

A practical guide to preparing,  
implementing and ensuring  
sustainability of reforms to property  
rights registration systems.

# Real Estate Registration and Cadastre

Practical Lessons and  
Experiences - Chapter 3.  
Preparing a Project of Reform.

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## Chapter 3 Preparing a Project or Reform

Gavin Adlington

### First Considerations

#### Who Asked for this Reform?

When requested to support some reforms in the real estate registration and cadastre activities, the first issue is to find out who asked for this program or project, and what specific problem(s) they want solved. As professionals we will often know what we think are the limitations and problems in a country, and financing or other partners<sup>1</sup> will also have identified problems in the real estate sector that they think need addressing. However, the key is to find out what the country itself wants to achieve and its motivation for agreeing to the assistance or project being planned. If this can be married with the financing and other partners' objectives, then there is a possibility for a successful program.

It seems common that requests for support can come from one of three main sources:

- (i) The government, at ministerial level;
- (ii) A department head or agency responsible for the sector, who has realised that he or she needs some help; and
- (iii) A development bank, bilateral partner or other international or local organisation trying to help resolve problems either from an economic or social perspective.

If the origin of the request is the government, at ministerial level, then this is the best option because it has top level government support. The driver(s) could be concerns over housing needs, job creation or (most commonly) a poorly performing economy and a desire to get the real estate market sector functioning, to improve agricultural output, and generally facilitate economic growth. Occasionally there is conflict that is rooted in land problems where they need support. In recent years the annual *Doing Business* report provided by the World Bank has driven governments to look at their ranking for registering property and wanting to see an improvement. (I always consider the country's report from the latest *Doing Business* report as part of the background studies – see Chapter 2.) Sometimes there are concerns about slums and informality, and the government will never disagree if they are asked if they would like to improve land use for environmental and climate change benefits or to foster women's rights or to benefit marginalised groups – but these are rarely the driving force that one would hope for. An advantage of getting the highest level national support is that they will be able to take action to force the responsible agencies to cooperate and improve or to pass any necessary regulatory or legal changes.

If the origin of the request is a department head or agency responsible, this is again important because the responsible agency is seriously looking at the services they provide and wanting to improve. They may be frustrated by lack of experience, funding or personnel. Sometimes it becomes a challenge to bring the relevant ministry on board, especially the Ministry of Finance, which might be expected to finance a project through a loan or their own funding. So, some clear messages regarding the financial and economic benefits and the social needs will have to be demonstrated when, inevitably, you have to bring the responsible ministries on board. In this instance it is also necessary to link any intervention with government policies and the political agenda. If you are having to make the economic case to persuade a minister or financier, my advice would be to get a qualified economist to undertake this. The professional will make the justification much more convincingly. I recall in one country hiring an economist who had never worked on real estate issues before. After his initial studies and analysis, he

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<sup>1</sup> These can include multi-national development banks like the World Bank, bilateral partners providing funding for a country or international organisations that provide technical assistance, such as the United Nations Food and Agriculture Organization, or small amounts of funding.

came to me and said that he must have made a mistake. The economic rate of return was so high and the possibilities for the agency to be self-funding and profitable so clear, that he was worried that he had done something wrong. We used his analysis – and at the end of the project it turned out to be correct. Incidentally, I have found it useful at times to bring in a consultant with no experience in the real estate sector (such as an economist, social scientist or communications specialist), as they bring in fresh thoughts or ideas, and challenge your assumptions. Obviously, however, the technical and professional specialists need to have considerable sector experience.

If the origin of the request is a development bank, bilateral partner or other international or local organisation, it may turn out to be more of a problem. The financing partners are usually interested and responsible institutions and they may have identified issues that need solving either through the business community, their own studies about good governance or some drivers that are related. For example, if a major road or some other infrastructure is being funded and they need to acquire the land, they might have found it to be very difficult to find land owners and other interested parties affected, or worse, that they might have found too many claimants and cannot discover the truth. In this way, they might become aware that there is a problem. If people must be moved for construction of a dam then acceptable compensation or resettlement schemes will be needed. Often the interested financing partner has its own agenda from their own government to address, and if support is being provided for national parks, reforestation or climate mitigation – or for social awareness, poverty reduction or women’s rights – then land issues will always come into consideration. The UN Sustainable Development Goals are often a driver for financing partners, and there has recently been a lot of funding available for implementing the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of national Food Security (VGGT) (see book reference 9 in Annex 1). Often the government agencies are immediately supportive, but sometimes it can be more a case of ‘No harm in that so long as it does not cost me anything, go ahead’. The necessary support is not then so clear.

What do the Stakeholders say about the Land Administration System?

The other key factor to consider when conducting the due diligence at the start of a project or reform program is to find out what the stakeholders truly think about the registration services being provided. The key people who use the service are lawyers, conveyancers, cadastral surveyors, banks (for mortgage purposes), real estate agents, developers and local government officials (such as town planners).

