

# **Land Administration and Management: The Need for Innovative Approaches to Land Policy and Tenure Security**

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## **Key words:**

**land policy, tenure security, systematic registration, community driven adjudication**

## **SUMMARY**

There is no template for land policy that can be readily applied to any country. Every country has its own unique social, economic, political, environmental, historical, ethnic, cultural, religious and other idiosyncrasies. Donors and other agencies involved in supporting land policy agendas, need to be cognizant of, and sensitive to, local conditions and issues and work constructively and flexibly. Past experience indicates that what works in one country may not be suitable or transportable to another country and that land reform is a long-term engagement.

In the East Asia Region, the World Bank, in collaboration with other development partners, have assisted, or are continuing to support, land projects in Thailand, Indonesia, Philippines, Cambodia, Lao People's Democratic Republic and Vietnam. These projects have had varying emphases on social equity and economic development. In post-conflict countries, tenure security and access to land are major factor in providing long-term stability, whereas development of land markets are seen as generating durable results. This paper, discusses key drivers for approaches to land policy and tenure security and describes some of the innovative approaches being implemented in land projects in East Asia.

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# LAND ADMINISTRATION AND MANAGEMENT: THE NEED FOR INNOVATIVE APPROACHES TO LAND POLICY AND TENURE SECURITY IN EAST ASIA

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## 1. INTRODUCTION

Reform of land administration in any country is a long-term prospect requiring decades of sustained commitment. It is a major investment of capital and human resources and requires strong and consistent leadership in order to achieve effective, sustainable outcomes. In the East Asia Region, the World Bank, with the support of other development partners have undertaken, or are continuing to support, land projects in Thailand, Indonesia, Philippines, Cambodia, Lao People's Democratic Republic and Vietnam. These projects have had varying emphases on social equity and economic development. In post-conflict countries, tenure security and access to land are major factors in providing long-term stability.

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

*I can think of nothing that will generate more income over the long run for average families in this region than actually having title to the land they own. Then, they will be able to borrow money and build a much more diversified, much more modern economy.* United Nations (UN) Special Envoy for Tsunami Recovery, former US President Mr. Bill Clinton, Aceh, May 23, 2005.

*Those of you familiar with the work of Mr. de Soto around the world and similar projects know that the world's poor people have roughly 5 trillion dollars in assets that are totally unusable for economic growth because they don't have title to them so they can't get credit using what they own as collateral. This is going to be done through the World Bank grant in Aceh. It is very forward thinking on both the part of the World Bank and Indonesia but I hope that the other countries affected will do that and in its pursuit of the Millennium Development Goals, I hope that you, Mr. President and ECOSOC, can have an influence in urging this sort of project to be done in other countries outside the tsunami affected areas.* UN Special Envoy for Tsunami Recovery, former US President Mr. Bill Clinton, reporting to the UN Economic and Social Council, New York City, July 14, 2005.

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

This paper, discusses key drivers for approaches to land policy and tenure security and describes some of the innovative developments being implemented in World Bank funded projects in East Asia.

## **2. WORLD BANK FUNDED PROJECTS IN EAST ASIA**

Generally, World Bank funded land projects seek to alleviate poverty and enhance economic growth by improving the security of land tenure and efficiency of land markets through the development of an efficient system of land titling and administration that is based on clear and consistent policies and laws, gender-responsive and supported by an appropriate institutional structure. Bank-funded land projects in East Asia will typically involve: (i) legal, regulatory and policy reform; (ii) institutional reform; (iii) systematic land registration (first time titling); (iv) support for on-demand titling and development of subsequent land transactions; (v) land valuation; (vi) improved service delivery for land agencies; and (vii) capacity building for government, private sector and academia.

The Bank has been supporting land administration projects in East Asia since the '80s. These projects include:

- Thailand: Land Titling Projects I, II, III, and IV (closed)
- Laos: Land Titling Project (LTP) I (closed) & LTP II
- Cambodia: Land Management and Administration Project (LMAP)
- Philippines: Land Administration and Management Project (LAMP) I (closed) and II
- Indonesia: Land Administration Project (LAP) (closed) , Land Management and Policy Development Project (LMPDP) and Reconstruction of Aceh Land Administration System (RALAS) Project.
- Vietnam Urban Upgrading Project (VUUP).

