

Developing a Methodology for Capacity Development Assessment to Implement Land Policy

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SUMMARY

In the context of a GLTN research project this article provides the results on the development of a holistic tool to assess capacity development needs for land policy implementation. The development built on 3 phases. In March 2014 the project activities had resulted in a draft literature review document on the different conceptualizations on “capacity development” and “capacity development assessments” and addressed that the characteristics of the land sector are unique as compared to other sectors. The literature review revealed three main categories of views on capacity development, labelled as rationalist, land administration toolbox based and developmentalist. Each of these have had different implications for the type of assessment: the first view assesses capacity of a sector as the sum of capacities at different scales and different types of capacities (hard and soft); the second on the basis on outcomes generated by the system of land administration in view of the separate aspects of the land administration toolbox; the third view addresses assesses capacity through assessing the emergent factors which create problems in land matters. Two consultation activities were executed to verify with experienced stakeholders which components needed to be included in a specific capacity development assessment tool for land policy; one in Kenya (April 2014) and one in Mozambique (May 2014). Both experiences were synthesized, which derived a number of recommendations on how to revise and reshape the methodology, and also derived a set of guidelines which could be used by assessors. The redesigned methodology is based on the notion that capacity development may be an intangible concept, yet that assessment of capacity development is possible by carefully combining the 3 types of approaches associated with the 3 different views whilst taking into account the specific nature and characteristics of the land domain. It contains 4 subsequent components:

1. Identify national concourse of land issues at stake, and frame concerns, goals, resources (is assessment needed and why)
2. Scoping of functional assessment and mobilize resources.
3. Conducting the assessment and interpreting results.
4. Presenting , disseminating and acting upon results.

These components are detailed with specific guidelines for data collection and interpretation. The entire package was validated in Uganda in November 2014. This article presents the results of this validation process and concludes with the implications for the tool.

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1. INTRODUCTION

The context of this article is the GLTN research project on developing a tool for capacity development assessments (project title: GLTN Partnership for Land Tool Development: Development of a holistic tool to assess capacity development needs in country-level land policy implementation) executed by the Faculty of Geo-information Science and Earth Observation of the University of Twente, Enschede, Netherlands. In March 2014 the project activities had resulted in a draft literature review document (de Vries and Groenendijk 2014) on the different conceptualizations on “capacity development” and “capacity development assessments”, a rough determination of what comprises the land sector or land domain and how the GLTN objectives stand out in this land domain. On the onset it was evident that pro-poor, inclusive and holistic approaches to land management and land administration make the GLTN objectives and associated tools distinctive from other tools and approaches. The capacity development assessment should also take these notions into account. The initial phase of literature review on capacity development and on describing the specific of the land domain was followed up by three feedback and validation workshops in Kenya, Mozambique and Uganda respectively, summarized by a set of findings and recommendations as described in documents (de Vries 2014a, Groenendijk 2014). These experiences were combined and synthesized in a report (de Vries 2014c), which includes a number of recommendations on how to revise and reshape the methodology further. This became the basis for a final test with experts in Uganda, detailed in (De Vries 2014b). This article synthesizes all these findings and provides the skeleton of the resulting proposed tool: the capacity development assessment methodology.

2. LITERATURE REVIEW ON CAPACITY DEVELOPMENT

The literature search relied on a snowballing method. We started with a few key documents (e.g. (UN Habitat 2013), (UN-Habitat 2012)) which set off the main scope of our research and provided a number of key references. In addition, we communicated with some of our contacts in our personal network of researchers at the University of Twente and IHE / TU Delft who provided us with a large list of academic and grey literature references. Both types of sources in connection to general academic literature searching tools (e.g. Web of Science, Science direct, and google scholar) and specific land administration literature research repositories (OICRF) allowed the expansion and establishment of key documents. These documents were first of all classified into 4 categories, namely: country specific documents (e.g. (Ngau, Mwenda, and Mattingly 2011) and (Tanner et al. 2012)), multilateral organization and donor agency documents (e.g. (OECD 2006), (World Bank Institute 2012) or (UNDP

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2010)), Academic / scientific articles, reports and conference papers (e.g. (Enemark and van der Molen 2008), (Kaspersma 2013) or (Bateson et al. 2008) and grey literature and manuals from commercial companies and NGOs (e.g. (McKinsey&Company 2013)). This resulted in a repository of 58 key documents. Each document was evaluated on whether they contained any definitions and viewpoints on the core elements of this literature study, namely “capacity”, “capacity development”, “capacity assessments”, “methods and tools of capacity development assessments” and “land administration capacity development”. The evaluation consisted of finding a common, contrasting and varying definitions, impacts of the choices made on these definitions, ideas for measuring and qualifying approaches.

The literature review initially revealed multiple views on what constitutes the land domain and the issues of capacity development, how to delineate the land sector and its capacity, and from which perspective one should approach land policy.

On the constitution of what is included in the land domain, one of the most common classifications of what the land domain is about is the land administration paradigm by (Williamson et al. 2010) – based on earlier publications such as (Enemark 2003). Within a given country context with its institutional arrangements and a given or agreed land policy framework a number of functions are carried out on a regular and systematic basis. Supported by a land information infrastructure these functions include: land tenure (e.g. registration of tenure rights and/or recognition or securing tenure), land value and taxation, land use, land development. Ultimately this should support sustainable development. Another frequently quoted reference is that of (ECE 1996), which defines land management as “the process by which the resources of land are put to good effect. It covers all activities concerned with the management of land as a resource both from an environmental and from an economic perspective.” (p.13), and land administration as “processes of recording and disseminating information about the ownership, value and use of land and its associated resources. Such processes include the determination (sometimes known as the “adjudication”) of rights and other attributes of the land, the survey and description of these, their detailed documentation and the provision of relevant information in support of land markets.” (p.14). Regardless of the exact definitions it is obvious that the land domain comprises of the different actors and functions which operate and interfere in relation to land.

