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Comparative Study of Land Administration Systems

With special reference to Thailand, Indonesia and Karnataka (India)

Anne-Marie Brits, Chris Grant and Tony Burns
Land Equity International Pty Ltd – www.landequity.com.au

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1. Background

1.1 Introduction

In most countries real estate accounts for between half and three-quarters of national wealth¹ and considerable benefits can accrue if this resource can be used more efficiently. It is generally accepted that an efficient, formal land registration system is an essential prerequisite for the operation of a formal land market. Informal land markets do exist in many countries, but the operation of these markets are strongly inhibited by uncertainties in tenure and the resultant overheads in investigating rights in land prior to any attempt to deal in rights in land. There is evidence of the economic benefit of improved tenure security. De Soto² (1993) notes that in Peru investment in property increases ninefold when squatters obtain formalised title to their homes. He also observes that in Costa Rica farmers who hold formal land titles have much higher incomes than those who do not.

Landholders benefit economically through the increased tenure security provided by land titling. This benefit is often reflected in increased land prices. Socio-economic studies conducted as part of the Thailand Land Titling Project³ have demonstrated that there is a strong relationship between land titles and land prices. Dowell and Leaf (1989),⁴ after interviewing land brokers in 128 districts in Jakarta, determined that registered land in Jakarta was up to 73 percent more valuable than similar land held by a weak claim. Secure tenure also can lead to a reduction in land disputes, which is to the benefit of the land holder.

Projects to improve land administration have been undertaken over the past few decades in countries covering the full political spectrum; from one party states in Cuba, Tanzania and Mexico, military regimes such as Peru and Argentina, to capitalist states such as Kenya and Thailand. Many former socialist countries are also implementing land titling projects as part of a move from command to market economies. Countries also cover the full development spectrum, from the poorest countries such as Malawi through to developed countries such as Japan and Taiwan. Whilst these projects generally have varying emphases of social equality and economic rationales, there is no consistent set of objectives and policies, and hence it is very difficult to compare and evaluate the collective experience. Project outcomes have also been mixed.⁵

1.2 Study Objectives

The World Bank with support from a number of donors is preparing a research report on access to land and governance with respect to land. A key element in this report will be the challenges faced by developing countries in establishing an effective and efficient system of land administration. The researchers have recognized that *'despite the significant resources being invested by the donor community for modernizing land administration infrastructure, there is little systematic discussion of the key elements of such a system and of what constitutes effectiveness within particular socioeconomic, cultural and temporal contexts.'*⁶

To address this need the Bank has commissioned a number of studies to systematically review the characteristics, accessibility, costs and sustainability of different land titling and registration options in a range of countries. This paper sets out key experience in Asia and will be presented at a Conference in Phnom Penh in early June 2002.

The paper complements three other regional studies/conferences: in Eastern Europe case studies have been prepared for Armenia, Moldova, Latvia and Kyrgyzstan; in Latin America, case studies have been prepared for El Salvador, Peru, Guatemala and Bolivia; and in Africa case studies have been prepared for Ghana, Mozambique and Cote d'Ivoire.

1.3 Asian Case Studies

This paper specifically refers to experience in three countries/jurisdictions: Thailand, Indonesia and Karnataka (a state in south India). Detailed contextual/cost information has been prepared for these three jurisdictions and this information is available in country case studies to support this paper. The authors have also drawn on their extensive work experience on land administration projects in other Asian countries, including Cambodia, Lao PDR and the Philippines. As a result of time constraints, this report should only be considered an ongoing work-in-progress; it does not (yet) include comprehensive cost information or contextual information for Lao PDR and the Philippines. Information on these countries and other Asian countries may be added at a later stage.

1.4 Factors that Distinguish Land Administration in Asia

The Land Titling Project in Thailand, implemented in three phases from 1984, is one of the largest land titling programs implemented throughout the world. The project is recognized as having been very successful⁷ and has served as a model for other countries in the region (e.g. Indonesia, Lao PDR and the Philippines) and throughout the world. There has not been a major donor-funded project in the land sector in India, but the Indian government has invested considerable effort in recent years in the strengthening of the land administration system.

A number of factors characterize land administration in the developing countries of Asia, including:

- Colonial administration has had a major influence in Asia. Under colonial administration, it was common for two land administration systems to apply, a western system, usually restricted to urban areas and areas under commercial agriculture, and the rest which was often left under customary tenure arrangements. In Indonesia there was also a third system, one administered by a range of overlords, such as the Sultan of Solo in Jogjakarta. In India, land was a major source of colonial revenue and the colonial systems of land administration have had a major impact on the current land administration land system and access to land throughout the country.
- With rising population, land supply in Asia has come under significantly increased pressure, as evidenced by a range of factors, including deforestation, land degradation and increasing landlessness. Most of the larger countries have gone through this full cycle – including Thailand, the Philippines and the major islands in Indonesia. Other less-developed parts of Asia, such as Lao PDR and the outer islands in Indonesia, are still going through the cycle.
- Land classification is a major factor in the land administration systems in Asia, with many countries restricting private rights to non-forest land. Furthermore, there is often uncertainty in forest boundaries and this is a significant factor in tenure insecurity.

