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 5. Project Management and Institutional Development.

Gavin Adlington

With specialist chapters from:
Tony Lamb, Rumyana Tonchovska and Robin McLaren

Chapter 5 Project Management and Institutional Development

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This chapter covers two topics that could be considered independently, but they are covered together because there are important project management lessons to be learned and applied by the institutions responsible for implementing and managing projects for reform or to complete a major task, not just during the reform, but thereafter. Also, major reforms often cause governments to consider the institutions involved and whether the institutions themselves should change to implement the reform or to function more efficiently after the reform has been implemented.

Project Management

Project Ownership by the Responsible Agency

I have often come across situations where the agency responsible for a project blames the PIU (Project Implementation Unit) for things that go wrong or when delays occur. I have also come across occasions when the PIU acts as if it owns the project and the responsible agency is a hindrance to getting the project completed. There are often statements about 'the World Bank Project' and what 'they' (meaning the World Bank) have done. It should be clear that the World Bank (and hopefully any other financing partner) does not implement projects; it funds projects that are to be implemented and managed by government agencies. The financier provides funds, and checks that those funds are used according to the purpose for which they were supplied.

The PIU is assigned by the government agency to implement the project, but the responsibility and control must remain with the agency. It is fundamentally important for all parties to realise that the project or reform must be 'owned' and be the responsibility of the government agency if the reforms or changes are to be sustainable.[1] If several government agencies are involved then a steering committee comprised of high-level representatives of the key agencies (and preferably users and the private sector) needs to be formed and take on the responsibility for implementing the project. However, experience has shown that such steering committees (or high level project boards) have a mixed record of usefulness and success. I recall in one Balkan country a highly unusual project that had five ministries or agencies involved and eight components in a very complex project, but it was managed well and ended successfully. Another in sub-Saharan Africa had six institutions, two financing partners and the involvement of civil society organisations. That project was also successful in most of its components. Unfortunately, it is much more common to find institutions competing for funds and influence and for steering committees to very rarely meet and not give directions or hold the agencies concerned to account for progress. As a rule, when a single agency with a good project manager takes ownership, the success rate is high, so where possible this is the preferred model. If a project or reform is not *owned* by the government agency, then the sustainability of the reforms will be questionable.

Project Staff and Methodology

When implementing any kind of project or major reform, it is normal to have a unit responsible for project management. When projects are funded by external bodies there is usually a requirement to include a separate project management or PIU, primarily to ensure that funds are utilised transparently and efficiently and that the goals and objectives of the project are met. Thus, all projects that I have been involved in would identify an overall project manager, financial manager, procurement manager and monitoring and evaluation (M&E) manager as fundamental to the project's success. External auditors would also be required. Although the PIU staff were usually employed on short-term contracts,

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[1] In PRINCE2 terminology (see next page), there should be a Single Responsible Owner appointed who has overall responsibility for the successful delivery of the projects.

many of the institutions recognised the value of the project management skills and knowledge of the PIU staff and retained them as employees after the project ended.

The fiduciary requirements of projects and matters relating to ensuring that the responsible agency provides efficient and socially responsible services to the public, which are always catered for in projects, should also be standard for any government body. In recent years the importance of closely involving a 'safeguards' specialist has been recognised. This specialist should have always been included, but was often not given the status and importance that is needed. The safeguards specialist will ensure that human rights are not abused and the project's impact(s) on the environment (including climate change issues) and society are monitored. Protection for vulnerable groups, gender equity, indigenous populations and cultural or traditional norms and heritage sites will also be monitored by the safeguards person.

There are several project management methodologies that can be utilised to manage projects, such as PRINCE2[2] (used by the UK government and some private sector organisations) or PMP[3] (favoured in the Americas), but these have not been specifically utilised in the projects I have been involved in because most countries have not yet adopted these methodologies and the World Bank has its own project cycle and methodology for managing projects. It is certain that a structured methodology that makes the business case, clearly assigns institutional management responsibilities, ensures quality control, ensures continual risk assessment and effectively manages change as needed, and provides a focus on the end users and reaching the goals and targets, is essential, no matter which methodology is adopted. If your program is not based on funding and a project management methodology mandated by the financing partner, then the standard methodologies offered by PRINCE2 or PMP could be used.

There are two additional points relating to: (a) risk assessment and (b) monitoring and evaluation that should also be standard, but often are not. In many of the projects these two activities performed during project implementation have been continued by the government agency responsible for the project after it has closed, and for this reason they are described in a more detail below.

Risk Assessment

When playing a game of chess, the players are constantly asking themselves questions: If I make this move where will it lead? What do I do after that? If I make this move, what will my opponent do in response? Is this move part of a long-term strategy that will eventually lead to me winning or a short-term quick win to take an opposing piece? And the players balance the probabilities of their opponent making the right decisions by deciding whether the opponent will make a certain move (in which case they will lose) or whether they will make a different specific move (in which case they might win).