If there are indigenous communities, pastoralists or customary leaders, then they should also be interviewed. In addition, any non-government organisation (NGO) that is addressing issues of land rights or inequality would be important. A drive around to see informal settlements, levels of development and construction, etc. would also be useful. Hopefully, from the stories people tell, you will find out about levels of corruption and inefficiencies, things that go wrong and have gone wrong recently and where the official systems do not cater for a citizen’s needs. Many of these issues will not be addressed (or may not be mentioned even if known) by the officials you usually meet when starting work in a country. It is surprising how often the stakeholders not only have complaints, but also possible solutions. I also have found in many places that the professional community has offered help or advice at no cost, just so that the current problems can be solved.

The other thing to do early on is to visit the existing deeds or title registries and the office responsible for surveying boundaries. This will help to give a ‘feel’ for how things are being done and how efficiently they operate. At this stage it is also useful to investigate and understand the technology being used in those offices. One of the most important issues to understand is the quality of the records and the data in any established system. If the data are good then improving systems to make them more modern, user friendly and faster could be a goal. If the data and records are untrustworthy, then a more fundamental reform approach is needed.

If possible, it would be advantageous at this early stage to undertake a survey that finds out from general members of the public what they think about registration services, the real costs in time and money, the

professionals they have to deal with when transacting and the reliability of the system. The study should include both those that have used the systems and those that have not – partly in order to find out why not. Any difficulties encountered by minority groups or women should also be identified so that solutions can be developed.

## Cartels

Beware of the cartels. It is common in many countries that certain professions have a monopoly and very good income from their privileged position of being the only people allowed to function in the private sector as suppliers of services. This is common with licensed conveyancers and licensed surveyors, but can also relate to real estate agents, valuers, mortgage suppliers, etc. They will often not want to see change as it may affect their monopoly, and therefore their income. I recall one lawyer complaining in a Caribbean country that the new system required him to produce a simple single page transfer document for a sale. He would still put it within two expensive looking cover pages, tie a ribbon through it and wax seal the ribbon (even though there was no requirement to do so) because he felt it helped justify the fee he charged. In a Sub-Sahara country I visited, there were only 38 licensed surveyors in the country, and most were older men; this small number despite the fact that the university in the capital produced over 100 survey graduates every year and had done so for over 20 years. The small group of licensed surveyors appeared to be keeping their number small because only they could sign the survey plans. Most of the field work, plans and documentation was done by the younger graduates, but the plans and records had to be signed by the licensed surveyors – who retained most of the fee.

There is also often a reticence amongst professionals and technicians within government organisations to change the way they have always done things or to lose the control they have over the process. In my work in Africa I have found it common that:

- government employees use their position and experience to provide services in the private sector, even though they are government employees, in order to augment their income
- the systems and processes used for registration that were established in the colonial or apartheid past are virtually unchanged despite the fact that they exclude the majority of the population from utilisation of systems because of cost, lack of local accessibility and complexity.

In some cases, well over 50 years have passed since independence and yet more inclusive systems have not yet been legislated or implemented.

## Land Policies

In theory, you would like to see a clear land policy from which the laws are derived, and the project could be implemented to meet those policies. Many developed countries (like much of Europe, the UK, USA and Australia for example) do not actually have a specific land policy, but the policies can be derived from the existing laws if there is a need to do so. If there is no such clarity, then a land policy document could be developed. A study could be undertaken to develop the policies based on the Land Governance Assessment Framework (LGAF) (see book reference 10 in Annex 1). This would guide the author of such a study through all aspects of land administration and land management and identify all aspects in the land sector that needed addressing. The LGAF is very thorough and an excellent resource. Where these assessments have been completed, they are highly participatory, led by local consultants and agencies and take some time to develop (months). The LGAF report produced could then be used to prepare a more detailed land policy. Of course, policies are often prepared without using the LGAF as a basis, and this is also fine, so long as they are locally owned and include all relevant stakeholders in the discussions. Book reference 26 also deals with land policies in some depth. Module 6 of the Responsible Land Administration Knowledge Base available at the GLTN website (<https://elearning.gltn.net/>) also covers land policy issues.

One of the greatest challenges is to find who is responsible for developing the land policies, because there are so many different ministries and agencies involved with land that there is rarely just one that will take the lead. Rural and urban sectors have such different objectives and needs that getting agreement can be difficult and it may be that one overarching policy is neither possible nor needed. However, the LGAF report or development of the policy can be useful for the responsible agencies and professionals as a guideline even if an overarching land policy is never finally developed or approved.

In fact, it is very rare that a good land policy has been developed and then forms the basis for developing a project in the sector. Usually there are immediate issues to deal with that relate to the quality of service being provided in the sector, and the time it takes to develop land policies and then for the laws to get approved can be excessive. In the former socialist countries of the Europe and Central Asia region where the reforms in the 1990's were to fundamentally change from socialist planned economies to more open market economies, the governments often only knew generally what they wanted to achieve and had neither the time nor the knowledge to develop a detailed policy document. In general, the introduction of land markets was new to them. In many ways, they already had their policies from their government meetings, the decisions that had been made and the laws that they had developed. They knew what was needed. Their 'policies' were in their heads – just not written. Their immediate needs were usually for institutions, systems and good quality services to be provided very quickly. If the policies are developed by consultants within set timelines, then it is often not owned by the government or wider community. I recall a number of occasions when a policy or strategy developed was referred to as Mr. X's (the consultant's) document, rather than being one that they fully believe in. In one sub-Saharan country a policy document prepared in 2000 led to laws being approved eventually in 2016, and nothing much happened in between. In another sub-Saharan country the policy document prepared had virtually no possibility of being implemented within the next 20 years.