- Most Asian countries have a complex legal and policy environment. The land administration systems can be generalized as over-regulated and under-enforced and the systems have trouble accommodating the changing needs of society and the changing situation regarding land resources. In most countries there is a complex, inconsistent web of laws and regulations. In the Philippines, for example, 19 different agencies each have some role in the administration of land.
- Most government agencies in Asia are over-staffed and civil servants are paid much less than the private sector – fostering opportunities for corruption. In many countries, the land sector is regarded as one of the least-disciplined sectors in government. To partially address this issue most countries in Asia have ceilings on civil service numbers.

2. Comparative Analysis

2.1 General Country Information: Identification and Characterization

The Asian countries selected for this comparative study have vastly different geographical and socio-economic characteristics. All face to varying degrees many of the problems common to most developing nations - poor infrastructure, heavy reliance on the agricultural sector, high levels of unemployment, unequal distribution of production factors such as capital and land, rapid and (often) uncontrolled urbanization resulting in conditions of poverty, pollution and environmental degradation.

In all of the countries reviewed (except Thailand) the influence of colonial intervention has to a greater or lesser extent impacted on production factors economic development. Predominantly free market structures prevail in republics such as India and Indonesia, while a socialist approach in countries such as Lao PDR continues to determine the direction and pace of socio-economic development. At the same time it should be noted that in Lao PDR there is increasing recognition of the benefits of allowing market forces to operate unhindered during the last decade.

Although the economic crisis of 1997 negatively affected the economies of the Asian region the economies of India, Thailand and Indonesia have recovered to the extent that all recorded GDP growth rates exceeding 4% by 2000.

Differences in economic potential and prosperity should be kept in mind when assessing land administration projects in Asia (for example, when comparing a project in Thailand to one in Lao PDR).

2.2 Land Tenure System

Colonial and Historical Influences. The importance of the colonial influence on the development of land tenure systems in Asia cannot be overemphasized. Apart from Thailand, the countries reviewed were all at some stage ruled by single or a succession of colonial powers. Karnataka in India was subject to centuries of British rule, Cambodia and Lao PDR to the French, Indonesia to the Dutch and Japanese and the Philippines to the Spanish and Americans. In Indonesia and India the strong colonial influence resulted in land laws becoming a dualism between western systems and customary systems, with elements of the latter being incorporated into the former. Today the customary elements incorporated into the 'new' systems continue to feature strongly. For example the Indonesian Basic Agrarian Law of 1960 is based on 'adat' or customary law.

Thailand, although not colonized, borrowed extensively from the west in establishing its legal and administrative system. A titling system for private rights in land was introduced in 1901, based on the Australian system. The Philippines also introduced a titling system in 1901, based on the Torrens system as implemented at that time by the US state of Massachusetts.

In addition to the impact of colonial intervention on the development of land tenure systems in Asian countries, more recent political changes (such as the 1975 revolution in Lao PDR and the subsequent socialist ideology) have brought about far-reaching changes in systems of land administration and have permeated the approach of government institutions to land issues, as well as the legal framework.

Private Rights in Land. All countries reviewed clearly distinguish between state and private land, with further categorizations of what constitutes state land. Title registration systems operate in Thailand, Indonesia, Lao PDR and the Philippines, but titles are only guaranteed by the state in the Philippines. In Indonesia registration is only 'strong evidence' of rights. A registration of deeds system operates in Karnataka. In Thailand, there is a range of land documents recognized under the Land Code. The main ones are pre-emptive claims, which are non-transferable, and certificates of utilisation and titles, both of which are transferable and accepted as collateral. Indonesia also has a range of documents, but ownership (*hak milik*) is only available to individual Indonesian citizens. The main option available for Indonesian companies and foreigners is a renewable 30 year lease (HGB) which is transferable and accepted as collateral. In Lao PDR all land is owned by the state, but private rights are recognized through titles evidencing land use rights. All countries restrict access to land by foreigners, which creates difficulties in countries where there are large groups of non-citizens from neighbouring countries, for example, the people from Vietnam who have lived for generations in Lao PDR.

Forest Lands. Most countries only recognize private rights over non-forest land. The countries included in the review historically had plentiful forest resources, much of which has been lost during recent decades as a result of encroachment and illegal logging.⁸ In many countries a very significant proportion of the population live on land reserved as forest and much of this land will never return to forest use. The existing policy, institutional and legal framework has made it difficult to address this situation. Generally, official policies regarding the protection of forests and legislation seem far removed from the actual situation on the ground.

In Thailand, one strategy adopted in the 1990s was to distribute degraded forest land to agricultural land users under the land reform program. This program was very political and the controversy surrounding land distribution under this program contributed to the fall to the Chuan Leekpai Government in 1995.