There are also several other projects under preparation in the region.

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### 3. LAND POLICY AND TENURE SECURITY – AN OVERVIEW

The concept of land policy, one must understand that this is directly related to the broader concepts of land tenure and property rights. Land, is perhaps, the “ultimate” resource. It is both a physical commodity as well as an abstract concept related to the rights to own or to use it. Land tenure may be seen as an institutional structure that determines how individuals and groups secure access to the productive capabilities of the land or other uses over the land. Land management is the process through which land resources are utilized, while land administration is more concerned with regulation which addresses issues related to land information and how they can be utilized for effective and efficient land management. These institutional structures are comprised of a mixture of political, economic, legal, and social factors and relationships, each of which has an impact on land rights and use.

Land tenure and property rights are largely concerned with issues of access to resources, the distribution of resources to members of the society, and the security of tenure that these members of society hold over these resources. Often we speak of the bundle of rights over land and property. This bundle is made up of four basic components: (i) physical location; (ii) length of time rights are held; (iii) types of use that are permitted; and (iv) the individual’s rights vis à vis those of the family, community or nation. Many of these rights are now being seen as tradable commodities, such that a land parcel may have:

- Land use rights
- Planning and development rights
- Access rights or right of way
- Water rights
- Mineral and extractive resource rights
- Carbon rights
- Timber rights
- Air rights
- Visual/View rights
- Aquaculture rights
- Marine rights
- Trade waste rights.

Other rights may not be tradable, such as:

- Heritage rights
- Indigenous rights
- Biodiversity.

Some of the rights may vest in the owner, the tenant or the state. Land policy expresses political choices concerning the distribution of power and interests in land between the state and its citizens. In addition, land policy determines the rights of access to and use of land related resources.

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Recognition of the importance of access to, and use of land, is tabled in the second pillar of the Government of the Philippines' 2001-2004 Medium Term Philippines Development Plan (MTPDP), in which the government notes:

*Land is a very strategic resource to accumulation of wealth and other inputs to production. Those who own land are usually the ones who control and or have access to productive resources such as credit, technologies and other inputs to production. Inequitable access to land has, therefore, contributed to high poverty incidence in the countryside. Addressing this issue is critical to the government's goal of reducing poverty and the promotion of social equity. Assets reform especially land reform, is key to the attainment of these twin goals.*

Land policy serves a number of purposes, which may include:

- enhancement of security of tenure and basis in determining mechanisms for the distribution of land rights among citizens;
- promotion of social stability by providing a clear statement of governments goals and objectives toward land;
- basis for economic development because decision making is based on expectations and predictability;
- ensuring sustainable land use and sound land management; and
- guidance for the development of legislation, regulations, and institutions to implement the policy and monitor its impacts.

The land agenda of governments may have all or some of the following objectives:

- *Equity - The Distributional Objective* - How is access to land allocated among individuals and groups? Are there mechanisms to ensure equal access or equal opportunities to access? The former approach would be a more socialistic approach of guaranteeing access to some land for everyone, but at the possible expense of economies of scale. Over time, such a guarantee could lead to smaller and smaller parcels of land as population grows and new people demand access to land. The latter approach could be seen as a more capitalistic approach that would ensure access to land for those who have the resources to use the land, but could be at the expense of those with fewer or no resources. Over time, this could lead to sizable landless populations that would be problematic if no alternative forms of employment existed.
- *Security - The Assurance Objective*: Security of tenure is critical for investment, limiting land disputes, and promoting social stability. Once land rights are obtained, how are those rights protected? What assurance does the individual have that his/her rights to land will be protected? Rights over land and property also carry an obligation to respect the rights of others. Thus, there are social sanctions over land rights as there are legal sanctions to protect land rights. Where informal structures no longer function, formal, legal and administrative structures need to be created to provide this assurance or security of tenure.