A risk assessment basically looks into the future and thinks about what is trying to be achieved (the goals and targets) and what could go wrong. After identifying what could go wrong (the risk), it is necessary to consider how likely that is to happen (the probability) and how serious it will be if the thing that could go wrong actually happens (the impact). The assessment framework will then develop measures to lessen the chance that the thing that could go wrong does not happen or, if it cannot be guaranteed not to happen, what to do about it. This is the mitigation measure. Much of this will be developed in consultations with the implementers and end users. The best way of illustrating this is with an example in Table 1:

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[2] PRojects IN Controlled Environments (https://www.prince2.com/eur)
[3] Project Management Professional

	Risk	Likelihood (High, Medium or Low)	Impact Level. Explanation	Mitigation Measures	Changes since last review Date: xx/xx/xx
1	Registrars and notaries object to the reforms and obstruct changes	Medium	Medium. Delays and obstruction to the establishment of the new offices and new procedures.	Making them part of the discussions on the new entity. Prepare suitable human resources plan and migration plan.	Discussions with law society has been fruitful. Workshop planned for Sept 30 agreed for initial feedback and ideas.
2	There is insufficient budget likely to be available to carry out the reforms and changes needed.	High	Medium The changes would take a long time to complete.	Include a serious financial analysis within plans and be prepared to alter approaches if funding is not available.	This remains a very high risk. The financial analysis within a business plan is being prepared.
3	The team required to oversee the reforms and changes are not available or of insufficient knowledge and capacity.	Medium	High In order to manage the changes envisaged a team of highly capable individuals will be needed to manage the changes. If they are not available, the reforms will either take a long time or not happen at all.	Develop a migration strategy and establish a small internal Change Management Team as soon as possible.	First draft of migration strategy prepared but migration team not yet appointed. Speak to head of department about this.
4	Lack of public participation	Low	Medium Lack of credibility but existing records may be sufficient.	Continuous monitoring of contractor responsible for public awareness campaign.	No issues to date. There appears to be good demand and good response to initial publicity campaign.
5	Digitisation of deeds in Deeds Registry is delayed	Medium	High Digitisation of archive records is essential for new system to operate.	Develop a detailed archiving strategy within the road map and ensure that this is integrated with the migration plan for reducing offices. Do not change office structure until the deeds and ledgers are digitised.	No progress. Increase risk likelihood to 'high' and inform responsible Minister of the problem.
6	Public bodies do not claim their land rights.	High	Medium. This has been the experience so far. It makes the record incomplete and less useful as a record to be used by other ministries and users and for an SDI.	Unsure if they know where their land is. They do claim now, but it is unclear whether their claims are accurate, and it is difficult to verify. To be monitored more closely during supervision.	Discussions with State land management department are on-going.
7	IT department does not have the resources to create/ maintain the electronic services required in the long term plans.	Medium	High The IT department have been losing people because of wage structure and are currently understaffed. Hiring new people will be difficult because wages are not competitive.	Address this issue in the IT/IM strategy and ensure that a viable solution is prepared. It may require outsourcing of some aspects.	IT strategy has been completed and is being reviewed by head of department.

Table 1: Example of a Risk Framework

The risk framework would have many more rows, but this is just a sample. Other templates can also be used. There are many standard templates available and they can be reviewed via an Internet search. The agency responsible for the project will continue to develop and will have many challenges even after a project is completed, so continuing to utilie a risk framework is advised. To be useful the risk framework needs to be 'reality checked' to prove that the risks are being correctly assessed and that the mitigation measures work. There may be more than one mitigation measure for any identified risk. The PADs referred to in Annex 3 have good examples of risks and it is often noted that different countries encounter the same risks – so it is worth reviewing the PADs.

Unfortunately, experience shows that risk frameworks are rarely reviewed, updated and used as a tool for making change. Most frequently they are completed because the project management methodology requires them to be done, and then they are forgotten about.

Monitoring and Evaluation

A brief introduction to Results Frameworks is included within Chapter 3 under the heading on Project Documentation, in which it states: 'A Results Framework specifies 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'