My preference is to understand the existing legal situation and begin dealing with the immediate problems at hand using good international practice as understood by the professionals advising in the team. The policy and legal development can be included as a component within a project so that they can be developed in parallel as the project matures. In most World Bank funded projects implemented in the Europe and Central Asia region, a 'legal and policy' component or sub-component was included.

#### Coordination of the Work, and the Influence of UN Agencies, Bilateral Donors and other Financing Partners

One thing to always remember if you are coming in from another country: ***this is not your country***. We are there to advise, help and support. We may be stubborn about the need to include certain important activities or ensure transparency and good standards, but in the end, we are guests and should recognise this fact. There are many examples of very good support that has been provided and great coordination and cooperation and I do not want to dismiss or denigrate that support, but here I provide some examples of what not to do. It is also important to identify these examples in order to be aware when the same issues arise:

- I recall in one Balkan country where the financier funded a restitution program. The financing institution decided that the responsible agency was neither transparent nor suitable for completing the work, so went ahead on their own to complete the task. When they delivered the results to the responsible agency, they were very upset when the agency refused to accept it or to issue the land titles the financing institution had worked so hard to prepare. No matter how bad you might think the responsible government agency may be, you need to work with it.
- In at least two Eastern European countries, the financing partner did try to coordinate and cooperate, but on their own terms, with the government. However, they used their influence to make sure that the responsible agency accepted the work they produced. A few years later the

responsible agency had to redo most of the work because it did not meet the standards they required and to which the rest of the country adhered.

- In one particularly bad example I recall being asked to assess the projects being funded by seven different international organisations working in the land sector of one country. They had tried to coordinate but it was a problem and two organisations, in particular, were using diametrically opposite methods for the process of systematic registration – with one using very rigid and slow methods, while the other was handing out certificates to almost anyone that asked without checking very much at all. They both denigrated the work of the other organisation to the government agencies. Two further international organisations were using yet other methods for systematic registration, which did not match either of the two extremes. Funding was coming from these international organisations and hundreds of local people were being employed, with a very good income in an otherwise highly constrained labour market, so the government agencies just accepted whatever came to them. Eventually, the responsible agency took control and had to fix the situation left behind. They are now an extremely competent and resourceful agency, but they are still resolving the issues that were left behind from some 20 years ago.
- Following on from the above, we had the situation in some countries where the local government agencies were competing with each other. It was not always very easy to get them to cooperate and coordinate and in one Eastern European country I recall exhorting the head of the agency to meet and discuss coordination problems with the head of another agency. Both were trying to obtain responsibility to run the new self-funding registration authority. His reply was, ‘This is not how we work here. Here we compete, one wins and the other loses.’ I let them do it their way (not that I had any choice in the matter). Interestingly, the agency we were working with ‘won’ and got responsibility, but a few years later when the government changed and a new political party was in charge, the head of the competing agency was appointed to replace him as the head of the new agency. We had the problem in another Central Asian country where the competing institutions managed to get funding from different financing partners and then used the fact that they got support and funds for their projects to support the case for them gaining control of the land sector work. In effect, the financing partners began competing with each other to lay the case before the government in support of the agency with whom they were working. This is really a serious problem and in this instance the case went to the Cabinet of Ministers and they made a decision on the way forward.
- It is quite common that firms working for financing partners hire local people to run their projects and there is a tendency to pay much higher rates than normal in order to attract the best candidates. I have seen local consultants getting ten times the income of their counterparts in government agencies, and they can sometimes earn more than the head of the agency. In one instance it had become so bad that when we tried to replace an international consultant with a local consultant, the local consultant said she would not work for the same salary paid to the international because it was too little. This involved an income that was many times higher than the minister himself was earning. It created a problem where people working within government would leave (especially the best ones) and the institutions themselves could not function effectively. Often there was resentment from those left in government and I heard on several occasions of those who were left in government service refusing to do work on a project unless they got the same pay as the local consultants. In one Central Asian country this led to the government calling all the financing partners together and instructing them to adhere to salary levels for local consultants that they would set. If the financing partner was not willing to do so, they could leave. There was of course great anger among the local consultants, most of whom threatened to resign. However, as all the financing partners had to stick to the policy, there were no other jobs for them to go to at the inflated income levels – and so they remained. After a few months of disruption, the new situation was accepted and caused no problems.