Equity in Access to Land. All countries have systems in place to license forest concessions, but there is much illegal logging. In addition, in most countries there are indigenous groups living in the forest whose rights are not well defined in law. Forest laws in India have evolved over the past century and a half. A major issue related to forest land is that large numbers of tribal people (officially categorized as 'Scheduled Tribes', and disadvantaged groups) continue to live in the forests on communal land, and that there is no clear way of acknowledging their rights to the land. In recent years, the Philippines have passed an Indigenous Peoples Rights Act (IPRA), in an attempt to address this issue. IPRA was subject to a Constitutional challenge and has not yet been implemented. IPRA also adds to the already significant complexity and inconsistency in the land administration system in the Philippines.

Land inequality issues feature in all of the countries reviewed, and affect more than minority ethnic groups and women. Generally, the incidence of poverty correlates with lack of access to land. Also, although many poorer households do own land, the area is often very small and/or marginal and therefore largely unproductive. Land reforms aimed at improving the plight of the poor have yet to prove successful.

Although constitutionally most countries acknowledge all ethnic groups as being equal before the law, legislation protecting minority groups from exploitation is not always enforced convincingly (as is the case in Karnataka, India). In practice, not all minority groups have equal access to production factors such as land, nor do they have equal representation in official institutional structures.

The countries have ethnically diverse populations, with cultural diversity being particularly evident based on the relationship of the various groups to land. Whereas one large ethnic group dominates in a country such as Thailand (75% of the total population is Thai), over forty different ethnic groups have been identified in Lao PDR. In India more than 150 million people have been classified as belonging to the disadvantaged Scheduled Castes and Scheduled Tribes. Karnataka is one of 8 Indian states in which most of these people live. There are both a large number of nomads and forest dwellers (belonging to the Scheduled Tribes group) who co-exist (without private ownership) on communal land. Tribal people have been badly affected by loss of land and restrictions on their access to forests.

Inequality issues are not limited to ethnic groups. Historically, there has been little inequality of land distribution in Thailand. With rapid population growth in the 20th century and the reservation in the 1960s of 50% of the country as forest, landlessness has become a growing problem affecting all people. In Indonesia, where land officially became a national asset in 1960 under the Basic Agrarian Law, bureaucratic intervention has distorted the land market and affected equal rights with regard to trade in land. A good example of this is the allocation of *location permits* which grant exclusive use to the permit holder (mostly property developers), and result in large tracts of peri-urban land being tied up, thereby prohibiting landowners from selling to a purchaser of their choice at market prices.

Although legally there are no specific limitations on women owning land in any of the countries reviewed, there are some cultural restrictions in, for example, Karnataka. In Indonesia joint registration of property acquired during a marriage is allowed and even encouraged, and property may also be registered solely in the name of women. Some parts of Indonesia have matrilineal societies and inheritance, for example, is strongly in favour of women family members. In Thailand the Civil and Commercial Code protects women from their husbands selling property without their consent. Restrictions on the ability of women married to foreigners in owning land was removed 1996. In the Philippines, the Constitution, Civil Code, Family Code as well as other regulations are gender neutral and promote the equality of women, but the intent of these recent laws is not reflected in the predominately antiquated land laws. Any person (irrespective of gender) with the 'capacity to act' may exercise rights concerning the acquisition, ownership and use of land.

Social Conflict Over Land. Not all countries have managed to develop their land tenure systems in an orderly fashion, and in ethnically diverse countries ethnic divisions and social conflict has proved to be a major impediment to developing tenure systems. Although disputes relating to land have taken place in all the countries reviewed, the situation is arguably worst in Indonesia. Here problems have been exacerbated by the pressure of rapid economic transformation in the country and previous policies such as Transmigration which aimed to move people from the densely populated island of Java to the outer islands. Disputes have arisen from the cultivation by communities on plantation/state land, non-compliance with land reform rules, civil claims about entitlements, customary land rights issues, level of compensation for land, and land acquisition for development and the allocation of *location permits*. Disputes relate to both registered and unregistered land.

Land Reform. Many countries in Asia have implemented land reform programs, with limited success. Land reform was a major feature of the land administration system in India after

independence as the policy makers attempted to address the inequality in access to land that had resulted from colonial administration. The Philippines has also had a succession of land reform programs since 1972. Some countries have restrictions on individual land holdings – either in terms of area (Karnataka, the Philippines) or in terms of the number of parcels (Indonesia). The Land Code in Thailand used to have a restriction on individual landholdings but this was soon removed.

Land reform and limits on land holdings and tenancy agreements have faced serious opposition from vested interests and have had a number of negative outcomes. Studies in India have found that rural tenancy still exists, and that tenants are disadvantaged as they have little protection in law.

It was estimated in 1987 that, of about 5.6 million agricultural households in Thailand, about one-fifth rented land and that ‘the extent of tenancy in terms of both farm households and acreage constitutes a major reason for land reform in Thailand’. Although rural poverty was acknowledged as being widespread, tenants and the landless were considered to be the hardest hit and therefore most in need of assistance.⁹ Though the numbers may differ, the problems relating to tenancy and landlessness are common in all the countries reviewed and have been the target of land reforms. Land reform in Indonesia, Thailand and the Philippines has not been very successful due to the vast number of practical problems concerning implementation that have never been properly addressed.