The diagram below shows how the inputs lead to activities and then outputs. These outputs feed into the outcomes required.
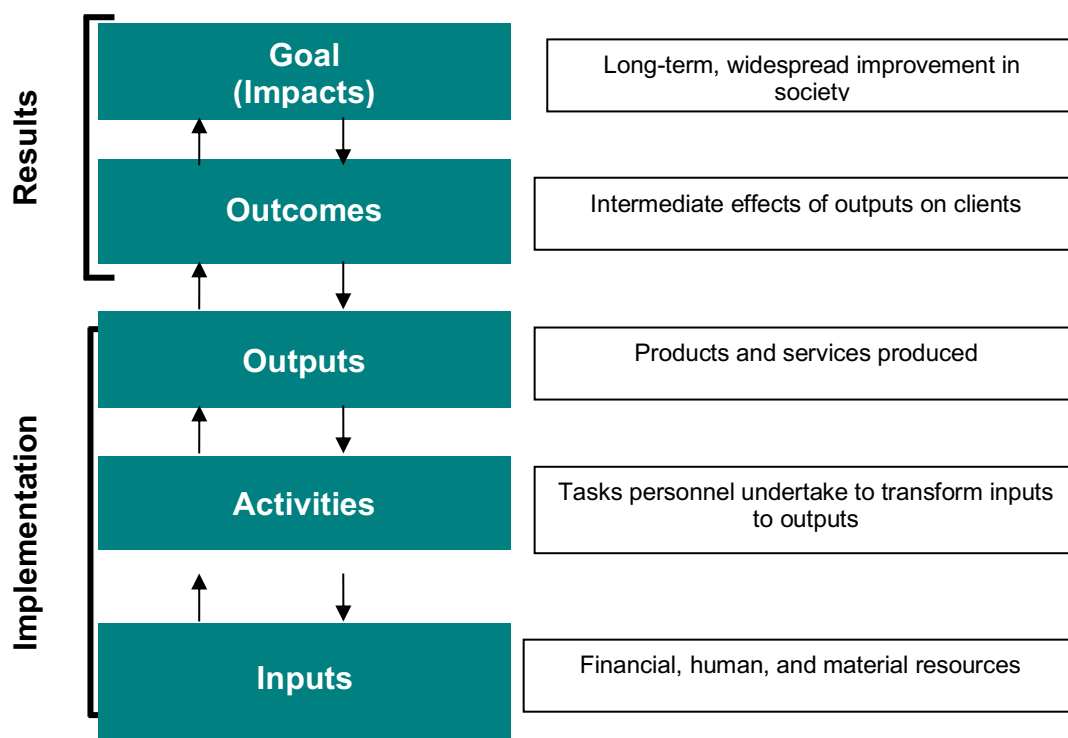

Figure 1: Overview of Results Framework

Kuseck and Rist (2004) used the term SMART to explain the key considerations for designing an M&E system:

> **S**pecific: The system captures the essence of the desired result by clearly and directly relating to achieving an objective, and only that objective.
> **M**easurable: The monitoring system and its indicators are unambiguously specified so that all parties agree on what the system covers and there are practical ways to measure the indicators and results.
> **A**chievable and Attributable: The system identifies what changes are anticipated as a result of the intervention and whether the result(s) are realistic. Attribution requires that changes in the targeted developmental issue can be linked to the intervention.
> **R**elevant and Realistic: The system establishes levels of performance that are likely to be achieved in a practical manner, and that reflect the expectations of stakeholders.
> **T**ime-bound, Timely, Trackable, and Targeted: The system allows progress to be tracked in a cost-effective manner at desired frequency for a set period, with clear identification of the particular stakeholder group to be impacted by the project or program.

Projects are nearly always judged by how well they meet the various goals, outcomes and targets specified in the results framework. If the results framework is poorly designed and not kept up-to-date with data, then the project might be classified as unsatisfactory even if it has actually achieved a lot and made a dramatic impact. I recall a case where an Eastern European country had transformed service provision from run-down shacks and dilapidated buildings providing very little service because only a few people used them, to having newly constructed and user-friendly premises, and providing remote services to villages with mobile offices. It was a fantastic change and extremely popular with the public, but reviewers thought the project was unsatisfactory because some minor targets relating to public land management were not met. In another example in sub-Saharan Africa, the excellent work done in customary land areas, urban planning, dispute resolution through the courts and street addressing was not sufficiently recognised as being important in the results framework and therefore received little recognition by reviewers trying to assess the project. Unfortunately, it is often not until the project is completed and bureaucrats in head office or the government ministries begin to assess the impact of all the funds expended that it is realised how important the M&E framework is. For this reason, it is always important to ensure that you have:

- Clarity on the real expected impact of a project taking into account what will be attributable only to project activities and what other impacts would influence results;
- Clear baseline information looking at both the current and expected economic impact and the current and expected social impact of any interventions – using competent professionals that specialise in these sectors;
- Taken into account the longer term impacts that will not be felt for a decade or a generation. For example:
    - Increases in agricultural output in rural areas is often mentioned as an outcome following on from people investing their time and money in the land once they have secure title. But, by the time the titles are issued, and the necessary investments are made, the project may well be over – in which case the increase in agricultural output will not be seen at the time of assessing whether the project was successful.
    - In discussion during baseline studies in a community it is very common for people without documentary proof of ownership to want the security of a title certificate so that they are sure that they have something to pass on to their children. This objective of passing on the land title to their children will hopefully not be met during the lifetime of the project!
  In these instances, the longer-term outcomes can be referred in the justification for implementing the project but should not be included as measurable indicators in the results framework.
- All projects undergo change from their initial definition and authorisation. This change, endorsed by the project board (key part of project governance arrangements), must also be reflected in a modified results framework.

It is also important to have a 'mid-term review' or 'stage reviews' completed part-way through the project to ensure that the project is moving along as planned and that the expected results are likely to be achieved. It should be done by an external team if possible so that an independent view is taken. Such a review gives the opportunity to make corrections for unforeseen events or over-optimism (or pessimism) in the expected outputs. If necessary, the results framework should be amended at this point based on the recommendations of the review team.

