

BUILDING THE CAPACITIES FOR EFFECTIVE MANAGEMENT OF GOVERNMENT-OWNED LAND

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SUMMARY

Capacity building is a highly significant element in reforming the management of government-owned land in a rule-based manner. Capacity building can be defined as the ability of individuals and organizations to perform functions related to government-owned land effectively, efficiently and sustainably. The major challenge in this regard is how to improve the three levels of capacity issues: (1) The broader political and societal level, (2) the organizational level and (3) the level of professionals and people involved.

Major regulatory, economic, and organizational topics for building and sustaining capacities in this regard have been underestimated. Furthermore the global context for managing government-owned land has undergone dramatic changes during the last two decades:

- The fundamental role of government-owned land in climate change adaptation and mitigation
- The political dimension: Transition to market economy, decentralization, public sector reform and land governance
- Commercial pressure on government-owned land in rural and urban areas
- Poverty reduction strategies and MDG's
- The new governance-led role of land professionals

These processes have major implications for land governance in general and specifically for building the capacities in effectively managing government-owned land. The paper is referring to the major international initiatives for addressing the challenge, as well as relevant country situations. The paper is also proposing options for tailored training and complementary capacity building actions for the three levels discussed.

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1. INTRODUCTION

The importance of the management of government-owned land is because the way this land is managed can enhance the welfare of the population but is also capable of undermining it. This could be because state land is generally managed inefficiently, so that resources that could be used to enhance living standards are wasted, or because the population suffers from the consequences of poor decision-making. In other cases this may be because the resources of the state have been appropriated by individuals or groups for their own ends rather than being used in the interests of society as a whole. Where individuals or groups are able to capture and harness the powers of the state for their own ends, this opens the potential for these to be used to abuse basic rights. Such situations can give rise to conflict as well as the potential for encroachment on state land or for the state to try to extend its powers over land controlled by other groups. Government-owned land ought to be a means through which the welfare of the population is enhanced. However, it is a source of potential conflict and, as such, can also be a means by which wellbeing is diminished and rights abused. States should therefore ensure that competent bodies responsible for government-owned land have the human, physical, financial and other forms of capacity.

The range and characteristic of transitional countries is highly diversified. Since strategies for capacity building must be aligned with country-specific policies and orientation, we must first of all understand the nature of major topics being considered:

Transitional countries and region	characteristics	Selected issues in managing government-owned land	Selected References
Land tenure in Central, Eastern and South Eastern Europe, Georgia, former East Germany	Development of land tenure system similar to Western Europe, market economy 40 to 60 % Government-owned land	Management of municipal ownership and transfer to local government, privatization and restitution mainly completed, restructuring of the agricultural farming sector	Péteri (2003) Wehrmann (2010) UNECE Working Party on Land Administration WPLA
Central Asia	Centralized administration of the land sector 80 to 90 %	Severe land degradation on government-owned land, climate change adaptation and mitigation through sustainable land	World Bank (2011): LGAF case study Kyrgyz Republic.

	Government-owned land	and water management, regularization of pastoral land rights	Wehrmann (2010) Childress in: World Bank (2012)
South East Asia (Cambodia, Lao, Vietnam)	Transitional process in operation 80 to 90 % Government-owned land	Land distribution for poverty reduction, large scale land acquisition mainly for cash crops, forced eviction on land concessions and informal settlements,	BMZ Germany, Investments in Land and the Phenomenon of Land Grabbing (case studies Cambodia and Lao 2012)
Iraq	State ownership and centralized land administration are currently being transformed	Developing normative framework and land policy, privatization for investment, gradual decentralization, extreme humanitarian conditions of millions of displaced people	Zimmermann (2012): Is there scope for improving land governance in Iraq? in: World Bank (2012)

2. LAND GOVERNANCE

Why is there a new professional profile required for decision makers and managers of government-owned-land? The 21st century has dawned with the world facing global issues of climate change, governance issues, critical food and fuels shortages, environmental degradation and natural disaster related challenges as today's world population of 7 billion continues to grow to an estimated 9 billion by 2040 when over 60% will be urbanized. This is placing excessive pressure on the world's natural resources and urban structures. Sound land governance is therefore fundamental in achieving sustainable development and poverty reduction and a key component in supporting the global agenda.