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- *Investment - The Production Objective:* Land is an asset that is immovable: it is at a fixed location. It is also an asset of both a public and a private nature. It is in the state's interest as well as the private individual's interest to optimize the productive use of the land. These uses include agriculture and pastures as well as the provision of space for housing and commercial and industrial enterprises. Government policy will help to determine how these production and investment decisions are made by the state and by private individuals.
- *Sustainability - The Environmental Objective:* While the land resource of a country is finite and cannot be expanded, the resource base can be improved upon and it can be degraded. It is in the country's interest to have its land resources used in a sustainable manner to ensure that the land will remain productive into future generations. Reforestation and soil conservation programs have long histories in most countries. However, there has been a great deal of recent effort in the analysis of environmental impacts on land use practices.
- *Identity - The Cultural Objective:* Land is of a historic and cultural nature. A society's identity is very much tied to its history and the land it has settled and defended over time. Most countries are comprised of an ethnically and culturally diverse populations which collectively create the social fabric of that nation. Policy decisions can have significant impacts on the society at large, as well as those diverse groups. The different value structures often have an impact of land access and use.
- *Beauty - The Aesthetic Objective:* The landscape of a country is a more ambiguous issue, but nonetheless an important consideration in the development of land policy. Scenic vistas, clean, free-flowing rivers, and well managed fields and forests give a positive impression of the country, while denuded, eroded hillsides, urban slums and polluted lakeshores present the opposite image. Again policy decisions can have a positive or negative impact on these perceptions. (Marquardt, 2003).

#### **4. INNOVATIVE APPROACHES IN EAST ASIA**

There is no template for land policy and every country has its own unique social, economic, political, environmental, historical, ethnic, cultural, religious and other idiosyncrasies. What works in one country may not be suitable and transportable to another country. Land reform is not short term. It is a long term commitment. This section of this paper presents some of the innovative approaches to land policy and tenure security, from Bank-funded projects in the region. Some of these projects are being funded with development partners.

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#### **4.1. Community Driven Adjudication in Aceh**

In Aceh, an innovative approach to systematic adjudication is being adopted, wherein NGO facilitators are working with villages to obtain community agreements on land parcel ownership boundary demarcation.

Certainty over property rights is a necessary pre-condition for the reconstruction of houses, farms and communities. But the earthquakes and tsunami which hit Aceh and North Sumatra caused extreme damage to property rights evidence and to the land administration system. In many areas, the destruction obliterated marks on the ground defining land boundaries. The death toll took with it the “human archive” on which much memory of the location of these boundaries is based. The destruction of many government land books and cadastral (land) maps held in the provincial and district land offices of the National Land Agency (BPN) has made the reconstruction of property rights even more difficult.

After suffering huge economic and emotional losses from the tragedy, land was for many, the only thing of value that they had left. Almost immediately after the disaster, many survivors installed marks on sites where previously their houses had stood – a behavior symbolizing insecurity about their land ownership and property rights. Indeed, there is a high risk of land grabbing, particularly in urban areas where the communal traditions are comparatively weak. Land rights recovery and protection clearly should be a priority task.

Donors, non-government organizations (NGOs) and other civil society organizations (CSOs) started very early on helping people to prepare maps of their communities showing where properties were, what type of property it was, who lived there and how much damage they received. This is known as community land mapping. The process involves: (i) the preparation of a village inventory of land owners (or heirs); (ii) the placement of boundary markers to identify land parcel boundary corners, by agreement between adjoining owners; (iii) the preparation of a rough sketches of the land parcels; and (iv) the signed agreement of the community on the acceptance of each of these outputs.

The early well-intentioned efforts toward community land mapping were undertaken with different approaches, and varied in quality. It quickly became evident that there was a need to standardize these efforts, so that ultimately the “evidence” of community land mapping could be formally processed by BPN, and that legal titles could be issued following the necessary adjudication, legal land survey and public advertising. Only BPN has the legal authority to issue titles.

In June 2005 a Community Driven Adjudication (CDA) Manual was prepared, led by the World Bank in collaboration with the government, NGOs, Civil Society Organizations (CSO) and donors. BPN subsequently issued a formal decree giving the manual legal status. The BRR has also prescribed the CDA Manual as the standard approach for community land mapping to be undertaken in the reconstruction. CDA training is being provided to NGOs and other agencies involved in reconstruction. Provided that community land mapping is completed in accordance

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with the legal standards prescribed by the government in the CDA Manual, communities may commence constructing houses and infrastructure before title is formally issued by BPN.

By about June 2006, it is planned to undertake a comparative analysis of the community driven adjudication approach to systematic registration under RALAS with the BPN-led approach as is being implemented under LMPDP. This is expected to provide useful insights for other projects in the region.