Experience seems to suggest that, rather than have ceilings on land ownership, it is more effective to have a good land tax system in place to indirectly control land ownership. Unfortunately even a more economically advanced country such as Thailand is experiencing difficulty in building a solid taxation system.

2.3 Institutional Arrangements

Decentralised Systems. The land administration systems in Thailand, Indonesia, Karnataka, Lao PDR and the Philippines are all decentralized. In Thailand the title register is maintained in the 16 Bangkok Metropolitan, 76 provincial and 272 branch land offices. Registers for the lesser documents in Thailand are maintained in the 758 district land offices. Registration in Indonesia is undertaken in the 273 the Municipality/Regency land offices. In Karnataka registration is undertaken in 199 sub-registries at the city/Taluk levels. In the Philippines registration is undertaken in 162 registries of deeds, with a registry in each municipality and province. Even though the systems are decentralized, there is some central control. This central control is strongest in Thailand, where the centre provides strong direction and undertakes the land titling activity. In other countries the direction from the centre is more an ‘oversight’ role – for example the role of the Land Registration Authority in the Philippines.

Civil Service Numbers. The land administration agencies have traditionally had significant staff numbers. At the start of the Land Administration Project in Indonesia, the National Land Agency in Indonesia had over 26,000 staff. In the past decade or so, steps have been taken to reduce staff numbers and increase salaries. A staff freeze was introduced in Thailand in 1994, and Department of Lands (DOL), have seen staff reduced from about 14,000 to just under 12,000. At the same time the title register has increased from 11.5 million to 18.9 million titles. Staff constraints have impacted on the agency and have in fact assisted the LTP in re-engineering many of the procedures and processes. Reform in DOL has increased emphasis on improved service delivery, achieving a reduction of the average time of land registration to about 2 hours.

Indonesia has also introduced restrictions on the employment of public sector staff. Fears that public sector agencies will lose large numbers of people to the private sector have not materialized.

Public Confidence in General Administration and the Land Administration System.

Public confidence in the public administration system and in particular the land administration system is high in Thailand. It is somewhat less so in Indonesia, where distrust by the public at large leads to a reluctance to participate in the system. The complex regulatory system concentrates power at numerous points in the process, thereby creating opportunities for a high incidence of 'informal fees'. In the Philippines the level of distrust in administrative procedures is so severe, and corruption reportedly so widespread, that a major challenge for the Land Administration and Management Project (LAMP) in the Philippines will be gaining and maintaining public confidence in a strengthened and streamlined land administration system.

Public/Private Sector Capacity. Until fairly recently the role of the private sector in the land administration systems of Thailand, Indonesia and Karnataka was only a minor one. All cadastral surveys in Thailand were undertaken by DOL surveyors until the early 1990s. In 1992 a system of licensed private surveyors was introduced and there are now 748 licensed private surveyors. In 2001 a system of licensed private surveyors was introduced in Karnataka. In both jurisdictions private surveyors are restricted to work on registered private property, a restriction that applies in many jurisdictions throughout the world, including Australia. Private surveyors have been active for many decades in both the Philippines and Indonesia. Contractors have been hired for systematic registration in Indonesia from the start of the LAP and private contractors support the project in Lao PDR.

2.4 Legal Framework

Legal Basis for Land Rights. Because of the different historical conditions there is variety in the legal framework for land administration in Asia. Thailand, which has a codified legal system with influences of common law, has perhaps the strongest framework. Thailand's Civil and Commercial Code (enacted from 1923) provides a strong legal basis for property rights. All the then existing land law was consolidated in the Land Code in 1954, hence the Civil and Commercial, and Land Codes were well-established by the time the Thailand Land Titling commenced in 1984. However even in Thailand, subsequent legislation has complicated land administration. For example, the declaration of land reform areas constrained systematic land registration under the LTP, as did lack of clarity in forest boundaries. There have been protests by land holders who have not benefited from the systematic registration program for these and other reasons. In Indonesia the Basic Agrarian Law (1960) provides the basis for land administration. An important change in regulations (the first amendment in 30 years) provided for a right to title after 20 years of occupancy 'in good faith', and a recognition of occupancy by the surrounding community.

Other countries have weaker policy and legal frameworks. A major emphasis in LAMP in the Philippines is the clarification of the policy and legal framework. Significant policy work also had to be undertaken in Indonesia and Lao PDR. In India the land administration framework is basically the same that operated under British administration, with post-independence land reform superimposed.

Customary Tenure. Under the dual systems of land tenure in some of the countries reviewed, customary land tenure structures and arrangements have become embedded in the modern-day land administration systems. In some instances, such as the Philippines and Indonesia, the recognition of customary systems of land tenure/indigenous rights continues to

create confusion and conflict. Rather than resolve the problem, the introduction of the Basic Agrarian Law in Indonesia in 1960 is regarded by many as having the purpose of diluting customary rights. Although customary land was recognized under certain conditions, the state initially attempted to eradicate customary land systems in the belief that they were outmoded and inappropriate for a country focusing on introducing a modern market based ideology. These attitudes have changed in Indonesia where it is now recognised that tradition need not be in conflict with land administration reform.