It is surprising how often the baseline data (i.e. the information prior to the project starting) is not gathered before the project starts, or within the first month or two of it commencing. This is a regular problem and often occurs because of inertia rather than any desire to avoid doing it. Unfortunately, without the baseline data none of the rest of the monitoring makes sense because you cannot measure any improvements. I have found in almost every country that the 'Monitoring' part of M&E is the easiest part as it just needs regular (monthly or quarterly) gathering of data and seeing how closely the targets are to those planned in the results framework according to the time frame envisaged. The 'Evaluation' part requires greater analytical abilities as it requires an assessment of whether the project itself made or created the changes, or whether they were impacted by other factors or would have happened anyway. Thus, skills well beyond data collection are required for evaluation and managers should be consulted. For example, the project may measure the amount of money borrowed using property as collateral, but this may be more impacted by an increasingly vibrant economy or banks changing their lending rules than the improvements to registration delivered by the project. These other factors need to be assessed and evaluated to get a true impression of the impact of the project.

For successful M&E, the key performance indicators and targets need to be specific, measurable and attributable to the project, as discussed in Chapter 3 in relation to the Results Framework. More important for the sustainability of the project outcomes is to build an M&E culture within the agency so that the agency continues to assess its performance against suitably drafted key performance indicators once the project is completed. References below to developing a corporate strategy and business planning within an institution shows how important it is to continue M&E activities within any vibrant organisation.

Our experience in projects has shown that, much like the use of risk frameworks, the M&E section is 'filled in' because the project documents and the project methodology say that they must be, but it is rare that the evaluation is seriously done or that the results are used to amend the management approach, revise targets and goals or challenge assumptions made when the project was prepared. There are some good examples, but they are very few. In socialist times in the Europe and Central Asia region targets and reporting were a common requirement under the centrally planned economies and reporting was done as a pro-forma activity to show that the targets were being reached. It took some time to change that approach and for individual agencies to use M&E as a management tool, but a few countries in the Balkans did make that change well.

Institutional Development

Never the Twain Shall Meet

It is very common around the world for different institutions to be responsible for the legal side of registering property and the survey side of recording the boundaries to those properties. In my early years in Malawi I found it odd that the deeds registry within the Lands Department was satisfied that there was a plan, without assessing the plan in any way, and that the surveyors in the Survey Department prepared plans based on the regulations that were enacted, but often did not really know what the Lands Department did and often did not link the surveys with the legal rights that they were supposed to depict. The more knowledgeable surveyors did it right, but for others it seemed to be more important that the surveyed plot adhered to the town plan layout, the road reserves and the survey rules than actually showing the true extent of the property in possession by the person for whom a deed was being prepared.

I recall one case where development had occurred before the survey work had been completed. The surveyor stuck strictly to the town plan layout and dimensions with the end result that every boundary marker showed that the boundary went right through the middle of every building. Unsurprisingly, none of the owners moved their buildings by the five meters that would be required to be within their boundary.

I thought that this type of problem was an anomaly until I started working in other countries and found it very common. I recall talking to one colleague from the USA who had worked as a court judge for land disputes in one district, and I asked him how often he called for a map (or used a map) showing the boundaries of the property to compare with the evidence being provided verbally. He thought about it for a while and then said, "Never. I never did that." I have also asked many registrars or legal examination clerks how often they look at the plans, and the answer is similar – either never or very rarely. Whenever I have mentioned this to surveyors, they are truly shocked. The legal rights and the extent (or boundaries) of the rights should be part of one consideration, but it seems that with regard to lawyers and surveyors, as in Rudyard Kipling's words about people from the East and the West, that *Never the Twain Shall Meet.*

[I should point out the excellent practice in parts of Northern Europe and Scandinavia that degree courses in land administration and management often include both the surveying side and the legal side of land and property rights, and the students get the option to specialise in one or the other in the latter part of their course.]

One Institution

Historically, in much of the world, systems developed for registration and cadastre used two separate institutions. One, often based on the courts, notaries or Ministry of Justice dealt with the legal side of registration, while the description of the property in the form of a cadastre or property index map was the responsibility of municipalities, mapping agencies or a Survey Department. In some countries the relationship between the ministry responsible, which is often responsible for policies, development of laws and approving regulations, and the department or agency that actually has to implement those policies can also be problematic. This is further complicated by the fact that local authorities are usually responsible for managing land use and planning, which affects what people can actually do with their land and has a huge impact therefore on its value. In many of the ex-colonies, a Lands Department was responsible for managing and allocating State land, leasing State land to the public or private sector, overseeing customary land use and maintaining the register of deeds and cadastral index maps. The role of an independent protector of a person's real estate rights under a registration law can be considered to be in conflict with the role of being one party to an agreement when leasing, buying, selling or managing that real estate if the same government organisation is responsible for both.