Unfortunately, it is quite rare that the government will step forward and give direction to the various financing partners and agencies that they work with. It is even more rare that they will tell a financing partner to do things their way or leave, but this is often what is needed. So, please remember – it is not

your country and, in fact, the people who live there actually do know their own country, their own needs and their own problems better than any visitor. They require from us examples of good international practice and advice on what will address the problems they need to resolve. They also require support in the key areas of their concern so that they can demonstrate results quickly, often before the next election. If we, as visitors, cannot support the things they want to do then we can try to explain and advise to do otherwise, but we also should be prepared to say 'No' and leave. The imperative from financing partners can too often be to disburse money that our own foreign governments or organisations need to see disbursed instead of doing the right thing. In my first interview before my first ever job abroad, the interviewer told me that my foremost priority was 'to do myself out of a job'. If you can complete a project and then leave without returning or needing to provide further support, then you have succeeded. This statement is maybe a little simplistic, because experience has shown that there is always another job to do afterwards. For example, when the cadastre is developed and all titles issued, it turns out that the country now needs support in developing an information system that links the cadastre and registration system with municipal planning and property tax systems or with central government e-government systems. It may be that the country decides to establish a self-funding agency or public private partnerships (PPP) arrangement for registering real estate. So, having completed one task successfully, another may come along.

## Developing the Concept, the Objectives and the Goals

Let us assume that the request has been made for some support. Possibly the team leader has been before just to respond to initial questions or understand what the counterpart needs. Let us also assume that the team is ready and has completed the due diligence required as described in Chapter 2<sup>2</sup> before they ever visit the country, and that they have a list of questions for clarification when they arrive. You meet the key government officials to find out what they consider to be their biggest issues and problems, and you will probably advise them how you have helped solve similar problems in other countries. Be careful now because I once enjoyed such a good opening meeting in one sub-Saharan country that at the end of the meeting, they asked me what was the solution to the problems they had in their country?'. I just said, 'I have no idea yet – I have not visited anyone and need to understand the practice and opinions of all the key stakeholders. We should meet again in a week and I can advise.' No matter how well prepared you might be before visiting, it will require at least a week (usually more) to understand the key issues within the country from a practical perspective.

## Situation Analysis

The first stage is the situation analysis. If funding permits you need the following specialists:

- (i) Team leader. Dependent on skill sets, this person will undertake the political economy analysis; assess clients' interest and willingness to make change; meet with other financing partners and NGOs or specialists working in the same area; find out the real goals and objectives of both the key government officials and the financing partner that commissioned the work; and ensure that all the team meet their obligations. The team leader, or one of the team members, will need to assess what government policies exist in the land sector. It may be that these are written down in a policy document, but more often they are not. (Try finding out if there is a land policy document for the country you come from!) The officials within the country generally know what they want to achieve, and they will have laws from which the policies can be derived. However, it is likely that additional policies will need to be developed (addressing things such as informal settlements, regularisation of informal constructions or modernising record keeping in customary land areas). Consideration must be given to the on-going sustainability of any system that is to be put in place, taking into account revenues that can be generated and whether it will be possible to retain the level of competent staff required to run an efficient registration and

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<sup>2</sup> See also Chapter 6 for legal due diligence.



cadastre system. Outsourcing, concessions and PPP could be considered – if the local private sector capacity exists.

- (ii) Land lawyer. It is fundamental to understand what the law says and requires. Despite all the technology and complexity involved in improving registration systems, it is fundamentally a legal activity designed to protect property rights and facilitate real estate market activity and economic development based on those legal rights – so this initial study is foundational. There will be regulations, instructions and guidelines that have been published and these must be assessed. If the land lawyer has registration office experience then he or she can assess how the registry office functions, talk with members of the legal profession and other key stakeholders involved in the sector (such as the banks), and find out the limitations of both the law and the practice. The lawyer will need to complete an assessment about what can be achieved under current legislation and assess what may need to change to fulfil all objectives of the program. I have very rarely found that existing laws cannot be used; problems are usually with interpretation of the law and with implementation of the regulations. As it can take years to approve a policy document or change a law, it is far better to work with what you have and include a program for amendments in the reform program.

If the lawyer is not experienced in registration work then someone with that experience will be required. A key consideration will be whether there needs to be a national program for systematically registering all properties and, if so, how this can be done while ensuring that the daily on-going registration of transactions can continue and be improved.

Please note that you need an experienced *land lawyer*. On a few occasions I have come across lawyers drafted in to work on a land program that have a corporate law or a tax law background, and they have been virtually useless for a registration project.

