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Good Governance in Land Administration

Principles and Good Practices



Good governance in land administration

Preface

Throughout the world, land-related development cooperation generally does not give sufficient attention to integrating governance principles and safeguards into the design, implementation and impact monitoring of land policy and administration projects.

This publication aims to draw attention to the negative impacts of weak governance in land administration and to point out the manifold benefits of good governance in the protection of property rights and the development of efficient land and property markets. It provides positive examples of good practices from around the world, as well as an overview of principles and key questions to be applied in any country for the evaluation of governance in land administration.

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Good governance in land administration – What are we talking about?

Secure tenure and access to land have been universally accepted as a fundamental element in promoting economic growth and social development. However, recent efforts to secure tenure, restore rights and enhance real property markets under pressure from increasing demand and competition for land, while partly successful, have in several developing countries led to tenure insecurity for disadvantaged groups, consolidation of wealth and marginalization of the poor. One reason has been weak governance.

While appropriate technical solutions for securing property rights have become accessible and affordable, widespread corruption, incoherent and inconsistent legal framework, weak judiciary, and poor public sector management have been recognized as the key obstacles hindering change.

Here is where good governance comes in.

Good governance in land administration aims to protect the property rights of individuals and enterprises as well as of the state by introducing such principles as transparency, accountability, rule of law, equity, participation and effectiveness into land-related public sector management.

Good governance in land administration – Why do we care?



Land administration and state land management, while perceived as securing tenure and providing access to land for everybody, have a high potential for

abuse.

In many countries corruption and abuse of power have undermined land tenure security. This has **adversely impacted the business climate and economic activities** due to increased costs of doing business, lack of confidence of the private sector in the security of property rights and underutilization of land and properties.

At the same time, high costs and inefficient, prolonged procedures related to corrupted land registrations practices have discouraged people from registering their land and properties. This further leads to **undercollection of land tax revenue**, in turn reducing government spending on public services and infrastructure.

Weak governance – Examples

Apart from generally weak public sector management, land administration is often characterized by bureaucratic and political corruption. In many developing countries, land registration agencies often are considered to be one of the most corrupt and inefficient government agencies.

Petty or **bureaucratic corruption** in land administration is mainly related to land registration, surveying and property valuation, and includes all kinds of informal payments to obtain or speed up service, to get a service that has already been paid for, to avoid inspections of a property or to pay for illegal services (e.g. registration of fraudulent titles or the undervaluation of property to save taxes).

Grand or **political corruption** (state capture) mainly concerns state land management and includes activities such as the illegal sale and lease of state land by public officials, as well as transfers of state property to political elites. Such corruption may affect other aspects of governance, for example the impartiality of courts dealing with land conflicts and litigation.

Weak governance leads to:

Insecurity of tenure

→ The absence of transparency, accountability, equity, fairness, legal security and the rule of law in land administration can easily lead to land transfers through which legitimate land users lose their possession or ownership rights.

High transactions costs

→ Informal payments that have to be made in addition to the existing taxes and fees for registering property transactions increase transaction costs.

Informal land transactions/informal property market

→ High transaction costs provide disincentives for people (especially the poor) to register property transactions, which in turn increases informality and insecurity.

Reduced private sector investment

→ Insecure property rights and high transaction costs are disincentives for private sector investment. In addition, reputable international businesses will avoid countries where they have to compromise their integrity and principles.

Land grabbing/illegal transfers of state land

→ Lack of transparency, accountability and effective mechanisms for sanctions encourage corrupt government officials to transfer state land to political elites, or for their own benefit.

Limited local revenues

→ Informal land transactions reduce revenue collected by the state in the form of taxes and fees (land tax, transfer tax, capital gains tax, registration fee etc.). Illegally transferred state land also reduces revenues the state would have collected from the legal sale and lease of public properties.

Land conflicts

→ Tenure insecurity as a consequence of weak governance often increases land conflicts – both between individuals and between individuals and the state.

Landlessness and inequitable land distribution

→ The systems that are corrupted often marginalize the poor, who may not be able to afford to legalize their transactions, leaving them with little or no protection under the law – often making them vulnerable to eviction by political elites.