#### **4.2. Land Dispute Resolution in Cambodia**

In Cambodia, LMAP has pioneered non-judicial means of resolving land disputes. As a result of several years of civil strife and social dislocation, disputes over land in Cambodia are endemic, and reflects the pervasive tenure insecurity in the country. Under the former 1992 land law, rights to land depended largely upon short-term occupation. This was a reasonable approach to re-establishing property rights after the legal chaos and large-scale population movements of the previous two decades. In general, disputes over land parcels have arisen from fraudulent and overlapping claims, land grabbing and evictions by the military, rich and powerful.

In the long run, the work of Cambodia's LMAP, through its land dispute resolution component, is expected to reduce the number of land disputes by providing secure land title. However for property rights not resolved under LMAP, Cambodia is piloting innovative, non-judicial approaches to land dispute resolution through Cadastral Commission. The courts of Cambodia are seen as aligned to the political parties; further courts have had very limited capacity, and indeed credibility. In 1999, the government instituted a system of dispute resolution commissions at national, provincial and in some cases, district level;. The rationale behind the establishment of this alternate mechanism is to support screening and settling of disputes locally. It is consistent with the equity principles of the government. The commissions were tasked with investigating, mediating and arbitrating land disputes. Under LMAP, the work of these commissions have been further established in all provinces and are endeavoring.

At this point, dispute resolution through then Cadastral Commissions is resolving about 30% of cases, while an equal number of cases are investigated and disposed for various tenable reasons. Available data suggests that the cadastral commissions are reasonably successful in resolving disputes involving small to medium land parcels. This fails to guarantee fair support for the poorer and vulnerable communities in their respective disputes against the powerful and influential persons. In order to eliminate this possible difficulty, LMAP will introduce free legal aid for the disadvantaged groups in their land disputes. In order to be effective, LMAP will have to establish linkages and network with other initiatives. In this regard, LMAP will soon commence a collaborative work with the Justice for the Poor Project in Cambodia to ascertain how the rate of resolution can be lifted to an optimal level. The work of the cadastral commissions are still in the early days.

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### **4.3 Gender Mainstreaming in Land Administration – Philippines (LAMP)**

Gender Mainstreaming in land administration refers to the strategy of making the pursuit for gender equity and equality a core part of land administration policies and an integral operational principle of land administration systems and procedures. The Philippines is fortunate to have gained more gender equity than many other Asian countries, both in law and practice. In mainstreaming gender, LAMP pursued the following objectives:

- integration of gender concerns in the proposed Land Administration Reform Act;
- development and testing of procedures for land titling and land records management that are equally accessible and equitably beneficial to women and men;
- creation of mechanisms for the active participation of both women and men in LAMP implementation (i.e., policy reform agenda formulation, land titling, land records management improvement and project management); and
- development of project management systems that ensured gender mainstreaming in all components of the Project.

LAMP incorporated effective processes and mechanisms to ensure that gender equity was addressed and adverse social impacts are minimized. In general, gender integration was pursued through:

- Promoting awareness of land rights for women
- Information dissemination
- Identifying gender sensitive policies and services
- Planning implementation using gender sensitive processes
- Evaluation of implementation in terms of gender impacts
- Developing guidelines for gender appropriate practices and the participation of women.
- Strong women's participation in LAMP activities
- Legal changes made in the land titling (from titles of conjugal properties previously under the names of husbands only, to titles bearing the names of the spouses)
- Changes made in the operational and organizational policies (gender issues and concerns were included)

### **4.4. Increasing the Awareness of Women in Systematic Land Titling and Post-Titling – Lao PDR**

The Lao Women's Union (LWU), plays a key role in the LTP I and II in public awareness and community participation. The Lao Women's Union (LWU) was originally established in 1955 to mobilize women for the Lao People's Revolutionary Party. Over forty years later, it has a membership of some 600,000 women nation-wide. In 1991 the LWU was recognized under the Constitution of the Lao People's Democratic Republic (Lao PDR) as having responsibility for:

- responding to women's development needs;

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- promoting the status and role of women; and
- promoting unity amongst women of different ethnic groups and social strata throughout the country.

As the only institution in Laos then formally recognized as having responsibility for advocating for women's rights and gender concerns, the LWU had a unique opportunity to influence policies, plans and practices of both government and non-government organizations with respect to the needs and status of women in Lao PDR.