- (iii) Geospatial specialist or surveyor or similar. This person will need to assess the current mapping systems and the geodetic network (national coordinate systems and the basis for survey work); the way in which boundary surveys are conducted; private and public sector capacities; licensing of persons permitted to do cadastral survey work; the institutions responsible for surveying, mapping, control networks and remote sensing; and the linkages with other agencies and local authorities that utilise geospatial information. It is very common that a continuously operating reference network (utilising satellite-based position fixing, such as GPS) will need either to be utilised or to be put in place. If there is a national spatial data infrastructure (NSDI), or work underway to prepare an NSDI, then the specialist will assess this and ensure that any proposals or work planned are in conformity. The United Nations (UN) have established a group of experts called the forum on ‘Global Geospatial Information Management’ (UN-GGIM) which is leading international coordination on an *Integrated Geospatial Information Framework (IGIF)* and progress with this will also need to be monitored. This is explained in detail in Chapter 9.
- (iv) IT specialist. A competent IT specialist will need to assess the technology and software in use. A review would cover all levels of centralised and decentralised systems and the networks that link the different offices, their databases and their processes. An assessment of the telecommunications networks nationwide will need to be made. Often the government will have e-government initiatives and international / national standards that must be adhered to and the specialist will have to check and assess these to make sure that any intervention recommended will meet those needs. The sustainability of these systems is crucial for business continuity, so the support arrangements and resourcing need to be investigated. This is a critical area for any project in the modern day and needs focussed attention by very competent experts. Working with the legal and survey specialists, an analysis of the quality and currency of any data in existing systems must be undertaken.

- (v) Social scientist. This person is often not included in the situation analysis phase, but I prefer that they come in at this stage. It is very important to recognise those people who are excluded or marginalised by current practice and to find out what their needs are with regard to property rights, security of tenure and the ability to pass on to descendants those properties they own – whether they have registered rights or not. Would there be anything in proposed project plans that might affect marginalised communities, women, vulnerable groups or the poor? What safeguards need to be put in place? How should changes to systems and their rights be communicated to them and how will you get feedback and information from key stakeholders? If work is being funded by a foreign government or development bank, there will almost certainly be documented safeguard standards that have to be met before funding is released and these will need to be taken into account. It is in this phase of work that the social scientist is needed so that the technical and professional team members can take these issues into account.

For a first visit, a period of about ten days to two weeks is needed for this work. The team should not be too big. I recall once arriving for a meeting in which there were 13 of us from the World Bank and it overwhelmed the counterpart, while lots of expensive people were sitting wasting their time in meetings. At the end of the first visit, the team should be ready to talk about their findings and advise the client (government officials, usually) on the conclusions of the visit in a structured way before leaving, in order to get some immediate feedback that should be incorporated into the initial findings. It is at this stage that you really need to agree the vision, the project objectives, the goals and some of the specific targets where they are critical.

### The Vision, Goals and Objectives

The vision (sometimes called the higher level objective) looks at the big problem that needs to be resolved. Is it (as so often) that the economy in general is weak and is this partly because the real estate market is not performing? In some countries in the Middle East the issue is an over-reliance on oil for the economy and there is a need to diversify. In one country from this region they wanted to become an economic hub by encouraging major businesses and industries to base themselves in their country but, apart from the registration system, access to land was a serious problem and it was unclear how they would manage the public land that they wanted to use to encourage business development. Housing is often a big constraint, causing pollution and disease in unregulated areas or it could be the lack of productivity in farmland that may be a constraint. You have to know the fundamental problem(s) that need to be addressed so that you can ensure that the project includes activities to help solve them and make progress towards achieving the vision.

When looking at the project itself, it is key to *ensure that you are solving an actual problem that exists*. Sometimes the lack of documentation is not a problem. In the late 1970's when I began working on the systematic registration of property rights in rural Malawi, many of the recipients of the title certificates were really grateful and used them for the purpose intended (to get credit, rent out the land, obtain licenses to grow tobacco, etc.). However, most of the population were not quite sure why titles were being given to them. (This confusion occurred despite a very comprehensive publicity campaign and inclusion in village gatherings.) They and their families had lived on the land for generations, they were completely secure in their rights and used it for subsistence farming. They had no intention of selling or doing anything other than feeding themselves and selling excess produce at the local market. I came across several instances where the family situation changed and, in agreement with the local headmen, excess land was given to others in need, without any of them even thinking about changing their registered rights or certificates of title. I often thought that we should only be giving the title documents to the people who want them and would utilise those rights, while leaving the remainder in the customary arrangements that had worked quite well before.

The Project Objective itself concerns what you will achieve during the project. It is usually a simple statement. An example might be *to support development of real estate markets and the more intensive*

*and effective use of land through the introduction of a reliable and efficient system for the registration of rights in immovable property. If other activities are included then it might be something like: to ensure that there is a reliable, transparent and efficient real estate registration system supporting the real property markets and suitable systems for the management and use of State-owned immovable property.*

The Goals may be: to establish registration offices in every district; to systematically register all properties nationwide; to introduce an e-conveyancing system; to implement a mass appraisal methodology for property taxes; etc.

The Targets would be agreed generally, but probably not specified in number terms until investigation is done during the project preparation phase. They will include specific objectives, such as: increase in numbers of transactions registered by 50 per cent; increase in the value of mortgage finance secured by using property as collateral by 100 per cent; decrease in the time to register a transaction from two weeks to one day; increase the public satisfaction of services provided from 55 to 85 per cent. For these targets, the baseline data is required (usually gathered during the project preparation phase) and the targets must be constantly monitored during the project.