Globally, an estimated 70 % of all land is considered government-owned land. That is why global and national programs for climate change adaptation and mitigation (such as REED and governance of pastoral tenure in Central Asia) require a strategic partnership with bodies responsible for the management of government-owned land. On the other hand adaptation and mitigation of climate change also provides a range of new opportunities by managing government-owned land in a responsive manner. Climate change measures will need to be integrated into strategies for poverty reduction to ensure sustainable development. Innovative guidance on the subject of land tenure and climate change is provided by FAO (Land Tenure Journal No 2, 2011, <http://www.fao.org/nr/tenure/land-tenure-journal/index.php/LTJ>). The land management perspective and the role of the operational component of public land systems therefore need high-level political support and recognition as well as expanded capacities. The contribution of the global community of Land Professionals is vital and capacities must be built for understanding global guiding principles such as the FAO

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, FAO 2012

(Extracted from chapter 8 on Public land, fisheries and forests)

- Where States own or control land, fisheries and forests, they should determine the use and control of these resources in light of broader social, economic and environmental objectives. They should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.
- Where States own or control land, fisheries and forests, the legitimate tenure rights of individuals and communities, including where applicable those with customary tenure systems, should be recognized, respected and protected.
- Noting that there are publicly-owned land, fisheries and forests that are collectively used and managed (in some national contexts referred to as commons), States should, where applicable, recognize and protect such publicly owned land, fisheries and forests and their related systems of collective use and management, including in processes of allocation by the State.
- States should strive to establish up-to-date tenure information on land, fisheries and forests that they own or control by creating and maintaining accessible inventories.
- States should develop and publicize policies covering the allocation of tenure rights to others and, where appropriate, the delegation of responsibilities for tenure governance.
- States should allocate tenure rights and delegate tenure governance in transparent, participatory ways, using simple procedures that are clear, accessible and understandable to all, especially to indigenous peoples and other communities with customary tenure systems. Information in applicable languages should be provided to all potential participants, including through gender-sensitive messages.
- **To the extent that resources permit, States should ensure that competent bodies responsible for land, fisheries and forests have the human, physical, financial and other forms of capacity. Where responsibilities for tenure governance are delegated, the recipients should receive training and other support so they can perform those responsibilities.**

The need for good land governance is reinforced by three broad global trends: First, increased and more volatile commodity prices, population growth, and the resulting increased demand for rural and urban land make it all the more important to define and protect rights over public and private land resources as a precondition for the broad sharing of the benefits of economic development.

Land governance does not only depend on land institutions. It also depends on the general governance situation. In times of transition, governance generally suffers as it does in postwar situations. Institutional economics teaches us that during institutional change the distribution of property rights remains unclear and unregulated for a certain period of time. It takes some years until all institutions (laws, by-laws, agencies, organizations etc.) are in place again. Hence, it is more than evident that (land) governance in Eastern Europe can still be improved in some fields. (Wehrmann, 2010)

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New institutions and institutional settings need a lot of additional capacity. They require knowledge and skills, which are not yet in place. Capacity development, therefore, still represents a major need in many countries in transition. Without adequate capacity, good governance cannot be achieved. Capacity goes hand in hand with the understanding, acceptance and internalization of the new rules.

Corruption in public land management can be generally characterized as uncontrolled, illegal and pervasive. It can vary from small-scale petty bribes and fraud (e.g. administrative corruption), to high-level abuse of government power and political positions (e.g. political corruption). Corruption, whether administrative or political, does not favour the establishment of long-term national or communal local land strategies since related actions and decisions are driven by distorted interests and policies that favour the few. Examples of corruption in the land sector and specifically in managing public land are well described in TI and FAO (2011), TI (2009) and Zimmermann (2008).

Weak governance in managing government-owned land has adverse consequences for the society as a whole. Features of good land governance include (FAO 2007):

- The legitimacy of land agencies and land professionals is widely recognized by citizens.
- Land agencies serve all citizens, including the weak as well as the strong.
- Land agencies provide services that respond to the needs of their customers, e.g. in the nature of the services and accessibility to them.
- The results of the services are consistent, predictable and impartial.
- The services are provided efficiently, effectively and competently.
- The services are provided with integrity, transparency and accountability.

