

# Overview of Land Administration and Management Projects in Rural and Urban Areas in Asia: Challenges, Opportunities and Recommendations<sup>7</sup>

By Tony Burns, *Land Equity International*

## Critical Land Issues in Asia

In many countries in Asia there is a continued influence of laws, procedures and processes that were introduced under colonial administration. This is the case in Indonesia where practices introduced under the Dutch administration are part of the Basic Agrarian Law (BAL)—even though the BAL is based on *adat*.<sup>8</sup> Practices introduced during the British colonization in South Asia continue to shape land records systems in this region.

Land classification is often a key feature that influences land administration in Asian countries. Private rights are typically recognized for non-forest land only, and uncertainty around forest boundaries contributes to broader tenure insecurity. There are often many institutions involved with land. In the Philippines, there are at least five government institutions responsible for rights over approximately half of the country, consequently having different definitions of what constituted the “half.” Unfortunately, there is also often a lack of clarity in roles at different levels of government.

Legal framework are often inconsistent. There is often limited technical capability to implement specified policy, laws, and procedures.

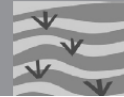
In recent years, there has been widespread issuance of large economic land concessions. Often, this has been done with little coordination and oversight, leading to serious environmental and social concerns.

## Land Interventions

In considering land interventions, it is important to realize that there is a wide range of rationales for undertaking projects. These rationales range include: land reform; land administration reform; systematic registration; public land management; tax mapping and property tax collection; and natural resource management. In comparing different projects, it is important that these different rationales are considered. There has also been a different view in the development community of the scope of land intervention and this has changed over time.

<sup>7</sup>Extracted from the presentation of Tony Burns of Land Equity International and from a paper prepared by Tony Burns and Fiona Harmsworth. For more details, contact <TBurns@landequity.com.au>

<sup>8</sup>*Adat*- customary law of indigenous peoples of Malaysia and Indonesia.



Based on his experience in the land sector, John McLaughlin<sup>9</sup> describes four waves of land projects, to wit: *first wave* to be the successful introduction of western institutions and structures in Japan, Taiwan and South Korea after the Second World War; *second wave* was co-implemented by the United States Agency for International Development (USAID) in the 1970s focusing on land reform which was implemented with varying degrees of success in South America, Vietnam, and the Philippines; *third wave* (implemented from the 1980-90s) focused on land titling and this was implemented in Thailand, Peru, Mexico and in Europe and Central Asia (ECA) countries as they moved from socialist to market economies; and, *fourth wave* is driven by globalization, and is built around a more flexible approach to cadastres and tenures embodying the principles of good governance, service delivery, and clear indicators.

### Project Experience in Asia

There has been considerable land administration reform in Asia. Significant reform was implemented in Japan and Taiwan after World War II as part of major land reform programs. Singapore and Malaysia have developed their land administration systems in the latter half of the 20<sup>th</sup> Century, which is based on strong systems developed under the British colonial administration. China, with a change in economic policy in 1986, started to develop systems to record rights in rural and urban areas. A group of World Bank-supported projects in South-East Asia started with the Thailand Land Titling Project (designed in 1982 and implemented over 20 years from 1984). Projects started in Indonesia in 1994; Lao PDR in 1996; the Philippines in 2001; Cambodia in 2002; and Vietnam in 2008.

In South Asia, India has largely funded its own efforts to computerize land records in rural areas, improve deeds registration and improve land administration systems. The Ministry of Rural Development has funded various state programs that have been implemented since 1987. Other countries in South Asia have attempted to implement projects, sometimes with assistance from donors. Punjab in Pakistan has nearly completed the digitization of land records and linking land records and deed registration systems under the World Bank Land Records Management and Information Systems Program. Bangladesh is computerizing its land records with the help of the European Union, Asian Development Bank and other range of donors.

In Southeast Asia, USAID implemented a land project in Timor Leste that, in a post-conflict situation, compiled a 'claims register pending government action' on the policy and legal framework. Myanmar is developing a National Land Use Policy and looking at the legal framework to record rights in land.

<sup>9</sup>Professor of Engineering and President Emeritus at the University of New Brunswick, Canada. McLaughlin introduced and developed the first land administration program at a North American university and the first program in land information management to be taught anywhere in the world.