Now for some personal anecdotes

You really never know what to expect. I recall arriving in one Balkan country that had requested support. They had previously been advised by a financing partner from one country that had helped them prepare a new law, but now they wanted major funding to implement it. The law turned out to be problematic and it was really just a copy of (or very similar to) the one used in the country of the consultants and not very good for the country concerned. However, there was no point trying to change a law that had just been passed, so we had to work with it. It was a small country and we had identified US\$ 10 million as a possible loan amount. However, the first visit to the cadastre agency in one region started by them advising us that they had already worked out exactly all that needed to be done. They had their program, timelines and costing – and all they needed was US\$ 220 million for the survey work. Our initial elation collapsed, and we saw that we had work ahead. The next visit was to the city authorities. Their big problem was the level of illegal construction that had taken place. It was huge and covered a very large part of the city. We asked what helped they wanted, and the response was “bulldozers – two big ones”. They were serious too! My suggestion that this might create civil unrest was not considered a problem – the people had acted illegally and must take the consequences. I followed up with the argument that the buildings were put up because the city did not have a housing policy or provide any social housing; that it took years to get planning approval for new buildings; and that bribes had to be paid both for the approval and for agreeing the different stages of building works. This was not the fault of the people themselves who had to find somewhere to live, and maybe they should not be punished for building illegally. Maybe they should just be given an amnesty and have their buildings regularised. This argument was not accepted either. From an early stage we realised that we had a lot of things to discuss and that diplomacy and patience were going to be key. The project was implemented and was very successful – without knocking any buildings down and being much more pragmatic in the surveying work.

In another Balkan country we arrived for our first visit and discovered multiple bilateral donors already there, but without a coherent agreement on how to help in the sector. Each donor had their own agenda, funds allocated and timelines for utilising the funds. The World Bank had allocated US\$ 10 million, which we later increased to US\$ 30 million because of the amount of work to be undertaken. Then by coordinating closely with the other financing partners we arranged for €11 million from the EU to take over all the mapping requirements and establish a new mapping unit within the agency (this fitted in with work in forestry that they were focusing on). The Norwegian government were particularly interested in digital technologies, so they agreed to finance the digitisation of older records and to develop the archiving system. The Swedish government were particularly interested in training and the social side, so they took responsibility for that activity. The World Bank funded the rest. The project required a lot of coordination and a positive approach, but in the end was very successful.

It is also necessary to be wary and think about what is really going on behind the scenes. In one sub-Saharan African country the various financing partners (including the World Bank) had been working for many decades, but there seemed so much more left to do. In theory, one of the key considerations when trying to help is that *you do yourself out of a job*, in other words that you provide the advice and support needed and then leave because a sustainable and suitable system is in place. In this country it was clear that a whole community of local consultants, NGOs and government officials had come to rely on the donor community and the money that came in from them. There was a perverse incentive to *not* finish or at least leave new tasks that must be done so that more funding could come in.

In another country (not in Africa) enquiries led us to understand that the head of the agency had to buy his position from the deputy Minister and then would need to cover that cost from informal payments. A sophisticated system of money being drawn from local offices up to the head (with presumably each taking their cut) was working. In this instance, when government changed and suitable procedures to avoid corruption were put in place, the project concluded successfully. You cannot always clearly state some of these problems in the project documentation because the documents are official and usually public documents – but they exist and should be recognised and mitigated. In one country in eastern Europe, the President solved the corruption problems by simply liquidating the corrupt agencies concerned and setting up a new one under new management.

## Detailed Project Preparation.

### The Experts you might need

Having decided what needs to be done, along with the goals and targets, it will always be necessary to investigate further in some areas, or it will be impossible to work out the costs and timelines for achieving the goals and meeting the specific targets. I usually prefer to keep the original core team, but sometimes additional advisors are necessary – often for short-term, one-off consultancies; or alternatively utilise existing specialists within government. Examples might be:

- a geodesist capable of preparing documentation for establishing a reference network;
- a valuer because, for example, the lack of valuation expertise was affecting the best use of government property assets or optimising tax collection;
- IT-related technical specialists because of the complexity of existing or planned IT systems, such as a database management specialist, a telecommunications specialist, a networking specialist, a WEB designer, a business systems analyst, IT systems auditors, or a GIS specialist (note that these are all different skills – not usually held by one person);
- a public awareness and communications person because the changes will be major and public information and support are essential;

- an economist/financial specialist to ensure that systems being established are viable and sustainable;
- a trainer, because training needs are substantial and complex;
- a town or rural planner;
- a PPP specialist if there is a likelihood that the government wants to partner or outsource registration services;
- a company to undertake a social survey or a similar study – maybe regarding the use of customary land or for gender equity or for understanding the informal market and informal construction, etc.;
- a monitoring and evaluation specialist for complex projects;
- a procurement specialist;
- a financial management specialist.

Of course, you would not need all of these and hopefully some people could fill more than one role. You must also be careful not to introduce too much complexity or produce too many long reports; firstly, because it becomes impossible to translate everything into the local language, and secondly because very long reports are rarely ever read. Also, you need to be careful not to take up the time of government officials, who are busy with their everyday tasks, with long interviews and discussions.