Reversing weak governance is a long-term continuing process rather than a project. Good governance requires a willingness to overcome both existing weaknesses and opposition from people who wish to maintain the benefits they receive from corrupt activities. Good governance in managing government-owned land also requires developing the capacity that is needed in order to make change possible. Land agencies must ensure that staff have the right skills and attitudes and are motivated to serve. Well-managed organizations constantly review their needs for skills and the qualifications of employees. They regularly retrain staff to update competences in establishing transparency, accountability and professional ethics. Weak governance of the land sector and a failure to perform these functions effectively and in an efficient manner will negatively affect development by reducing investment levels, land transfers, financial sector activity, and the scope for meaningful decentralization.

The Land Governance Assessment Framework (LGAF) is one of the new instruments that make a substantive contribution to the land sector (including government-owned land) by providing a quick and innovative tool to monitor land governance at the country level (World Bank 2011).

Five key areas are identified in LGAF (World Bank, 2011) for indicator development and assessment, among them, public land management:

Clear identification of state land and its management in a way that provides public goods cost effectively; use of expropriation as a last resort only to establish public infrastructure with quick payment of fair compensation and effective mechanisms for appeal; and mechanisms

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for divestiture of state lands that are transparent and maximize public revenue. In many contexts, divestiture of government land is one of the most egregious forms of ‘land grabbing’, bad governance, outright corruption (e.g. bribery of government officials to obtain public land at a fraction of market value) and squandering of public wealth. Avoiding these will require that such processes follow clear, transparent, and competitive process, that any payments to be received and the extent to which they are collected be publicized, that the institutions involved be subject to regular and independent audits and the required **capacities for accountable and service-oriented mechanism are systematically build.**

The new global context described above is calling for expanded institutional and professional capacities in managing government-owned land. Driving forces for change are summarized as follows:

- The fundamental role of managing government-owned land in view of adaptation and mitigation of climate change
- Responding to unprecedented pressures on land resources by large scale investment in agricultural land and urban land expansion
- The consequences and need of good governance principles and anti-corruption measures in management, acquisition and disposal of government-owned land
- Public sector reform and new strategies for institutional development, devolution, PPP and transparent revenue tracking regarding the management of public property assets
- The dynamics and consequences of decentralization and de-concentration for institutional and professional development at all levels

Decentralization and the establishment of a modern public sector raise the need for transforming monopolistic state ownership. In transition countries the transfer of major quantities of state property to new owners has been implemented through restitution, privatization and property devolution. The combined effects of these processes created various models with different scales and types of local government property. Local governments have to learn methods to manage newly transferred property. In the slowly emerging market environment, **local organizational forms of property management should be established, and both municipal staff and service organizations must develop greater professional capacity.** This institutional and capacity development process requires new forms of audit and internal mechanisms ensuring higher transparency in local government. (Péteri, 2003). Institutional and professional profiles should therefore be expanded and enhanced through systematic training and other strategic support so they can perform those new responsibilities and respond to the pressing challenges.

3. CAPACITY

UNDP defines capacity-building as “the process by which individuals, groups, organizations, institutions and societies increase their abilities to: perform core functions, solve problems, and define and achieve objectives; and understand and deal with their development needs in a broad context and in a sustainable manner.” (UNDP 2002). This definition suggests that capacity-building be not merely about devising management tools and instruments or some other technocratic frames and frameworks. It should be about the community’s ability to

appreciate organizational goals, and to build and use its resources to that end. If so, everything becomes important—from the nature of the polity and regime structure to the sense of self-respect and self-reliance among the leaders and members of the institution.

As countries transform themselves, they have to develop different capacities in managing the land sector. But it is important to recognize that they do not do so merely as an aggregate of individuals. National capacity is not just the sum total of individual capacities. It is a much richer and more complex concept that weaves individual strengths into a stronger and more resilient fabric. If countries and societies want to develop capacities, they must do more than expand individual human skills. They also have to create the opportunities and the incentives for people to use and extend those skills. Capacity development thus takes place not just in individuals, but also between them, in the institutions and the networks they create—through what has been termed the “social capital” that holds societies together and sets the terms of these relationships

3.1 Three Levels of Capacity Development

Capacity development needs to be addressed at three levels: individual, institutional and societal.