Many of the organisations that developed 'cadastres' for property tax purposes or as index maps for property ownership are now centres for geospatial information management providing support to multiple government agencies and the general public, as the cadastre provides a fundamental layer for national spatial data infrastructure, three dimensional information systems and mapping programs. In most of the former socialist countries of the Europe and Central Asia region, the cadastres had not reached this stage when our projects were being implemented and there was often a problem that the records in the cadastre did not match the legal records or were focussed on different cadastres, such as building locations, agricultural productivity or land use. For the purposes of registering land rights, we generally recommended integrating the cadastre that showed ownership boundaries with the legal register, and also recommended that it be taken out of the courts and into a more focussed administrative structure. Although it is understandable that many years ago records were stored in the courts for safety, there is no logic in courts now being responsible for a basically administrative function (the transfer of ownership or other property rights between willing parties) as there is no problem or dispute to resolve. The Council of Europe recommended that non-judicial tasks entrusted to judges be assigned to other persons or bodies and quoted 'Land registry (control over registration of transfer of property, of charges

over immovable property...)' as an example of such a task that could be moved. (Council of Europe Committee of Ministers Recommendation N. R (86) 12 of 16 September 1986). In fact, the register of legal rights and the description of the location of the property to which those rights refer are always supposed to be linked. The institutional issues and recommendation for a single agency model are also contained in the Land Administration Guidelines (see book reference 22 in Annex 1).

If the land register and the plans and maps (or cadastres where relevant) are under the jurisdiction of one agency, it reduces duplication of administrative structures and makes it much easier to ensure that the plans and legal records match. The overall head of the agency can give instructions to each of the department heads to make sure that sensible, cooperative approaches are taken. For example, in a Middle Eastern country where I have recently been working, the creation of the register has not progressed because the surveyors want to survey large blocks in one go and to combine the work with other tasks they have for the municipality (recording buildings, topography, utilities, checking for non-compliance with town planning requirements, etc.) while the Deeds Registry has to patiently wait for all this to be done before it can investigate title. As the Deeds Registry generally only responds to applications that come before it, the program to systematically register all properties has barely begun despite the fact that seventeen years have elapsed since the necessary legislation was passed. In some Balkan countries the mismatch between the records held in the cadastre and the records in the courts made it very difficult to find out which was right, and both sides thought that theirs must be the more accurate record. A single agency is needed to ensure that the legal and survey sides work together not just for first registration. Cooperation and alignment are particularly important when a subdivision or amalgamation occurs because of the processes needed to ensure that both the legal register and the index map match each other throughout the process. If not properly managed there could be occasions, for example, when a subdivision may be approved by a Surveyor General, but the application to register the two parcels with the Deed or Title Registrar does not occur because the owner changes their mind. Then the parcel layer and the register get out of conformity.

Harmonisation of Records

In many of the Balkan countries we included project components to 'harmonise' the records of the cadastre with the deeds registry because they did not match at all. In fact, having separate agencies has caused all sorts of problems. Here are three further examples:

i.   In a Balkan country I recall a new law was passed that stated that any deed must show the property as approved by the municipal planning department. We did an exercise to map the location of properties as shown on the town plan, and then to map the location of properties as recorded in the cadastre, and then to map the properties as they existed in reality. When we overlaid them, we had three completely different index maps that did not even remotely match. When queried about this one official advised that the owner should acquire the land that he should own (but didn't) according to the town plan layout, sell the land that he should not own according to that layout and also remove any buildings (or parts of buildings) that did not conform. This obviously could not happen, so the notaries started preparing deeds with diagrams that corresponded to the town plan layout, knowing for certain that the plan and area did not represent the property that was being transferred. Some from the cadastre often ignored the town plan layouts and assumed that there was an error on the map showing the real life properties and their boundaries. Throughout, each of the three organisations involved adhered to their own guidelines as instructed by their department heads according to their own particular needs. Fortunately, after many months, the ridiculous law was amended, the cadastre took into account reality on the ground and the new deeds started to reflect the cadastral layout.

ii. In an Eastern European country there were three agencies responsible for registration. One recorded buildings, another recorded the land and a third registered the legal rights. Each had to prepare a certificate confirming the seller's rights and the location, but it was impossible to get to the third agency before the validity of the certificate from the first agency had expired. The only way to get registered was therefore to pay someone extra to ignore the expired date

on the first certificate. That country has now combined the three agencies into one and they no longer have such problems.

    iii.   Across the Balkans it was common for a system similar to the old Austro-Hungarian land book system to be in place – even if it had become outdated because of socialist restrictions on sales of properties and acquisition of properties by the State. The old cadastral maps were generally available. However, they almost never matched the physical situation on the ground. This is because the focus in those times was the relative accuracy between neighbours and surrounding boundaries rather than the absolute accuracies that might be derived from trigonometric networks suitably corrected for earth curvature, sea level, slopes and projections of the globe that might be in use. It was often very difficult to persuade government officials to 'move' the cadastral boundaries to fit the actual situation on the ground, which was now accurately mapped. For some reason it was considered that the cadastre boundary was 'legal' and therefore sacrosanct. In reality, of course, the roads, houses and hedges had never 'moved', it was just how they were shown on pieces of paper that changed.