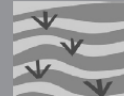
In Thailand, the Land Titling Project (LTP) was implemented by the Royal Thai Government (RTG) in 1984 under a 20-year plan to issue titles to all eligible land holders in rural areas. RTG had funding from the World Bank and the Australian Government for the first three phases, and funded phase four (and subsequent work) itself. The project was largely a rural project (this was where rights were not generally recorded), although significant work did occur to improve the land administration system and records in urban areas. In the 25 years from 1985–2009, about 12.4 million titles were produced with a systematic approach using ground surveys, photomaps and converting existing certificates of utilization. However, there have been issues. Perhaps the main issue was that the LTP did not include a policy component.

The Land Code 1954 was very strong, but the Department of Lands (DOL) could only issue titles for 47% of the country that was non-forest. Although 53% of the country was legally forest, Burns recalls various assessments of actual tree cover of only 18-25%, and estimates of as many as 12 million people living on land that was legally forest. The LTP did nothing to improve the tenure security for these people, which include many ethnic groups who suffer significant disadvantage.

World Bank projects in Indonesia, Lao PDR, the Philippines and Cambodia are all built on the experience in Thailand. Indonesia, Lao PDR, and Cambodia were able to design and implement significant systematic registration programs that produced certificates at unit costs of \$11–\$25/certificate. In Lao PDR, the work was concentrated in urban/peri-urban areas. In Indonesia and Cambodia, the work was predominantly in rural areas. In Lao PDR, 37% of the certificates were titled to women. However, it is only in Lao PDR where evidence of significant registration of subsequent dealings is present. In Indonesia, there was little improvement in service delivery, and in Cambodia, a proposal to establish a “one-window” was not adopted, and it was estimated that only 10–20% of subsequent dealings were being registered.

The project in the Philippines started as a Learning and Innovation Loan (LIL) project (the policy/legislative/institutional framework is very complex). The LIL was able to test systematic registration (SR) approaches, develop procedures to validate records and pilot One-Stop-Shops (OSSs). The second phase of the Land Administration and Management Project (LAMP II) did scale up administrative SR but the unit cost was high. Attempts at institutional reform were not successful and there was little improvement in legislation. The one major item was the amendment to the Free Patent Law to extend application to urban areas.

In India as in other countries in South Asia, the land administration system is built on the land records systems established under British colonial administration to collect revenue from agricultural land.



The land records system is rural based. India is a federal state and land is a state matter. With the independence of states, the land records systems fell into disrepair. In 1987, the Federal Ministry of Rural Development introduced two programs to help states computerize and update land records, and to strengthen revenue administration. These programs were replaced by the National Land Records Modernization Program that was introduced in 2008 with significant funding available.

Under these programs: (1) land records have been computerized in 21 states; (2) manual recordings was discontinued in 18 states; (3) land records became available on the web in 20 states; (4) registration of deeds system became computerized in 21 states; (5) e-stamping was introduced in nine states; and (6) the land records and deeds registration system were integrated in nine states.

These steps show real progress, but India has struggled in a number of areas such as developing a concept of “conclusive title” and steps to get there; a focus on ground survey and the accuracy of surveys; difficulty in resolving the best approach in urban areas; and high fees and charges.

### **Some general lessons that can be drawn from the project experience in Asia**

The political and institutional will to implement reform is essential. In Indonesia and Cambodia there was a commitment to systematic registration, but little commitment to service delivery. Even in Thailand, the lack of progress in implementing information and communications technology (ICT) and improved valuation systems can be attributed to a lack of commitment by DOL.

Institutional arrangements and institutional mandates have to be clear. This is particularly important in defining the mandates and roles of the land agency and that of the agency responsible for forests.

The legislative framework needs to clearly define tenure rights, the evidence required to prove tenure under an administrative, rather than judicial process and the tenure rights must be readily enforced.

Systematic registration when undertaken in a participatory manner using low-cost technology has high community acceptance and is cost-effective.

The land administration system should focus on service delivery rather than implementation of government policy. The requirement in Thailand that registration must be implemented on the day of application provides a clear example how this can be achieved. This is only possible where processes are streamlined and costs are not a barrier to participation.