Before systematic adjudication teams go to a village, the LWU has already been active in the village talking to villagers and preparing the way for adjudication. Consequently, the participation of women in the adjudication process is generally high.

#### **4.5 Integrated Service Delivery through One-Stop Shops (OSS) in Philippines**

LAMP and now LAMP II has adopted a very positive approach to integrated land administration service delivery through establishing OSS. The LAMP OSS are designed to provide transparent and efficient service delivery of a range of functions including: (i) registration of land transactions; (ii) approval of survey plans; (iii) issuance of first time titles; and (iv) collection of various fees and charges related to titling. In conjunction with the establishment of OSS, LAMP has established uniform service standards, which will be independently monitored. A Presidential Executive Order was issued covering the operations of OSS.

Some of the achievements of the OSS include reduction in processing time as regards the:

- registration of title transfers from one week to 3 days
- issuance of Certified True Copy of titles from an average of 1-2 working days to 1–2 hours.

LAMP has demonstrated the cost-effectiveness and administrative feasibility of the OSS concept. However, there have been many challenges for LAMP in implementation of the OSS including resistance to reforms, the traditional lack of customer orientation, and the absence of a culture of performance and accountability. LAMP has generally enjoyed the support of stakeholders and there is a growing evidence of the beneficiary-community advocating expansion of the reform program. More progress of this innovative reform is expected in LAMP II as the OSS approach will take wider traction.

#### **4.6. Land Records and Information Management in the Philippines.**

LAMP has also developed and tested methods to prevent fraudulent, duplicate and overlapping titles. The prototype was established under LAMP in Quezon City, a local government unit (LGU) in the National Capital Region (Metro Manila), which had lost its Registry of Deeds

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(ROD) through fire (arson) resulting to the loss of substantial land records and subsequent fraudulent records becoming widespread. Validation results revealed the magnitude of records inconsistencies between the LGU and the ROD which was leading to fraudulent titles. The project identified that 40% of land parcels had no records in the LGU database, suggesting non-collection of property taxes in these areas. A system was developed to make validated records available to the general public through the installation of the Barangay (Village) Integrated Land Information System (BILIS) in the four prototype barangays. The system helped informal settlers locate records and negotiate with property owners to facilitate coverage under a Community Mortgage Program (CMP) - a significant step towards tenure security.

Improved land records management leads to better detection and prevention of fake, double and overlapping titles. The cadastral index map; the cross index of records and the record validation procedures are all designed to improve records integrity and detect inconsistencies, gaps, and missing records. Improved land records management also has enormous potential for improving LGU revenue collection, and stimulating activity in the land market. LGUs should play a significant role in supporting and sustaining these initiatives and support should be provided to build LGU capacity, and to promote best practices in records management.

*Little improvement can be achieved in land records quality, security and access efficiency without the strong support of all agencies acting within the framework of a national strategy for the management of spatial data.*

#### **4.7. Performance Driven Systematic Adjudication - Cambodia**

LMAP has an ambitious target of achieving the distribution of one million titles over a five-year project period. The implementing agency, the Ministry of Land Management, Urban Planning and Construction (MLMUPC) is reform-oriented and seeks innovative solutions, drawing on best practice.

In 2004, the project introduced a system of productivity-based field allowances for systematic registration teams, to encourage high performing teams. In a country with low salary and wage structures, the incentive is very attractive, and in most of the eleven project provinces, has initially shown to be a highly motivational instrument to improve team outputs, both in terms of quality and quantity.

#### **4.8. Reconstruction of Land Records in Aceh and North Sumatra**

*.....And the most exciting thing being done in this regard is in Indonesia in Aceh where [there is a] 30 million dollars World Bank land titling project, because a lot of the records that did exist in the cities were destroyed and a lot of the people in the villages never had titles to their land.*

UN Special Envoy for Tsunami Recovery, former US President Mr. Bill Clinton, reporting to the UN Economic and Social Council, New York City, July 14, 2005.