Foreign Ownership. The issue of foreign ownership of land has featured strongly in legislation, in particular in Thailand and Lao PDR. Concern over foreigners owning land has resulted in the introduction of various legislative measures. In Thailand there is ongoing debate on whether 99 year property leases for foreigners should be allowed. Recent reform now enables aliens to own up to 50% of condominiums in developments.

2.5 Technical Arrangements

Most of the Asian countries continue to use lower levels of technology, in part because some high technology measures have been tried, tested and failed. The existing systems are mainly paper driven and generally decentralized.

In Thailand the level of technology is reasonably high, although the strength of the registration system in Thailand lies in the practicality, flexibility and robustness of the manual records systems. The use of technology in Indonesia and Lao PDR, like many countries in the region, is faced with human resource constraints. In Indonesia internal reward systems have acted against the introduction of new technology. In the Philippines public sector technology and procedures are very dated and this has hindered the use of new technology – for example, efficient computer-assisted survey techniques have been developed with Swedish support in the Department of Agrarian Reform, but the Land Management Services have been reluctant to accept the output of this improved technology.

While India's system dates back to the 1860s there is now interest in modernization. The land administration systems in Karnataka are strongly based on the systems implemented by the British and are mainly manual. Old-fashioned survey techniques introduced by the British in the 1860s continue to be used, and old paper records are still stored in cloth bundles. Two of the recent initiatives in Karnataka have been pilot projects to computerize the Rights, Tenancy and Crop Inspection (RTC) records and the cadastral maps in some areas. Some headway has also been made in strengthening the technical capability of agencies through equipment such as GPS and total stations.

A key feature of the technical systems in Thailand is the flexible approach to the technical aspect of land administration. A range of survey techniques are available, ranging from the most accurate to graphical techniques. All land parcels must be charted on cadastral maps and the accuracy of the survey is specified in terms of map accuracy. A range of initiatives have been introduced to extend the map support for registration – rectified photomaps in the 1960s and enlarged aerial photographs in the 1970s. Here the objective was a base to plot cadastral detail rather than a metric map. In the first phase of LTP many of the rectified photomaps in north Thailand, which is mountainous with areas to be titled restricted to valleys, were more enlarged photographs than maps. Even with this pragmatic approach to technical standards, the cost of base mapping constituted about 23% of the total cost of the LTP. This is not the case in other countries. In the Philippines there is a strong private survey sector and survey procedures are over-specified, but under-regulated. The result is a relatively high cost of survey, which is passed on to the public. Participants in a recent social assessment undertaken

for the Land Administration and Management Project have voiced strong concerns about the cost of surveys.

2.6 Administrative Processes

Systematic Registration. Thailand has very efficient systematic land titling (first registration) procedures and has issued over 8.5 million titles since 1984 under the LTP. The procedures in Thailand have largely served as a model for systematic land titling in the region. Land titling is being undertaken in Indonesia and Lao PDR, with pilot land titling being undertaken in the Philippines and Cambodia. The technology used for this work is generally low, and the procedures undertaken by teams of largely government officials who work on a village-by-village basis gathering evidence from local officials and land holders. Private sector surveyors are used in Indonesia and the Philippines. India does not have recent systematic titling experience, but, using systems introduced in the nineteenth century by the British, India has undertaken settlement surveys and maintains records of rights in land in rural areas at a village level. The settlement surveys, which gather information for revenue generation, are conducted in a systematic way. Applications may be made for the allocation of unutilised land.

The land titling work in Thailand is undertaken by teams from Bangkok and land titling records are regularly transferred to one of the DOL provincial or branch land offices after a period of at least 30 days public notice. Field records are checked and registered and titles distributed to land owners. Local officials have more involvement in Indonesia and Lao PDR. In the Philippines, the land titling is undertaken by local officials with support from private surveyors.

Registration of Subsequent Dealings. In Thailand registration of subsequent dealings on titled property is undertaken in the extensive network of provincial and branch land offices. There is no private conveyancing industry in Thailand or a system of public notaries, and all conveyancing services are provided by DOL staff – DOL has 2,304 staff with law degrees. There are standards for office layout and staffing and standard criteria for the establishment of branch offices – based on the number of titles, transaction rates and access to land holders. In Indonesia, subsequent transactions are registered at the district land office either by the landowner or a notary. In Karnataka dealings in property are registered at one of the network of City/Taluk sub-registries. Registration of dealings in registered and unregistered property is undertaken at one of the network of registry of deeds in the Philippines.

