance of transparency in land administration systems and the research proposition supported by empirical evidences *“If more transparent registration procedures then more efficient and effective implementation of land privatization law under uncertainty”*..

A transparent land administration procedures support the implementation of land privatization law establishing a healthy land market and to promote socio-economic and environmental sustainability in both developed and developing countries.

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