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The tsunami damaged much of the National Land Agency's (BPN) land records that were stored in the various provincial and district land offices. BPN estimated that about 10% of land books were lost, and a significant amount of the remaining 90% of land books were left in a critical condition (e.g., flooded with sea water and mud) requiring urgent (within a short period of time) conservation and restoration work. In addition, BPN assessed that about 80% of other land documents such as cadastral maps were destroyed. All of these records were paper-based and stored on the ground floors of the respective buildings. Severe damage was sustained by land register books (which hold the title certificate records) and all cadastral land parcel plans. Unfortunately, all of the cadastral index maps, showing land parcels were irretrievably damaged. No duplicate copies of these index maps are held outside of the offices. BPN has received initial support from JICA, which has initiated the recovery of damaged land books retrieved from the Banda Aceh land office. The situation regarding land records is further complicated by the destruction of almost all title records held by land owners, the majority of whom are now deceased.

Japan is funding the recovery of damaged documents. Approximately 15 tons of documents were transported to Jakarta by three TNI Hercules flights in March, 2005. Since that time the documents have been stored at -40° Celsius. Document recovery, will primarily be used to support the resolution of any land disputes that may arise over previously titled lands.

#### **4.9. Protecting the Rights of Vulnerable Groups in Tsunami-affected Aceh**

In Aceh, some of the worst affected villages lost as many as 90% of the population. In some areas of Aceh, there has been a disproportionate loss of women and children. For example, one village in Aceh Besar, with a pre-tsunami population of more than 5,000 people, had just 40 women that survive. Special attention must be paid to safeguarding the rights of vulnerable groups, such as women, orphans and the poor. So far, the tsunami has resulted in an estimated 100,000 inheritance cases.

Within three months of re-opening, the Syariah Court (whose basic jurisdiction is divorce and inheritance for Muslims) in Banda Aceh had received close to 6,000 inheritance-related cases. Official estimates suggest that there are over 2,000 children orphaned by the tsunami. In the absence of a proper protection system, according to Syariah law, some of these orphans could well lose their rights.

Under RALAS, efforts to protect the property rights of widows and orphans include:

- Through CDA, the requirement for community agreement will help ensure the property rights of vulnerable groups are taken into account;
- Registration will only occur if there is clear community agreement and no dispute, backed up by checks on records (including tax) and pre-tsunami satellite imagery;
- BPN will only adjudicate and survey those land parcels which are not in dispute after CDA is completed; and

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- Training of the Syariah courts is underway to provide “circuit courts” in the villages, where they can advise and deal with cases involving widows and under-age heirs. The courts are receiving training, computers and ancillary equipment and information from BPN concerning cases of widows and orphans.

The protection of the rights of vulnerable groups must always be closely monitored. The framework provided under RALAS, together with the strong NGO and CSO presence and the partnerships developed with organizations such as the Syariah courts, will continue to be monitored and evaluated as reconstruction of Aceh progresses.

#### **4.10. Simultaneous Confirmation of Leasehold and Ownership Rights during Systematic Titling – Protecting the Rights of Both Owners and Tenants - Philippines**

Under the Philippines LAMP, a progressive approach to improving the formalization of tenure security has been to simultaneously address both ownership and leasehold rights during the systematic registration process, over agricultural lands. In the pilot province of Leyte, this has been undertaken as a way of ensuring that the relative power and rights of both the owner and tenant was protected. LAMP has recently issued the first leasehold agreements to agrarian reform beneficiaries in parallel to the issuance of first titles to the land owners in two barangays.

In 2004, LAMP conducted a study on titling in lands where there are long term tenants who are qualified under the Comprehensive Agrarian Reform Program (CARP) to receive leasehold contracts. These tenants are on small farms, less than 3 hectares in area, which are not subject to land re-distribution. Although the Department of Agrarian Reform (DAR) has a program to issue leasehold contracts to agrarian reform beneficiaries, there have been limited resources to implement this program in recent years. The study concluded that once LAMP has completed the adjudication of each land parcel, as most of the work had already been done (i.e., identification of the land parcel, the owner and the qualified tenant/s), then it would be only a marginal amount of effort required for DAR to issue the leasehold agreement in line with their existing regulations.

In many land projects, the rights of tenants are put on one side. LAMP is now ensuring

that the full coverage of land

tenure security by systematic adjudication can be realized; i.e., all interests in the property at the time of adjudication are recognized, protected and formalized.