Social instability, social exclusion and political instability

→ Administrative corruption and state capture reduce confidence in the government and may generate land conflicts, landlessness and even landlessness. This may undermine the political stability of the nation.

Erosion of ethics and standards of behaviour

→ A decreasing sense of obligation to pay tax, to apply for proper titles and building permits or to stick to zoning regulations are all indirect consequences from weak governance in land administration.

Unsustainable natural resources management

→ Due to illegal transfers of property rights (e.g. awarding illegal logging concessions) in forests, biosphere reserves, national parks, catchment areas of water reservoirs, protected areas and the like, natural resources are harmed or even devastated.

→ ...

Slowly but surely things fall apart ...!

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 service 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 services 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.



Benefits of good governance in land administration

... for economic growth and job opportunities

Good governance in land registration and state land management increases land tenure security, reduces conflicts, decreases transaction costs and therefore provides incentives for private sector investment.

... for the poor

Good governance in land administration favours inclusiveness: it brings the rule of law within the reach of the poor. Transparent state land management, as well as equal, cheap and fast access to land registration services, legal aid and a diversity of options providing tenure security all improve poor peoples' access to land, protect them from illegitimate evictions and improve their status and position within society.

... for the environment

Tenure security resulting from good governance creates a long-term perspective, and therefore an incentive for landowners to use their land in a sustainable manner. Transparent state land management, combined with people's participation, helps protect the environment, because there will be fewer illegal transfers of state land in environmentally sensitive areas.

... for public sector management

Weak governance and corruption in land administration lead to a high percentage of land transactions being done informally, good governance can bring land transfers back into the formal market. This will allow the state to benefit from land taxation and to better prepare and enforce land-use plans. Good governance also protects state assets from illegal exploitation and sale.

... for conflict prevention and resolution

Through good governance in land administration, conflicts over property rights that are due to bribery and fraud can be avoided. Free from corruption, courts can deliver just resolutions of land disputes.

... for individual citizens and society as a whole

Because good governance increases tenure security and reduces land conflicts, citizens feel more secure. They also gain more confidence in each other, the state and institutions. This is fundamental to sustaining social and political stability.

Good practices from around the world

Service standards and improved services

Service standards are needed to guarantee the implementation of governance principles such as efficiency, transparency, accountability, equity, security and effectiveness. Service standards define the time and cost of completing transactions to minimize corruption and to satisfy customers. Examples of good service standards are: i) **clearly** defined steps for the land registration procedure; ii) **transparent** and **fixed** fees for registration, notaries, surveying, etc. iii) use of **standard** forms; iv) **public** notice of the procedure (in offices, on the web, through leaflets etc.); and v) **complaint** mechanisms such as regular surveys, hotlines, complaints boxes etc. Another example is a fixed maximum time within which the service of registering transactions has to be completed. The successful application of service standards needs regular monitoring. Services can also be improved and made more transparent and efficient by **decentralization** and by **consolidation** of several related services into one single agency.

Example One-day standard time for land registration in Thailand

Land administration in Thailand is one of the most efficient in the world. The Thai government established a one-day service standard to register property transactions. The office staff are instructed not to leave the office before completing the processing of all documents submitted by customers on the given day. The number of staff of each office is determined by the average number of transactions, and therefore prevents work overflow. In

addition, each land office is limited to 100,000 titles. If the number of land titles exceeds 100,000, the office will be divided and a new branch will be established.

Example Web-based land information system in El Salvador

In El Salvador, the National Registry Centre (Centro Nacional de Registros, or CNR), created in 1995 by legislative decree, has become a modern decentralized institution which consolidates into one **single agency** the functions of **property registration, cadastre and mapping**, thereby facilitating simultaneous access to juridical and cadastral information for each parcel and increasing security by avoiding overlaps.

Service standards have been greatly improved and response times to client requests sharply reduced. Registration of standard real estate transactions now takes fewer than 5 days, compared to 30 to 45 days in 1997 under the old system. The average number of visits service users need to pay to CNR offices to register land transactions has been reduced from 3.5 to 1.5. Similarly, the amount of time needed to process a credit request in the modernized departments was reduced from several months to less than a month.