As a result of all these problems with dual or multi-agency set ups, it has been our practice over the last fifteen or so years to strongly recommend establishing a single agency for registration and the cadastre (or property index map). It is still common in Western Europe to have separate cadastres and registration agencies, but even here there has been a shift towards unification in recent years in the Scandinavian countries. It is logical because a unified agency has only one 'boss' who can make sure that department heads meet the needs and requirements of other departments in one program of work. Costs are reduced because only one administrative structure is needed to cover finances, IT systems, procurement, auditing, human resources, etc. and only one building and set of utility and other expenses for the headquarters should be necessary. One unified corporate strategy and business plan (see below) is needed.

Often the national mapping agency is also integrated within the single agency for registration and cadastre. Although this is not critical, it has advantages because the specialists working within the national mapping agency tend to need a stronger technical background in geodesy, map projections, aerial and satellite imagery etc., and can advise cadastral surveyors if they face difficulties or apparent anomalies. National mapping agencies are also often allocated the responsibility to oversee the establishment of a national spatial data infrastructure that link the spatial records of multiple agencies (including the parcels and buildings found in the cadastre) with each other and a national framework.

Self-funding

An additional reason to merge the institutions responsible for cadastre and registration is to make it more likely that an autonomous self-funding model can be achieved. The cost of undertaking or checking survey work is much higher than legal verification because of the field trips needed, yet it can be onerous on the public to charge them the full cost of this – especially for low value properties in more rural locations. In some African countries we found that the cost of the survey for one land parcel (including transport, fees and accommodation) was greater than the value of the property itself. By combining the two activities of on-going registration of transactions and the surveying work that might be required into one agency, self-funding becomes more feasible.

In the early 1990's I finished my contracts in Africa and moved on to start providing advice in the Europe and Central Asia region, primarily for the World Bank. The situation there was similar in many ways to some of the poverty I had seen in Africa, because the old socialist systems had collapsed and left people in dire straits economically. Government offices were underfunded, staff were very poorly paid, and corruption was becoming more and more common. They had the disadvantage compared to Africa that they often had no tradition and little experience of privately held land, generally without systems that could register or protect individual property rights. Their systems were primarily concerned with centralised planning and control. Especially in the Former Soviet Union countries, the very concept of private ownership of land was not truly understood and there were no (or few) laws,

experience, universities or courts that had dealt with matters such as valuation/ appraisal, registering property rights or dealing with land markets, land disputes and inheritance related to property rights. Their big advantage was that they had a tradition of very strong and efficient government and a well-educated population that had graduated from good quality universities.

When commencing work in the Europe and Central Asia region, the experiences of the organisations responsible for first registration of property rights from other countries were taken into account. Many countries in Africa, the Caribbean and Asia (Thailand was a good example) had programs for mass systematic registration of property rights, using 'fit for purpose' techniques, with some remarkably good results. Thailand had managed to create something sustainable, whereas some of the systems I was looking at in Africa often were not – primarily because of low salary structures and underfunding from governments, which meant that the agencies were often inefficient, corrupt or involved in conflict, which made it very difficult for even the best individuals to maintain good systems. Around that time the England and Wales Land Registry received trading fund status (1993) and the Dutch Kadaster became an independent public body (1994). In effect they became self-governing, self-funding models that were to run along business lines. This would enable them to retain sufficiently high calibre of staff, invest for replacement of technology and improvement of premises, equipment, etc. and, if properly managed, make them independent of the many constraints that occur in public service from time to time. The Land Titles Office in New South Wales, Australia, also became financially autonomous as a state owned trading enterprise from 1995. It subsequently paid US$ 20 million equivalent to the MoF on a routine basis as a dividend. In 2017 the government went one step further and awarded a 35 year concession (following competitive tender) to a consortium of private companies to provide registration services in New South Wales. The consortium paid AU$ 2.6 billion for the concession (almost US$ 2 billion in 2017).

Autonomy is particularly relevant in an age where technology changes so fast and greater flexibility in decision making is required. Annually the England and Wales Land Registry and the Dutch Kadaster produce reports on their visions for the future, incomes and expenditures, and their business plan for the coming year. Both agencies combined their register of property rights with the index maps showing the registered parcels, avoiding many of the conflicts and disparities seen in numerous countries that had a separate register and cadastre that did not match, and which had different objectives and management priorities. Given the difficulties that countries of the Europe and Central Asia region were going to have with funding and retaining professional personnel, the model from England and Wales and the Netherlands seemed to be an excellent model. Of course, every country has their different traditions and needs, but every project that the World Bank funded in the region included aspects related to developing a corporate strategy and corporate approach to operations. We tried to encourage the single agency model (not always successfully), financial autonomy through a move to self-funding status and introduction of regular monitoring of how customers were receiving registration services and seeking their opinions about the quality of those services. In most projects funded by the World Bank in the Europe and Central Asia region the project included a specific component or subcomponent to develop a corporate strategy and annual business plan. A separate cost recovery strategy or analysis was often undertaken so that the fee and pricing structure could be accurately established. Ministries of Finance will often agree to such reforms because they prefer to have an agency that contributes to the treasury through taxes, profits or dividends. Conversely, some agencies have trouble letting go of the security of central budget funding, even if it restricts what they can do. An important argument in favour of self-funding is that the agency will be able to retain sufficient funds as a reserve when the real estate market suffers a setback, such as in the 2008 financial crisis. Such a reserve can also be used to pay compensation when errors made by the office cause losses to people relying on the accuracy of those records. (See book reference 25 in Annex 1 for more on running land registration as a business.)