#### **4.11. Other Areas of Institutional and Policy Reforms**

A pre-requisite for effective implementation of land administration reform has been the establishment of a single national (or jurisdictional) land agency which brings together the many public sector functions concerning land administration, including land registration, surveying,

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valuation and administration of state land. For many countries, the lack of a single agency, with sole responsibility for these functions, has been the major obstacle to reform. Governments require consistent policy advice, and the reform agenda may be thwarted by many government agencies competing for “turf” and providing conflicting advice to the government. Currently, land projects in Philippines and Lao are progressing agendas to establish national land agencies. In Cambodia, MLMUPC, a relatively new Ministry, generally has many of the responsibilities of a single national land agency, and has made significant progress with the land reform agenda.

A further institutional issue for effective implementation of land administration reform is land custodianship. Government agencies such as Forestry and National Parks generally have large tracts of state land under their control. Too often, these agencies act as absolute owners of the state land rather than managing the use of the land on behalf of the state. In many countries, laws, sub-decrees and regulations are not harmonized and there is poor public administration and management of land, which lacks transparency and accountability. The responsibilities of custodian agencies should not conflict with the single national land agency which has overall responsibility for the public administration of land.

The national importance of state land is increasing. It is a finite resource and governments require an accurate and complete inventory of state land to ensure that it is managed in public interest. Increasingly, governments around the world are approaching state land as an asset which has to be managed appropriately. For many agencies, the pressure on the public purse is driving approaches to generate a financial return from these assets to defray the costs of management, in whole or part. In generating a return on state land assets, it is important that governments do not adopt short-term revenue-generating approaches that are synonymous with a “fire sale”. Once the state land is alienated and sold to private land interests, the asset is lost. Pressures to generate revenue may lead to state land of high social, environmental or heritage value being sold and lost.

Another area of institutional reform that is being progressed in the region is the development of private sector capacity in land. This requires a long-term engagement to develop university and vocational training institute capacity as well as development of an appropriate regulatory framework. Each of the land projects in Cambodia, Indonesia, Lao PDR and the Philippines are at different stages of progress.

Land valuation and property taxation are another areas of development in the land sector. Philippines, Lao PDR and Cambodia are all pursuing the development of valuation systems which will provide more consistent, equitable bases for taxation. These areas are of significant importance for collection of revenue that will deliver services to the public. The need for standards development, regulation setting and policy, accompanied by testing and piloting is also a long-term engagement.

## **5. CONCLUSIONS**

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Land policy is a complex, and long-term issue. Donors and other agencies involved in supporting the land policy agenda, need to be cognizant of local conditions and issues and work constructively and flexibly. There is no template for land policy and every country has its own unique social, economic, political, environmental, historical, ethnic, cultural, religious and other idiosyncrasies. What works in one country may not be suitable and transportable to another country. Land reform is not short term. In post-conflict countries, tenure security and access to land are major factor in providing long-term stability.

There is much to be gained from bringing together the representatives of land projects within the region and from across the globe. The opportunities for project directors and senior project staff, to network with their counterparts from land projects from other countries, together with technical Advisers and experts from around the globe is very positive, and an investment for tenure security for the whole world. The International Federation of Surveyors (FIG) is well placed to help facilitate the dialogue and networking and it is recommended that FIG facilitate annual regional meeting of these stakeholders.

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## **BIOGRAPHICAL NOTES**

Keith Clifford Bell joined the World Bank in 2003, after a distinguished career in the public sector and military in Australia, culminating as the Surveyor-General of Victoria, 1999-2003. Prior to this he was the General Manager in Planning and Land Management of the Australian Capital Territory Government 1997-1999, was the Chief Executive Officer of the Australian New Zealand Land Information Council (ANZLIC) and the Director of the National Land Data Center in the Australian Government. Within the World Bank, he has responsibility for task managing land administration projects throughout the East Asia Region, and works in Cambodia, Indonesia, Lao PDR and Philippines. Since early 2005, he has been based in Indonesia leading post-tsunami reconstruction initiatives for land and property, and advising the Indonesian government. He is a Fellow of several professional institutions including: (i) the Institution of Engineers, Australia; (ii) the Institution of Surveyors, Australia; (iii) Australian Institute of Company Directors; and (iv) Australian Institute of Management. He is also a Member of the American Society of Civil Engineers. In 2003, he was awarded a Doctor of Applied Science, *Honoris Causa* from the Royal Melbourne Institute of Technology (RMIT) University. Keith is a licensed surveyor and engineer with higher degrees in human resource management and business administration.

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