## Changing Context for Interventions

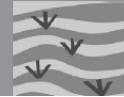
In looking at the context for new land sector project— John McLaughlin’s 4th wave—it is clear that there are a range of tensions. There is a tension between a focus on private rights and a focus on public land. There is a tension between a focus on urban and rural sectors, with the urban sector typically considering economic development, markets and employment, and the rural sector, while often concerned with agricultural production and markets – also concerned with aspects such as environmental sustainability, forest management and customary tenure. There is also a tension between a focus on the formal and informal sectors. In many cities in Asia, there are pockets of informal settlements that have been occupied for generations. In rural areas, the formal rights systems, which include economic land concessions, are bumping up against the rights of indigenous peoples and those traditionally reliant on access to forests, rivers and foreshores. There is also a tension between a focus on projects to formally recognize existing rights and projects that seek to redistribute land rights.

In recent years, there has been much controversy about large-scale agricultural investments by sovereign funds and international and domestic investors. Protocols have been developed for large-scale agricultural investment, including the principles set out in the Responsible Agro-Investment initiative.

Land indicators were discussed as the new framework of Social Development Goals was formulated. The World Bank and the International Finance Corporation have been comparing the ease of doing business throughout the world since 2004 and have had an indicator on registering property since 2005. Although the analysis is somewhat hypothetical— looking at a business seeking to register a single, undisputed property at the periphery of the major city— assessing the time, steps and cost of the registration and preparing a global ranking, this ranking does provide a guide of relative performance and does capture the interest of policy makers.

Another concept that guides the design of land projects is the concept of Fit-For-Purpose Land Administration. This concept was published by the International Federation of Surveyors (FIG)-World Bank at the World Bank Land Conference in 2014.

In many countries, the land administration system is often inherited from colonial administrators and is controlled by special interest groups such as lawyers and surveyors. The insistence on high standards has a serious impact on the cost of land administration services – both to government and the public, and is a factor in the lack of investment in land administration in many countries.



## Challenges to Government

Land administration reform is more than systematic registration. There needs to be clear policy, good laws and strong well-financed and resourced institutions with a focus on service delivery.

The land sector is conservative and there are strong vested interests. Nationally and internationally, there is an increased focus on good governance supported by a range of generally accepted indicators. However, there is a broad group of stakeholders with often conflicting views of the problem and solutions.

Increasing international and national oversight of what is happening on the ground, and technology is making the need for land administration reform harder for governments to ignore. Increasingly, governments need to demonstrate results quickly, despite the fact that the participatory approaches necessary in the land sector take time.

## Opportunities for Government

Technology is developing quickly to support the land sector. This technology includes: global navigation satellite systems; imagery from Lidar/UAV/HRSI systems that are user-friendly, enabling increasingly cheap, accurate base mapping; open source and relatively cheap off-the-shelf registration software; and cloud platforms for data storage.

There are global conventions such as the VVGT. There are new tools to understand and discuss issues such as Land Governance Assessment Framework and the Responsible Agro Investment (RAI) initiative. There is increasing literature on experience and best practice and tools to support implementation, as well as increased interest in funding and supporting land initiatives.

## Recommendations for Government

- Recognize that land policy/legislation/systems should address the needs of all not just the well off.
- Understand the problem and key issues before setting out on a large-scale investment in reform.
- Plan for the long term, but prioritize activities to achieve clear results in the short term.
- Look for new approaches, technologies and institutional arrangements – challenge established practices and procedures and institutional roles and mandates.
- Consult widely and seek consensus on the key issues and strategies to address these issues– a platform for on-going policy dialogue.
- Formulate a land policy, particularly where there are many stakeholders, a lot of controversy and the legislative process is difficult.
- Systematic registration is a viable option, but it must be participatory, cost-effective (less \$10/parcel) and linked to a strong, community-accepted registration system.
- Land sector services should focus on service delivery with clear promises on quality, cost, and time– a service charter that is monitored and reported on.
- Develop a clear strategy to resolve disputes that is accessible and effective – with initial emphasis on alternative dispute resolution. ■