In Thailand the Civil and Commercial Code and the Land Code specify that all transfers of ownership and rights in land must be in writing and must be registered. Public confidence in the registration system is high and despite relatively high fees, most transactions are registered – particularly in urban areas and in dealings outside the family. In Indonesia title passes when agreement is reached in public and there is exchange of money. There is also a system of notaries and unregistered dealings have legal recognition. There is limited public confidence in the registration system. For these reasons, the level of registration of subsequent dealings is presently low. In Karnataka registration fees are also fairly high and registration of a deed does not prove veracity. However, once registered the deed is recognized in court. Most deeds are registered in Karnataka.

2.7 Land Market Information

Real Estate Activity. Real estate market activity in all of the countries reviewed appears to be on the rise, boosted in some part by land titling and the processes associated with land titling. These include institutional reform, the introduction of simplified and clear processes, creating certainty and building trust in the official land administration system.

Thailand has an open and very active formal property market especially in the urban areas of Bangkok. On average, more than 335,000 property transactions took place each month in Thailand during 2001. Very little informal trading of land takes place in urban areas, but an informal land market does exist in rural areas, particularly in remote, less developed areas. During the early 1990s the country experienced a property boom which resulted in a major rise in government revenue from registration.

Better land records systems and new technology such as the internet has contributed to increased activity. In 2001 in an article entitled 'Talking up the Market in Thailand', the Far Eastern Economic Review¹⁰ observed that *'Buyers are demanding better quality, and can do their research more thoroughly, thanks to on-line registration records and home-buying guides on the web. Buyers who used to spend 6 months driving around to make inquiries can now find the information on-line within hours. And they bargain hard, their purchasing power enhanced by low interest rates and cut-throat competition among banks to give them housing loans'*.

Indonesia has a growing formal property market, although there is still a very high incidence of informal land transactions. There is frequent trade of unregistered parcels guided by customary principles, based on verbal agreements witnessed by villagers. Land titling in Indonesia also appears to have had a significant impact on land prices. As a general rule, registered land in Indonesia is considered to be worth significantly more than similar unregistered land.

Activity in the formal land market in Karnataka appears to be fairly steady with 589,000 property transactions registered for 1999/00, compared to 592,000 in 1995/96. Registration revenue has risen marginally from around US\$116 million to US\$125 million. Likewise, there has been a steady increase in land revenue.

Valuation. The land titling projects implemented in the Asian countries have, to a lesser or greater degree, all experienced problems with property valuation. The very successful project in Thailand experienced great difficulties in introducing a new valuation authority. Although a central valuation function was established it is largely restricted to providing values to support the registration function of the Department of Lands. Attempts through the titling project to pass a new Land Valuation Act proved unsuccessful.

Karnataka continues to use an old, rudimentary system with no clear intention as yet to develop a strengthened valuation system. Valuations undertaken during settlement surveys for the revenue assessment of rural land are only updated every 30 years. Other valuations by local authorities to support tax payment are only updated every 5 years. In urban areas such as Bangalore published market values are readily available, but these values generally significantly lag market prices.

In Indonesia a fairly effective valuation system appears to be in place and serves as the basis for tax collection. However, the fact that neither private nor public sector valuation skills have been developed has proved to be a drawback.

Access to Credit. Traditionally money lenders and the extended family have played leading roles in the provision of credit in Asia. Although institutional credit facilities continue to expand, traditional sources of credit also continue to feature in many countries, particularly in rural areas, but formal credit is becoming more available. For example in Thailand informal lending was an important element in the rural credit market as recently as 1989 when it was estimated to be about 44% of lending in rural areas¹¹ but recent studies have estimated that the informal rural credit market in Thailand had contracted to 15% of total lending in 1996.¹² In Karnataka the expansion of institutional credit over recent decades has also contributed to

a decline in the informal system. While some people still use private options for their short term credit needs. The commercial banks appear to be gaining favour as a source of medium and longer term credit through land mortgages.

2.8 Indications of Functionality

The following table summarizes the assessment of functionality from the three case studies.

Table 1 - Functionality of the Land Administration Systems

Function	Thailand	Indonesia	Karnataka	Comments
Ratio as % of transactions to total property units.	21.2% in 2001	5.82% in 1996	~10%	Indonesia – statistics from 5 Project (Java) provinces only. First registration figures <u>not</u> included. The total estimate of urban parcels in Karnataka is not available.
Ratio of staff numbers to transactions per day.	0.5 staff per registration per day in 2001	0.9 staff per transaction per day in 1996	1.64 staff per registration per day.	Indonesia – LO responsibilities (and staff duties) extend beyond registration. Numbers solely concerned with registration estimated to provide this indicative ratio.
Average time taken to produce an official title search certificate	0.5 hours	1 day	Maximum 1 day	Indonesia – return next day. For Karnataka, information is not title information, but official copy of RTC record held in village.
Average time taken to complete registration.	2.5 hours	14 days	15-20 days.	Indonesia : transactions via licensed broker (PPAT) – registration times set by regulation Karnataka based on information gathered in Tumkur district in 2000.
Average registry running cost/transaction.	US\$9.89 in 2001	N/A	US\$12.70 in 1999/00	Under laws 20 and 21/1999 in Indonesia the Land Agency is not permitted to charge fees for land transactions. Revenue is generated from tax on land sales. ¹⁴
Average revenue per transaction.	~US\$88 in 2001	N/A	~US\$209 in 2000	In Indonesia PPAT – registered broker.
Ratio of revenue to total running costs.	5.08 in 2001	N/A	20.67 in 2000	
Cost for official title search.	< US\$1	Nil		
Number of working days required to pay for average registration of transfer.	278 days			Thailand figure based on many assumptions.
Cost of average transfer as a % of value.	10.6%	PPAT fees 0.5% of value	13-15%	Thailand figure based on many assumptions.
Total base survey/field adjudication/ registration cost/systematic title.	US\$24.21	US\$19.20	n/a	For Thailand based on LTP III costs, plus an estimate of civil servant salaries. For Indonesia converted from Rupiah amounts using highly variable exchange rate.
Total project cost/systematic title	US\$32.80	US\$24.40	n/a	As above.