An important institutional development was the institutionalization of a client orientation in this public sector agency, which has turned itself into a service provider with clearly established service standards. A certification process has been instituted for CNR offices, which will guarantee better quality, transparency and accountability, including efficient client feedback mechanisms.

Good practices from around the world

Counter Offices

Land registers and cadastral offices are often a chaotic mess: files lying around, people standing everywhere – nothing looks organized. The muddle facilitates unobserved informal payments to accelerate the service. Counter offices improve orderly interface with the client and reduce bribery. Well-organized front offices, in combination with clear and short procedures, can therefore contribute significantly to the reduction of corruption and to an increase in efficiency in registering transactions, and thus to customer satisfaction.

Example Front office functions in Moscow

In Moscow's cadastre office, customer interface and better customer service have been recognized as a key element to improve the agency's image and to reduce corruption. The workflow has been reorganized and state-of-the-art technology installed. As clients come in, clear information about registering property rights, such as procedures and forms needed, is displayed on computer panels. Customers get a ticket and wait for their turn. The entire workflow is monitored by the head of the office to ensure that customers do not wait longer than the specified time. Because access to the service is provided equally to all customers, incentives for informal payments are reduced significantly.

Client Survey

The objective of a client survey is to gain insight into: i) the level of awareness and knowledge of customers regarding service standards of cadastre and land registration offices; ii) the performance of the cadastre and land registration offices in delivering their services; iii) the degree of client satisfaction with the operation of the system; and iv) stakeholder views of shortcomings in the system's functioning. The survey questions generally focus on the following topics:

- waiting and turn-around **time**: the number of visits to the various agencies, and total time spent for solving one issue
- official and non-official **costs** involved: measuring/surveying fees; registration fees; cadastre fees; notary fees; fees for middlemen; land transfer tax, non-official payments etc.;
- clients' **satisfaction** with the services provided and recommendations for improvement: In some cases, attention is also given to transactions happening "outside" the system, which are not registered as an indicator for the (non-)effectiveness of cadastre and land registry.

Examples Customers' surveys in Albania and Romania

In **Albania**, recognizing the need to improve its image and performance, the Immovable Property Registration Office undertook customer surveys in 2005. The majority of the respondents declared themselves not satisfied with the quality of service provided. The large number of steps, the frequent visits, the extensive time spent in lines at the registration offices to receive the services

Good practices from around the world

and the high level of corruption were the major complaints. As a result of the findings of this customer survey, the government of Albania has embarked on a major programme to improve the services of the Immovable Property Registration Office through streamlining of procedures, automation, improving quality of registered data and completing the first registration of all properties.

In **Romania**, less than 8 percent of the population reported that they had to make informal payments in order to have their property or tenure issue resolved, which means that the corruption is not as significant as its perception. Some clients used intermediaries to resolve real estate issues (18 percent), but most tried to solve the problems themselves. The main sources of information for clients are the cadastre and registration institutions (71 percent). The average waiting time for clients in line ranged from 47 minutes (land book offices) to 8 minutes (real estate offices). Overall, 82 percent of the clients reported that they were satisfied (55 percent) or very satisfied (27 percent) with the cadastre and land registration system.

Hotline

The objective of a hotline is to provide access to the public to launch formal **complaints** to the land registration or the cadastral authority in cases of corruption or misconduct. Complaints can be made by phone, mail or email on such matters as non-compliance with service standards and corruption of staff.

The information on how to access the hotline needs to be communicated widely through leaflets distributed to the clients. TV and radio can also serve to inform the public.

The information about the hotline should also be posted in every office and on their websites. It is important that agencies that have hotlines establish clear procedures to follow up on the complaints and communicate back to the public. This will improve the credibility of the agency and its commitment to dealing with corruption and misconduct.