The changes that occurred across the Europe and Central Asia region have yielded excellent results over the past 20 years, and if you were to check the *Registering Property ranking* in the annual report on *Doing Business for 2019* you will find six of these countries in the top 10, 10 in the top 20 and 13 in the top 30, etc. It is by far the largest and most successful property registration reform done in a region in history, with the possible exception of the reforms across Europe, Australia, Canada and New

Zealand in the 19th Century (see commentary on this in Chapter 1). I would argue that the sustainability provided through self-funding models and the consequent ability to recruit and retain high quality staff was a primary reason for success in the region. Further reference to the work in Europe and Central Asia and the results of that work can be found in Book references 11 and 33 in Annex 1.

Examples of Self- Funding Agencies established in the Europe and Central Asia Region

Most of the former socialist countries of the Europe and Central Asia region ensured full employment and included most working age people of the population as State employees. The control of land, housing and all aspects of mapping were usually State level responsibilities, with municipal level oversight of some of the activities. Mapping was generally considered sensitive or secret, so only people with special clearances could undertake mapping and surveying work that involved national coordinate systems. It was a major problem in the early years of reforms in the 1990's that access to any form of maps, aerial photographs or imagery was restricted and could not be granted to foreigners (like myself). Even as late as 2006 I recall one meeting in which we discussed the need to create index maps for registration, where the military had to be present. They were adamant that no aerial photography or national coordinate system could be included until I connected to the Internet, showed the Google map and pointed out the building in which we all sat. At first they were angry, stating that it was not permissible to have such imagery in their country, but then understood the issue more logically when we discussed the fact that it seemed that everyone in the world had access to imagery of their country, except for the residents of their country. In another country, the military insisted on having one of their specialists in the aeroplane that was flying the photography and inspecting the imagery, which was not allowed to leave the country. However, I suspect that the contractor just sent the imagery abroad in digital form for processing without them knowing.

The above is mentioned so that it can be understood just how life-changing it was to begin to establish open systems of registering property rights and then to consider letting real estate be part of a business enterprise that would register those rights. Often it was circumstances that made this essential. In some countries the 'land committees' had thousands of staff that did all sorts of survey work from soil surveys to detailed mapping and geodesy, with different grades of security dependent on what activity was included. Suddenly, after the collapse of the former regimes, there was insufficient money to pay such a large staff, and yet a huge reform program that included the need to survey tens of millions of land parcels was occurring. In several countries they took half the staff and told them that from now on they would have to make their own income from fees. They started with a monopoly to undertake surveys for a fee that had to be paid by the client. They used the equipment that the State had owned and became a business. Fees had to be set at a level that people were willing to pay. This developed over the years until a vibrant private sector, with competition, was fully established. In one smaller country about 130 survey companies were established in this way, and over the years they either made it work, retired or amalgamated with more successful firms, and within a few years the number had reduced to 13 fairly large firms providing services competitively – with no government surveyors doing any field work at all.

Those countries that combined the cadastral work with the legal registration often set up business units so that the overall company could function effectively. In Moldova the agency for land registration and cadastre initially formed three state enterprises, which are self-funding, to provide services in: (a) land registry, cadastre and valuation; (b) land management and expropriation for government land; and (c) geodesy, cartography and geo-informatics. The third might provide services to the other two on a fee paying basis. In Kyrgyzstan only the headquarters were funded by government, and each of the fifty local registry offices operated on fees collected and were staffed and operated based on the income they received. In Georgia a new agency was established and people hired on 'normal' government level salaries, with a requirement to be self-funding. They had flexibility to operate along business lines and were instructed to provide quick, corruption-free services. Through increased efficiency and dealing with corruption they reduced staffing levels by about two-thirds over a two year period, while increasing tenfold the salaries of the trusted and competent staff that remained or were hired. As a result, over a

six year period they also multiplied the number of registrations tenfold. This enabled them to continue to develop and improve efficiencies through better technology, and to this day they are one of the most efficient registry services found anywhere in the world. In Albania the agency became self-funding during the course of a project, and I found in a subsequent visit that they had hired over a hundred data entry and data validation clerks on temporary contracts to improve their digital archive. They would probably never have managed to get funds from government for this exercise, but now that they were self-funding they could budget in advance and assign their funds as needed.

When the Dutch Kadaster became self-funding in 1994 it was required to be a non-profit organisation. This was partly because it was a monopoly organisation designed to provide a service to the public. As the Dutch Kadaster increased efficiency and improved services, it began making too much money and had to keep reducing fees for the first few years so that it could maintain the non-profit basis. I recall it doing this about four times – almost every year. This is a good lesson to learn. In one of the Eastern European countries in which the agency had become self-funding in 2004 it was discovered in 2009 (just as the worldwide financial crisis was having a major impact) that the agency had 250 million Euro in its reserve fund. The government quickly took this money and re-instated the agency as a State funded organisation. As a result, funding to the agency became difficult, morale was reduced, and income also reduced. Some years later the self-funding status was restored – but they didn't get their 250 million Euro back!