Thailand has the highest ratio of transactions to total number of titles, the least number of staff/transaction/day, and the shortest time to register transactions and/or provide copies of land records. Karnataka has the highest average cost/transaction and the highest ratio of total revenue to total costs. Indonesia, with the 1999 change in fees and charges, has the lowest average transaction cost as a percentage of value, and the lowest average cost per systematic title – although the total costs for systematic titling in Indonesia exclude civil servant salaries.

3. Lessons from Case Studies

Success Factors for Thailand. In 1992, Wachter and English in an internal review of World Bank projects with a land titling component identified a number of issues negatively affecting the successful implementation of land administration projects. These issues include a lack of political support, conflicting bureaucratic priorities, a lack of institutional capacity or an unwillingness to commit adequate resources, and an underestimation in the project preparation phase of the complexity and/or costs of the task to be carried out. The review concluded that with few exceptions interventions were largely unsuccessful.

The Thailand Land Titling Project was one of the exceptions and the reasons for success include:

- The project was implemented after the World Bank had already been actively funding agricultural development in Thailand for approximately 20 years.
- The project was solely concerned with land titling, and Thailand had a long history of land titling based on land laws that only required minimum amendment.
- The project dealt with only one implementing agency with a country-wide network of offices and a generally well-educated staff. Administration procedures were already well established and reasonably efficient.
- There was a continuous, strong commitment to the project by successive administrations.
- As the Department of Lands was responsible for the administration of rights in all non-forest land, in areas of little or no traditional tenure there were relatively few complications.

A number of longitudinal socio-economic studies conducted during the Thai project implementation suggested a positive impact on the wider community.

- Titling resulted in land prices increasing, with titled land found to have become between 75% and 197% more valuable than untitled land.
- Land titles were found to be related to the demand and supply of credit. It was also found that access to institutional credit increased by 27% and that interest rates were cheaper with the more formal lending sources. In addition, borrowers with good land collateral received between 75% and 123% more credit than those without.
- For titled land there was increased use of farm inputs such as seeds and chemical fertilizers.
- The value of production per unit area and the yield per unit area was higher for titled land.
- The project led to an increase in cultivated areas.

The fiscal impact of the Thailand project was also significant. It was reported in 1996 that following the first phase of the project in the early 1980s there had been a significant increase in government revenue collected from property and transfer taxes. Revenue rose

from under US\$200 million p.a. to nearly US\$1,200 million p.a. The US\$1,200 million collected in 1995 was ten times the total cost of running the department of over 14,000 staff in over 1,000 offices throughout the country.

Lessons for the Future. Many issues which impact on project achievements have emerged during the implementation of land titling and land administration projects in Thailand, Indonesia and Karnataka. Although some of the issues are country-specific and relate to the pre-existing land administration system in the particular country, the following general lessons are relevant:

- Institutional change is not sustainable without full and ongoing political commitment to change. Experience in Thailand suggests that development programs are less reliant on good design than on continued political commitment to program objectives. This was particularly evident in Indonesia where political changes affected the titling project in that country detrimentally.
- Technical innovations need to be matched with changes at the institutional level if reforms are to be sustained. As technical change is more easily accepted and adopted than institutional change, there is a great need to closely cooperate with governments on policy direction, strategic planning, human resource development and organizational developments that are likely to impact on development projects. The capacity of the implementing agencies of land administration projects can make or break a project. For example, in Indonesia it was found that the capacity of the project implementing agency to absorb the project budget in the first two years of project implementation was over-estimated.
- Success needs a strong commitment to national reform; complementary government policies have the potential to have a strong impact on land administration projects. In Thailand, for example, titling has also had a big impact on forest boundaries, and therefore clear land use policies are necessary for the classification and identification of forest land.
- The roles and responsibilities of agencies involved in land administration and titling are often unclear and overlapping. In the longer term, land administration development requires the clarification of roles, responsibilities and processes and clear definition of devolved responsibilities.
- Systematic land adjudication requires comprehensive planning, an accurate statistical base and effective coordination of activities. It is particularly important to closely coordinate all legal, bureaucratic and technical processes.
- The design of the land titling projects must be flexible in order to accommodate changes in the external environment.
- It is important to acknowledge the social impact of land administration projects and the need for maximum community inclusion at all stages of the project. Some attempts at socio-economic baseline studies have not been very effective due to the short time periods involved, and the difficulty of isolating the effect of systematic registration from the overall changes measured.