#### Keep it short? Or not?

I recall in one project we had substantial funding for project preparation and I took the lead in that preparation. We hired fourteen people – with some working on the same subject matter as joint international and local experts – in order to produce eight reports for key areas that needed clarification. They covered: (i) a land market study to understand the existing land markets, their level of activity and issues faced by the various stakeholders; (ii) the registration office functions, their records and how to deal with their overflowing archives; (iii) the cadastre records, methods of surveying and proposals for how to undertake surveys under the project; (iv) the law as applied to property rights and registration and what changes or modifications were needed; (v) human resources available and training requirements for the project and the longer term; (vi) the IT infrastructure and the strategy for future development; (vii) a monitoring and evaluation (M&E) framework, including any studies that needed to be done to monitor project progress; (viii) project management, timelines, procurement packages and finances.

I gave strict instructions that no report could be more than fifteen pages long. Thus, the documentation for a complex project would be:  $15 \times 8 = 120$  pages. This is by far the maximum that you can expect anyone in government to read for a detailed project and you still have to summarize in slides and graphs for the more senior managers and people who will not make the time to read it all. I think that only the person hired by the government to manage their project read the whole thing. Two of the consultants just could not write a short report (the trainer and the M&E person) and each produced over 100 pages that I could not use. The M&E report was thrown away unused and for the training report we just used a few of the tables

*The 17<sup>th</sup> century philosopher Blaise Pascal once wrote a long letter to the Jesuit Fathers and then apologised by writing, 'I have made this longer than usual because I have not had the time to make it shorter.'* Many other famous people have repeated it – and I will join them. When writing a report, you need to take the time to make it concise, readable and informative. I recall one project manager who had prepared his report on project progress and handed it to the head of the agency. It was about 100 pages long. It was sitting on his desk, in the same place, each time I visited and, when he saw me looking at it some six months after it had been written, he said simply, 'I have no idea if I will ever find the time to read that.' My 'rule of thumb' these days is that anything over 20 pages is probably too long for an individual report, but you need to assess your audience. Major agency heads need less than eight pages and ministers less than two pages. (Although there are many exceptions and it is important to know

your audience – I recall one minister in a sub-Saharan African country who read and critiqued anything anyone wrote!)

## Project Components

My strong preference is for a project that addresses *only* land administration and land management, and not have this subsumed within larger agriculture or urban projects. Of course, the team would ensure that the related requirements in other sectors are understood and taken into account because the land administration and management system must meet the overall needs of society and the economy, but it is important not to take on too much in one project. This is because the complexity of land projects and the different skills required to see through a reform are almost always underestimated. It is difficult to give the focus and resources needed to manage the land administration component if it is just a part of a larger project. When it is considered that a person's land is usually their most valuable and precious asset, that it is a foundation of the key economic drivers – land, capital and labour – and it is required for shelter and food, it must be given due priority. Typically, a project might include the following components or sub-components:

- Registration system development – including all the institutional and training requirements, civil works, furniture and equipment, computer systems, processes and practices, finances for sustainability and integration with the cadastre system. Archiving systems are usually very important for a registration system, whether electronic or paper-based, and they will need specific attention. The quality and usefulness of existing data and records within the existing systems must be assessed and may need cleaning or improving. Business process re-engineering and the introduction of e-services must also be considered. (Note: it is preferable to have one organisation responsible for cadastre and registration – but the activities must be separately addressed in any case.);
- Cadastre system development – including all the institutional and training requirements, civil works, furniture and equipment, computer systems, processes and practices, finances for sustainability and integration with the registration system. As for the registration system, the archives, the quality and usefulness of existing data and records within the existing cadastre or survey systems must be assessed and may require improvement. There may need to be mapping programs, establishment of geodetic networks and agreements on licensing practitioners and private sector involvement;
- First registration – possibly involving a systematic registration program so that all properties are included. (For a brief discussion of systematic registration and other options for first registration, see Chapter 7.);
- Land policies, land laws and the regulatory framework – they almost always need to be addressed and continually reviewed. Legal aid programs can be included if it is expected that issues will arise or a need for support to low income groups is needed;
- Institutional development – including financing, funding, sustainability and business planning for the organisations. Capacity development is a key issue that must be started as early as possible. This may also include an analysis of wider institutional arrangements across the land sector;
- Private sector development – to ensure that sufficient support is provided for people involved in the real estate sector to meet future needs. This may include ensuring that contracts for work in the local private sector are included in the procurement plan, training and establishing licensing mechanisms;
- Spatial data infrastructure and the linkage with other agencies;
- Public awareness, vulnerabilities and social monitoring;
- Capacity development and training;
- Project management, including the institutional responsibilities and project management by government; managing finances and procurement; auditing; M&E of progress, including continuous risk assessment and mitigation. There is more about project management in Chapter 5.

Additional related subjects might be included (if requested):

- Customary or indigenous land usage and management;
- Access to finance through banks, government sponsored financing organisations (such as rural development funds), building societies, credit facilities for housing or development, etc.;
- State land management;
- Land and conflict resolution;
- Addressing systems;
- Land and property tax – including mass appraisal; and
- Planning – including building permitting and dealing with informal settlements.