- Individual: This involves enabling individuals to embark on a continuous process of learning—building on existing knowledge and skills, and extending these in new directions as fresh opportunities appear. Human Resource Development (HRD) means assessing the capacity needs of people and addressing the gaps through adequate measures of education and training. The dimension of capacity at the individual level should include the design of educational and training programs and courses to meet the identified gaps within the skills base and to provide the appropriate number of qualified staff to operate the systems.
- Institutional: These too involves building on existing capacities, constructing new institutions or custodian networks or seek out existing initiatives and encourage these to grow. Any institutional change, whether as strengthening or reform, requires some form of capacity building. Capacity building however is not institutional (or organizational) development. Capacity building aims to create the approach and the tools. Typically numerous stakeholders are to be consulted and their agreement and support sought. This is a process which often takes a political turn. To start this process, exposure programs, problem-solving techniques and knowledge to collect international experience and adapt it to the local circumstances and expectations are very instrumental. Since blueprints do not exist and practices vary broadly, decision makers and managers are being enabled to select an organizational system based on a sound understanding of various institutional/organizational options for managing government-owned land:
 - by government departments themselves (central or de-central or complementary; single agency model or custodian model)
 - by government established companies (special purpose agency)
 - through engaging the private sector within an public-private partnership (PPP)
 - continuum of various hybrids in between

- Societal: This involves capacities in the society as a whole, or a transformation for development. An example is creating the kinds of opportunities, whether in the public sector, private sector or civil society, that enables people to use and expand their capacities to the fullest and creating a broader enabling environment. The dimensions of capacity at this level may include areas such as the consequences of global dynamics, climate change, governance issues, transformation of conventions to country level, policies, legal/regulatory framework, management and accountability perspectives, and the resources available.

All of these layers of capacity are mutually interdependent. If one or the other is pursued on its own, development becomes skewed and inefficient. One source of confusion here is that capacity development is typically also understood as human resource development. This is unfortunate. Capacity development is a larger concept. It refers not merely to the acquisition of skills, but also to the capability to use them. This in turn is not only about employment structures, but also about social capital and the different reasons why people start engaging in civic action.

Capacity Building Framework for Managing Government-owned Land

Level	Capacity Assessment Issues	Capacity Development Options
Societal Level	<ul style="list-style-type: none"> Policy dimension Governance and land governance Social and economic dimension System dimension Legal and regulatory dimension Responding to the growing pressure on land 	<ul style="list-style-type: none"> – Policy for restitution, privatization and property devolution – The role of government-owned land for mitigation and adaptation of climate change – Land governance issues, accountability, transparency and control of corruption – Policy for management, disposal and acquisition of government-owned land as essential element of land policy – Regulatory framework and law enforcement (compliance) – Economics of government-owned land – Role and function of central versus local administrative level in society – Urban expansion, land conversion and response to pressure on land – Involvement of civil society
Organisational / Institutional Level	<ul style="list-style-type: none"> Managerial and resource issues Institutional issues and processes 	<ul style="list-style-type: none"> – Institutional infrastructures and assessment of alternative organizational models (such as single agency versus custodian model) – Assessment of capacity needs – Decentralization and transfer of land to local

	<p>Dealing with government property assets and revenues</p> <p>Accountability and transparency</p> <p>The role of an oversight body and audit</p> <p>Expanding the land tool box</p>	<p>government (consequences)</p> <ul style="list-style-type: none"> – Regularization and consolidation of secondary land rights on government-owned land – All around operational procedures for managing government-owned land (such as disposal, auctioning, leasing, valuing, acquiring, resolving conflicts, monitoring, auditing) – ICT tools and GIS – Revenue generation and revenue tracking – Making accountability, transparency and anti-corruption measures operational – Professional Institutions – Integrating applied research
Individual Level	<p>Professional competence</p> <p>Human resources needs</p> <p>Educational resources</p>	<ul style="list-style-type: none"> – Education and training programs – Virtual programs – Education and research centre – Professional ethics – Knowledge networks