Example Client survey and hotlines in Armenia

In Armenia, client surveys have been conducted, information brochures produced, complaint boxes put up and a telephone hotline to headquarters installed. This has helped to raise **awareness** at the national level of the existence and scope of bureaucratic corruption at local land registration offices. Following this, office procedures, customer reception areas and workflows were improved. In addition, several local staff members have been dismissed and replaced. The situation has **improved** a lot since these measures were implemented.

Public access to cadastre via Internet - Web-based land information systems

Publicly available digital cadastral data and ownership information through the Internet can serve several objectives:

- **Reduced time** for clients through easy and fast access to cadastral data and land registry information from home or Internet cafés.

Good practices from around the world

- **Lower costs** for clients in the form of fees and informal payments to receive data from cadastral offices and land registries.
- Greater **transparency** and fewer opportunities for bribery.
- Decreased **workload** for the cadastral and land registry office staff, which allows them to focus on transaction registration and backlog reduction (in those cases where land registration and/or cadastre are not up to date). The updated and verified cadastral and land registration information can then contribute to greater transparency, clarity and **efficiency** of the land administration.

One possible further step is the provision of an entire Land Information System through the Internet - normally for those organizations and people who are involved in the local land and service facility management, such as urban and regional planning authorities, land registry, cadastral offices, notaries, utility companies, telephone companies, building construction authorities that issue building permits, road construction authorities etc. Even banks can be given restricted access to part of the data. Depending on the objectives of the Land Information System, the data available and the institutions interested in participating, it can have different shapes. In all cases it increases transparency and efficiency of land administration and management.

Example **Access to digital cadastre and land registry through the Internet in Croatia**

In Croatia, it is possible to search cadastre as well as land registry on the internet.

Regarding **cadastre**, the available data are: parcel number, address/location, area, land use and name of the user. The search is possible by choosing the local cadastral authority and entering the cadastral district and either the parcel number or the user's sheet number. Within the Zagreb cadastre, it is also possible to search properties by choosing the address (street and house number). Within the first seven months of operation, **12 million hits** have been recorded!

Regarding the **land registry**, the available data are: cadastral number, address/location, area, land use, owner's name, all properties listed in a single owner's sheet, all mortgages and charges. The search is possible by choosing the local municipal court and entering the cadastral district and the parcel number. The search is not possible by the name of the owner, the owner's sheet number or the address of the property. This is an important security measure to guarantee data protection. For the moment, the main purpose of this website is to allow users to look up their own information as it is currently given in the land registry, though for an official extract they still need to visit the Land Registry Office. Within the first nine months of operation, already **21 million hits** have been recorded!

The **benefits** of web-based cadastre and land registry in Croatia are that the data are easy to reach, there is less queuing in cadastral and land registration offices, publicity is significantly improved and consequently there is more transparency.



Good practices from around the world

Transparent state land management – state land reforms

A lack of clearly defined **responsibilities** for public land can easily result in a de facto open-access situation: anybody can use the land, claim rights to it, sell or lease it. The result can be misuse or overuse of the land and reduced government revenues from sale or lease of the land. There are several important measures to improve state land management that also contribute to a reduction in state capture. A key prerequisite for transparent state land management is a **state land inventory**. Only when it is known (and transparent) to everyone which land belongs to the state, can public land be used for the maximum benefit of society. In a second step, it has to be clarified which institution (ministry, municipality, administration) at which level (national, regional or local) takes responsibility for this land and therefore controls the land use, the right to identify the land user, the duty to define the kind of contract (lease, concession etc.) and the right to generate income from that land. There is no single solution to this: state land can all be under one ministry, or it can be administered at the local level by the corresponding municipality. In any case, there has to be **clarity** and **transparency**.

Examples Small steps towards state land reforms

A number of countries have taken first steps of state land reform:

In **Egypt**, state land is being administered, leased or transferred by the various sectoral ministries. The government has recognized that the current structure of state land management contributes to inefficiency and non-transparent procedures. The government has initiated a process to

reform the system through consolidation of all state land management under one agency (the Ministry of Finance), the undertaking of a full inventory of state land and the development of clear and transparent procedures to manage, lease and transfer state land. The reform has just started and probably will take a few years to be completed.