Community Participation programs must be more than public relations aimed at informing landholders about the project. There must be continual rapid appraisal of social impacts to evaluate the effectiveness of the systematic registration program and to ensure that beneficiaries understand that security of tenure will only be sustained if all transactions are recorded in the formal land registers of the country.

- Public support and understanding is essential and to be successful a land administration system needs to foster a 'registration culture' – a culture where registration is undertaken as a matter of course, something that is taken for granted in the developed world. If a project to strengthen the land administration system in a country fails to capture the registration of derivative dealings then it is undertaking a census or producing a doomsday book.

4. Conclusion and Points for Discussion

The three main case studies detailed in the paper provide a good cross-section of land administration systems in Asia. They do not cover the experience in post-conflict countries such as Cambodia and East Timor. Nor do they cover the situations in some countries such as Papua New Guinea, where the land administration system only administers the 3 percent of the country that has been alienated from customary tenure. Nonetheless, given the recent large scale land titling projects in Thailand and Indonesia, the information is relevant to countries in other regions considering programs to strengthen their land administration system.

This paper has been produced to support discussion at the conference in Phnom Penh in June 2002. Points arising from the comparative analysis that are worth discussion at such a forum include:

- Both Thailand and Karnataka have been able to generate a 'registration culture' despite having relatively high registration fees, and in the case of Karnataka, despite having a relatively inefficient, time-consuming process of deeds registration. Yet, Indonesia and the Philippines have not been able to do so. Why is this?
- In Thailand a very pragmatic approach has been adopted to technical standards and this is one of the reasons for the responsiveness and efficiency of the Thai land registration system. In the Philippines and to a less extent, in Indonesia, survey standards have been set relatively high and there are strong survey industry lobbies to keep standards high. How can other countries replicate the Thai approach?
- The classification of land into classes – or at least into the classes of forest and non-forest – is a critical feature in many Asian land administration systems, yet indefinite forest boundaries is often a major factor in tenure insecurity in Asia. The systems established to class land in Asia also have difficulty in accommodating changes in societal needs. How can this be addressed?
- There has been limited success in introducing strengthened valuation systems in Asia – due to a range of factors, including the desire of land administration staff for flexibility in assessing values (which are generally related to registration fees), and resistance from often influential land holders to better valuation systems. How can better valuation systems be implemented in Asia?

¹ World Bank, World Development Report 1989, page 87

² de Soto H, 'The Missing Ingredient: What Poor Countries Need to Make Their Markets Work', **The Economist**, volume 328, number 7828, Special Supplement for the Economist's 150 years, pages 8-12, September 11 1993., page 11

³ Center for Applied Economics Research, Faculty of Economics, Kasetsart University, **Socio-Economic Evaluation of the Land Titling Project - Final Report**, unpublished report submitted to the Department of Lands, Ministry of Interior, July 1993.

⁴ Dowell D E, Leaf M, 'The Price of Land for Housing in Jakarta', chapter 13 in **Spatial Development in Indonesia: Review and Prospects**, edited by Kim, Knaap and Azis, published by Avebury, Aldershot, 1992.

⁵ Wachter D, English J, **The World Bank's Experience with Land Titling**, Divisional Paper number 1992-35, Policy and Research Division, Environment Department, World Bank, March 1992.

⁶ World Bank, Concept Paper, Comparative Study of Land Administration Systems.

⁷ With a number of awards, including one of the two World Bank Awards for Excellence in 1997.

⁸ Thailand, for example, banned logging in 1989, but illegal logging continues.

⁹ From SEAMEO (Southeast Asian Ministers of Education Organisation) website:

www.seameo.org/vl/landreform/ir1.htm

¹⁰ The 8 March 2001 edition.

¹¹ Ghate P B, 'Interaction between the Formal and Informal Financial Sectors: The Asian Experience', **World Development**, volume 20, number 6, pages 859-872, 1992.

¹² Report on Agricultural Credit, Rural Finance and Debt Burden, by Dr C H Choeng.

¹⁴ Under current Indonesian law (since 1999) the National Land Agency is not permitted to charge fees for transaction/dealings in land. However:

(i) Charges for first registration of land are levied as a tax as follows:

- 5% on land value – on parcels of more than 60 million Rupiah only
- 2% entrance fee for first registration of State Land – on all parcels.
- Other land – no charge

(ii) Survey costs are levied on subdivisions based on parcel size.

All fiscal matters are under review as part of the cost sharing/ revenue generation arrangements between central and district levels of Government concerned with the implementation of decentralisation. Thus all land administration financial statistics are extremely volatile at this time.