3.2 Instruments for Capacity Building

Though many instruments can be identified for building the capacities for effective management of government-owned land, the quality of capacity building is very often a question of attitude rather than of just a mechanism. Nonetheless, instruments that could typically be applied in the capacity building process include:

- Self-assessment of capacity needs in terms of political objectives, policy orientation, policy instruments, normative framework, institutional infrastructure and allocation of mandates, business objectives, work processes and human resources (adapted from Enemark and van der Molen, 2006). The analysis may well lead to adjustment of the political or policy objectives or provide alternative institutional options and improvements.
- Educational and training programs, locally or in a different country to acquire new insights, skills and attitudes. For example, Technical University Munich or ITC University Twente are offering international post-graduate programs in land tenure, land administration and land management where effective management of government-owned land is in-cooperated. The format of the education or training can be longer-term educational programs, short and focused on workshops or exposure programs. It is preferable to prepare simultaneous separate tailor-made programs for the three key levels of professionals; decision-makers, managers and professionals in operation. The capacities

and performance qualities of all three levels are interdependent and of the same priority and significance.

- Effective and innovative educational techniques for the transfer of knowledge and development of skills. This calls notably for hands-on training, sessions and workshops to develop problem-solving skills. Interactive methods that emphasize learning by doing can be effective.
- Transfer of novel skills and attitudes complements the more traditional technical education. Among those new skills are, for example, multi-disciplinary and integrated cooperation in planning and management, strategic planning, impact assessment, co-management models, participatory approaches, internal auditing, dispute resolution, ICT tools, sustainable land management, revenue tracking etc. Because these new skills also comprise problem analysis, and strategy development, their application can serve the purpose of assisting the government in initiating institutional reform or re-engineering by facilitating early analysis and decision making.
- Distance and modular education and training can help to increase the efficiency of the educational and training programs, by making use of the innovative new technologies for communication and knowledge management. This communication facility now allows conducting such learning exercises from a network, rather than from a single establishment. A promising effort is the initiative of the World Bank-led land group for Europe and Central Asia (ECA), offering e-learning sessions such as: ECA Public Land Management, February 2012; <http://worldbankva.adobeconnect.com/p15510h2pmy/>
- Virtual and physical networks. With increasing complexity and variety of issues in managing government-owned land (see chapter on Governance) the pooling of expertise becomes ever more important. This holds especially true as many of the new challenges, those of public land and climate change, land governance, regularization and consolidation of secondary land rights on government-owned land, institutional scenarios, require multi-disciplinary approaches. Topical networks help to pool this expertise at local and international level in an adaptable way. In addition, they allow sharing experience on particular institutional experiences.
- Twinning arrangements between peer organizations from different countries and networking between peers to learn from each other (for example BVVG AgriForest Privatization Agency, the German state-owned agency for managing and privatizing publicly owned agricultural and forestry land in former Eastern Germany is or has been partnering with institutions in Lithuania, Mongolia, Serbia, and Ukraine)
- Creating access to knowledge and information pools and systems. Physical meetings including documentation such as FIG / FAO Verona (2008) and now in Budapest. Electronic meetings and communication need to complement each other.
- Local and international technical assistance to assist counterparts and institutions in reviewing and analyzing the performance of present arrangements, carry out

strength/weakness analysis and develop a plan of operation including capacity building for addressing the shortcomings (for example GIZ supporting the land sector in countries of former Yugoslavia, Romania and Mongolia through Technical Cooperation).

- In analogy with the concept ‘training of trainers’, the proposed approach is that of ‘capacity building for capacity builders’. However, in contrast to the conventional trainer-expert who typically would operate from one establishment, capacity builders would prefer to work in consortia, alliances or networks of specialized institutions and individuals that together provide the requisite multi-disciplinary expertise and experience to deal with complex problems.
- Generating research capacities and promoting applied research in critical subject areas such as state land economics, international experiences on government land companies, comparative assessment of institutional/organizational models etc.

Impressive progress has been made in transitional countries for modernizing the legal, administrative and technical framework for managing government-owned land. However, in many situations national capacity to manage public assets in general and specifically government-owned land is not well developed regarding the maturity of institutions and the necessary resources and skills.

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