## The Project Document

Different organisations have different standard formats for projects. The contents are often similar, and I will use the World Bank's standard Project Appraisal Document (PAD) to briefly describe what is normally in a project document. I have also listed a number of PADs in Annex 3, and it will be a simple matter to make an Internet search: 'World Bank project appraisal document', then project name and the country to get a copy of the document. They are usually between 60 and 80 pages in length, with the summary text describing the key parts of the project in about 15-20 pages and the rest in the form of annexes.

Typically, a PAD will include:

- Summary information about the project, parties involved, funding, objectives, components and any key conditions that are relevant (such as a promise not to require any person to vacate their land and property during the project). It is usually about four pages long. This will tell any senior official or interested outsider what the project is about and what it will achieve. They can then decide to read further if they want to;
- The main text would include the country background and the higher level objects to be reached – including the country vision and goals in the sector, followed by the project objectives, components and implementing arrangements, including the institutions that will be responsible and the team that will actually implement the project. The results and targets and how they will be monitored and evaluated comes next, followed by the risks that would affect performance and on-going sustainability after the project concludes. In the World Bank PAD there is also an appraisal summary addressing the economic and financial outcomes expected and a technical analysis of the key technically more complex parts of the project. Lastly, there are sections on fiduciary arrangements, social and environmental impacts and any safeguard issues that need to be considered to protect vulnerable people, the environment, cultural or historic treasures and resources, etc. The main text is usually about 15 pages long;
- There will be annexes to provide greater detail about the project. There is no standard length but 40 to 70 pages for the annexes is common. Some of it is tabular in form. Annexes would include, for example:
  - A Results Framework specifying exactly the targets to be reached and the timing for meeting those targets. It is separated between 'outcomes' that show improvements to functioning of the system evidenced through greater real estate market activity and investments occurring, and general proof that society is now more satisfied with their security and the transparency or efficiency of the system. There are also 'outputs' that specify, for example, the numbers of titles issued, amount of mapping concluded, number of people trained, etc. Good examples can be found in the PADs identified in Annex 3.
  - More detail on the country and sector background and explanations of why the project meets the overall needs of the country.

- More detail on the project components and all the activities envisaged within the project.
- More detail on other projects in the sector (often by other financing partners) that will impact the performance of the proposed project or the complementarity that needs to be assured.
- Greater detail on the implementation arrangements, including matters such as steering committees, the agencies involved and their responsibilities, project management units and contracting that might be required. The fiduciary measures that would ensure proper use and audits of funds and the procurement of goods and services would be included. (In World Bank funded projects financial management and procurement are often annexes on their own.)
- A more detailed economic and financial analysis is often included explaining exactly how the expected economic rate of return is calculated. This is important as the same methodology for assessing the impact is likely to be used at the end of the project in order to assess whether it was successful or not from an economic perspective.
- An annex addressing social issues and/or safeguard issues is often included.
- A detailed risk framework with mitigation measures. This is a key document used as a management tool continuously throughout the project. It should be regularly updated as risks change and new risks appear.
- Others as required.

## Summary

1. When preparing a project, the person or organisation that has asked for assistance is key. If there is evidence of a high-level engagement and request from the country requiring the changes, then there is also a high likelihood of success because there is a desire for reform. If the request comes from ministerial level with an engaged minister who is keen to see the reforms, then that is the best scenario.
2. Make sure you know what the problems are and that you address the actual problem. Lack of a paper version of the title is not necessarily a problem.
3. One of the early tasks when preparing a project is to go and see the stakeholders in both the public and private sectors in order to find out from them, and if possible, the more general public, their understanding of the efficiency, transparency and importance of the existing systems and where they see that improvements can be made. A visit to the main land administration agencies, including their public reception areas and office practice, is important.
4. Always remember that your counterparts are busy people and you should not waste their time and, if you are coming from abroad, *that this is not your country*, so their wishes and expectations should be the driving force as you prepare the project. Usually, they really do know what will work in their own country, but they need good international experience, advice and ideas about how to solve their specific problems.
5. Different financing partners, government agencies, bilateral donors, etc. all come with their own agenda and idea of what reforms are needed. Coordination is essential to avoid giving differing advice or even working against each other.
6. Following on from above, the government should be taking the lead and directing financing partners, agencies and bilateral donors in their requirements. Too often it appears to be the other way around.
7. A basic principle for any foreign advisor, financing partner or bilateral donor is that you have succeeded when you have *done yourself out of a job*. This means that you can leave, and everything will continue to work well.
8. The first stage of project preparation will take ten days to two weeks, you will need specialists in land law, land survey, IT and social science as well as the team leader. They will focus on the situation analysis and identifying the vision, goals and objectives of the project. Other specialists will come in later if needed as the project is prepared.
9. Reports need to be short, concise and focus on solutions.



10. Projects that focus only on land administration and land management are more likely to succeed. Samples of typical components of a project are provided in the main text (above) and samples of good project documents are provided in Annex 3.