Strategic and Business Plans

Strategic and business planning is covered within the FAO technical guide Nº 10 on Improving Ways to Record Tenure Rights (See book reference 18 in Annex 1) so it is not covered in depth here. A strategic plan lays out the longer term vision of an organisation and the goals it wishes to achieve. It sets out a sequence of steps (the strategy) that needs to be taken to reach those goals. A business plan would assess the current situation in the organisation, including its limitations, and develop a time-based plan to achieve the goals outlined in the strategic plan. In many cases it would be common to develop a five year strategic and business plan (sometimes a longer period is needed), and then develop annual business plans that monitor success in meeting the strategic objectives and develop very specific plans to be implemented on an annual basis, which are aligned with the longer term strategic and business plan, for the upcoming financial year of the organisation.

The strategic and business plan ought to be developed by the senior management of the agency concerned. However, it is common that consultants are hired to work on these documents because of time constraints and the expertise that is needed. It is vital that all staff are consulted at all stages through workshops and regular interaction and that senior management are fully conversant, and in agreement with, all conclusions, proposals and the final product. The government should endorse the strategic and business plan.

The *Vision* for the organisation needs to fit in with the overarching vision of the government. Thus, if the government is focussing on e-government services; decentralisation; anti-corruption measures; support to minority communities; etc., then the vision for the organisation and the strategic plan need to take these into account and ensure that they conform. If the organisation responsible for land issues is large it may be necessary to develop an overall vision and separate departmental visions, strategies and plans for each department. For example, a lands ministry might have separate departments responsible for registration, valuation, surveying, mapping, planning, land consolidation and land management. Each would need their own visions, strategies and plans that are linked to the overall vision, strategy and plan for the parent organisation (such as a ministry).

There ought to be *Goals* associated with the vision statements, for example:

> Vision: To provide rapid and reliable customer services for the registration of sales, mortgages, leases and other transactions.

Goals: By the end of calendar year 2016, to: (i) provide on-line access to information in the registration database; (ii) register mortgages within 4 hours of lodgement; (iii) register all other transactions within 24 hours of lodgement; (iv) establish and provide adequate funding to a guarantee fund and provide an independent mechanism for assessing claims against the registration service.

Individual strategies might cover human resources, customer service improvement, information technology, income and expenditure, policy and law reforms, etc. For each strategy a set of goals, targets and timelines is needed, and a risk framework and M&E framework should be developed and maintained – much as is done for a project.

Summary

This chapter looks at project management as government agencies and funding partners implement projects or reform programs or major activities designed to modernise or complete their land registries. It also looks at the best structure of those government agencies directly responsible for the post-project on-going implementation of registration and cadastre services.

Project management or implementation units are always required for fiduciary management of projects, but also to ensure that the project activities and specific time-based targets are reached. The project management unit should use a standard management methodology and be very careful to ensure that both fiduciary and social safeguards are in place.

Project management needs constant monitoring and evaluation to ensure that the project progresses towards its ultimate goal in a timely fashion, with regular monitoring of targets, monitoring of the risk framework and taking such mitigation measures as are needed to ensure targets are reached. The more difficult part is the 'evaluation', which should be constantly undertaken to ensures that the analysis and actions are SMART (Specific, Measurable, Achievable and Attributable, Relevant and Realistic, Time-bound, Timely, Trackable and Targeted.) A mid-term review by an independent group is useful for making any necessary corrections or changes before it is too late.

Do not forget to gather the baseline data and information *before* the project gets underway or it will be difficult to assess whether the project was successful.

The lessons learned in project management can be beneficial as new institutions or reformed institutions are developed. The need for continuity and sustainability of the new or reformed organisation and to have a vision and plan for the future is key, and for this the risk assessment frameworks and detailed M&E systems used in projects are needed for the institution too.

A unified registration system that encompasses both the legal rights and the cadastre or property boundary measurements in one agency is advised. This is by far the best model and takes account of the fact that registration of real estate rights and transactions involving real estate are effectively an administrative function.

Experience has shown that self-funding models, where the responsible agency can keep the income derived from charging for registration, helps to ensure that systems can be maintained, implement advances as technology changes and pay market rates for staff, which in turn reduces levels of corruption. The focus on having a paying customer underscores customer relations and customer satisfaction.

When establishing the institution responsible for registration and the cadastre, it is necessary to undertake specific studies and develop both a corporate strategy and an annual business plan. The strategies will take into account the longer term mandate given by government, the vision of what needs

to be achieved and the goals that the agency has over the longer term. There should be sub-strategies covering human resource, information technology and information management, incomes and expenditure and the policies and laws that are required to meet the vision and goals. The corporate strategy taking all of these into account should be a document approved by government. Annual business plans aimed at achieving the goals in the corporate strategy should be prepared.