In **Albania**, a law on state land and a law on the transfer of state public land to local governments have been passed recently. The laws regulate the types of properties that will be transferred, the nature of local government's rights over these properties and the process of transfer from central to local government. In a first step, the local government has to present to the Council of Ministers a list of properties that they want to have transferred. The council will react with a preliminary decision on this list, including conditions and restrictions. Within three months, the local government can oppose the list's contents. The Council of Ministers will then definitely decide on the property transfer. In case of disagreement, the local government can oppose the final decision in the district court. All properties that will be transferred will be registered in the Immovable Property Registration Office. For all immovable properties that remain in the ownership of the central government (all state private land), the Council of Ministers will determine the administrative responsibilities of the various state bodies for the administration of these properties.

The measures in both countries are aimed at improving transparency on the existence, administration and use of state land, thereby reducing illegal lease and sale of state land.



Good practices from around the world

People's participation in adjudication and demarcation

Good governance includes people's participation. A crucial step within land administration in which the affected population should be involved is the identification of parcels and their owners and the determination of boundaries. Situations where landownership is registered or boundaries are (re-)established are: systematic registration, post-conflict situations (e.g. returning refugees and resettled people), privatization of land and post-disaster situations such as after floods, hurricanes, landslides, and volcanic eruptions.

Example Community land inventory and boundary mapping after the tsunami in Bandah Aceh, Indonesia

The Indian Ocean tsunami of December 2004 has, in addition to the loss of hundred of thousands of lives, caused the destruction of many property documents in Aceh, the physical destruction of properties and loss of human memories of where properties existed.

One of the main tasks in the reconstruction process is to reconstruct property rights. In order to ensure transparency, to prevent fraud and corruption and to protect the rights of people, identification of boundaries and property claims is left to the community (with help from many of the active NGOs) in a process called "community land inventory" or „community mapping". During the community mapping, NGOs and the community members map the community and identify property boundaries and the legitimate landowners (including surviving heirs).

The finalization of the community land map requires the signed agreement of the community. Once the community mapping is completed, the signed agreement and inventory are submitted to the national land agency, which assigns surveyors to legally survey each land parcel and prepare official cadastral maps, and land adjudicators and lawyers to confirm ownership and prepare the legal documents for registration of land ownership. Prior to land title certificates being issued to owners, the land agency publicly displays the official cadastral maps and adjudicated inventory of landowners. The community then has one month to review the maps and ownership inventories, and to lodge any objections. Only after this has been completed, and there are no outstanding objections to a land parcel, will the title certificate be issued to the owner. To further ensure good governance, all land registration is free of charge.

The selection of good practices does not necessarily mean that these countries have achieved good governance in all aspects of land administration, but highlights a good practice in a specific field which deserves recognition.

Key questions to evaluate governance in land administration



- How many days/weeks/years does it take to register a property?
- How many steps are needed to register a property?
- How much informal payments have to be paid for land registration (as percentage of total registration costs)?
- Are the registered rights protected under the law?
- Are there clear and appropriate service standards?
- Are these service standards easily known to the public? Are they known by the clients?
- Is the application of these service standards regularly monitored?
- Are their complaint mechanisms for people who are not satisfied with land registration (e.g. hotline, customers' survey, complaints box)?

Acknowledgements

- Is information on properties and land ownership available to the public?
- Do the land records cover all social groups and all geographical areas, or are certain groups or areas marginalized?
- Is there a state land inventory and is it available to the public?
- Are there clear, fair and transparent rules for state land management (including regulations for leases, concessions etc.) and are they consistently applied?
- Does the government have clear, transparent and well-functioning procedures of disposing state land, including mechanisms for control and sanctions?
- Are there public displays in case of boundary demarcation, adjudication or systematic registration?
- Is there any evidence of corruption in court decisions with respect to land disputes? If so, what is the government doing about it?
- Is there any evidence of corruption in customary land administration? If so, what is the government doing about it?
- Is there any evidence that poor people are deprived of their property rights due to weak governance in land administration?
- Is there any evidence that legitimate land-owners are deprived of their property rights due to their customary origin (vague boundaries, oral proof only etc.)?

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