It is important to note that the nature of the land domain makes a specific assessment methodology necessary. Characteristics of land domain include:

- High degree of conflicting social and institutional aims and claims in land domain and how land matters should be organised
- Land can be a underlying reason for socio-economic conflicts.
- Local and national context are often crucial in organising land matters and solving land problems.
- Multiple disciplines are involved in land matters (notably surveying, law, development, planning, public administration). This contributes to multiple perspectives and – often conflicting - views on solving, studying, addressing land problems.

- Land is often organised at multiple levels and scales – local, regional, national. Scale differences influences differences in views and goals, work flow management problems, bureaucracy of multiple stops
- Land is often organised through different ministries, which each pursue their own mandates and operate through their own organisational structures, regulations and bylaws.
- There is a wide variety of stakeholders in land which each operate from their own mandates and perspectives on what is considered good or bad – national, local government, private companies, religious groups, advocacy groups, communities

With regard to capacity development three main views were classified, which could be labelled as rationalist, toolbox based and developmentalist. Each of these each had different implications for the assessment, namely assessing capacity of a sector as the sum of capacities at different scales and different types of capacities (hard and soft), assessing capacity of the land sector as the sum of interlinkages between capacities to execute different functions of land administration, and assessing capacity through assessing the emergent factors which create problems in land matters. Given the various views on capacity and capacity development the literature on assessment (of capacity) is equally diverse. Rationalist approaches of capacity assessment are primarily solution oriented and tend to define a particular solution and then measure the distance or path towards that solution. Rather than questioning or debating the solution itself from the onset, the assessments formulate targets and goals at individual, organizational or sectoral level (norms or standards for tasks, performance goals for organizations and policy goals for sector) and then compare this with the current degree to which these goals and target are being achieved.

Instead the developmental oriented assessment approach is problem oriented, i.e. starting from a (policy) problem which is debated amongst actors. It reasons from the consequences that current developments and actions have and tries to derive the aim of capacity development is not to reach positive goals but to understand and where possible redirect towards reducing or preventing negative effects. Assessment of development is considered an assessment of a gradual process of learning and of changing outcomes. The approach of assessment in this case is not necessarily having a clear tangible ideal in mind, but assessing the different outcomes that are generated gradually over time. Such an outcome mapping approach (Carden, Smutylo, and Earl 2001, Smutylo 2005) focuses on the social change (or even: the significant change) that certain actions have brought about. This assessment can also take place at different levels such as the conventional assessments but the main focus of assessing is more holistic and time-context dependent.

Regardless of the different approaches there are also communalities. In all cases it was possible to derive a first schematic overview of three distinctive generic capacity development assessment stages:

1. Scoping of assessment and mobilization of resources
2. Implementation of assessment, including choice of indicators and methods of data collection
3. Presenting and dissemination of results

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3. VALIDATION WORKSHOPS ON CAPACITY DEVELOPMENT

During the validation workshops participants expressed a number of concerns regarding capacity development and its assessment:

- In large parts of Africa most part of the land is customary, whereas most policies are based on assumptions of western systems of land tenure and land rights.
- Current training and capacity building efforts are largely based on conventional western tenure systems. There is insufficient attention for assessment of knowledge and acquaintance with customary traditions and rights, such as family rights. As a result, the assessment needs to incorporate means to assess these issues as well.
- Many legitimate land tenants do not know how the registration system works and what the implications are when converting their tenure to rights. Under customary tenure there are many rights included which may be lost in conversion. Conversion can thus potentially have negative implications for women and children. Both customary land owners and administrators would need to know about such implications. This should also be part of the assessment method.
- Often local governments and districts lack technical capacity. Part of the reason is that land policies tend to prescribe a fixed set of human resources and their functional skills levels for local level government offices. In case of administrative reform - usually resulting in more local government offices – the required human resources cannot be easily attracted or are simply not available. The assessment should therefore take into account whether recent administrative reforms have taken place or whether these are anticipated.
- Most regional governments often lack a clear capacity development plan. The capacity assessment should therefore include a question on whether any overall capacity development plan is available in the country.
- Conversion from manual systems to digital systems is not evident. Many people do not have any or only limited exposure to modern digital tools. The assessment should take this into account.
- Donor interventions aimed at capacity development and land management and initiatives from investors aimed at infrastructure or real estate projects are not always coherent. The assessment should take this into account.
- There is a high need for IT managers at all levels and across the entire sector. This should be taken into account.
- The academic and other higher education institutions require a sustainable group of human resources, and accredited programs to support capacity development initiatives. The assessment method needs to take this into account.
- Capacity assessments should take expectations of local farmers into account. It should provide some hope for local farmers on what will happen to land if they participate in any assessments. Also the assessment should include whether there is any legal aid (pro bono) present for local subsistence farmers.
- Assessment should include the degree to which people have access to land information and information on administrative and regulatory requirements of land tenure / rights conversion processes.

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- Local knowledge and conventions should also be addressed during any capacity assessment. Technical capacity is not the same as social capacity.

The validation workshops have further shown that capacity development in land is considered an holistic concept which involves various internal and external drivers which act upon land related activities. Together these drivers and the activities derive societal outcomes, such as division or allocation of land rights, movement of people in relation to land, solutions for land related conflicts, tax generation by means of land related levies, land use plans. Schematically these interactions can be pictured as follows:

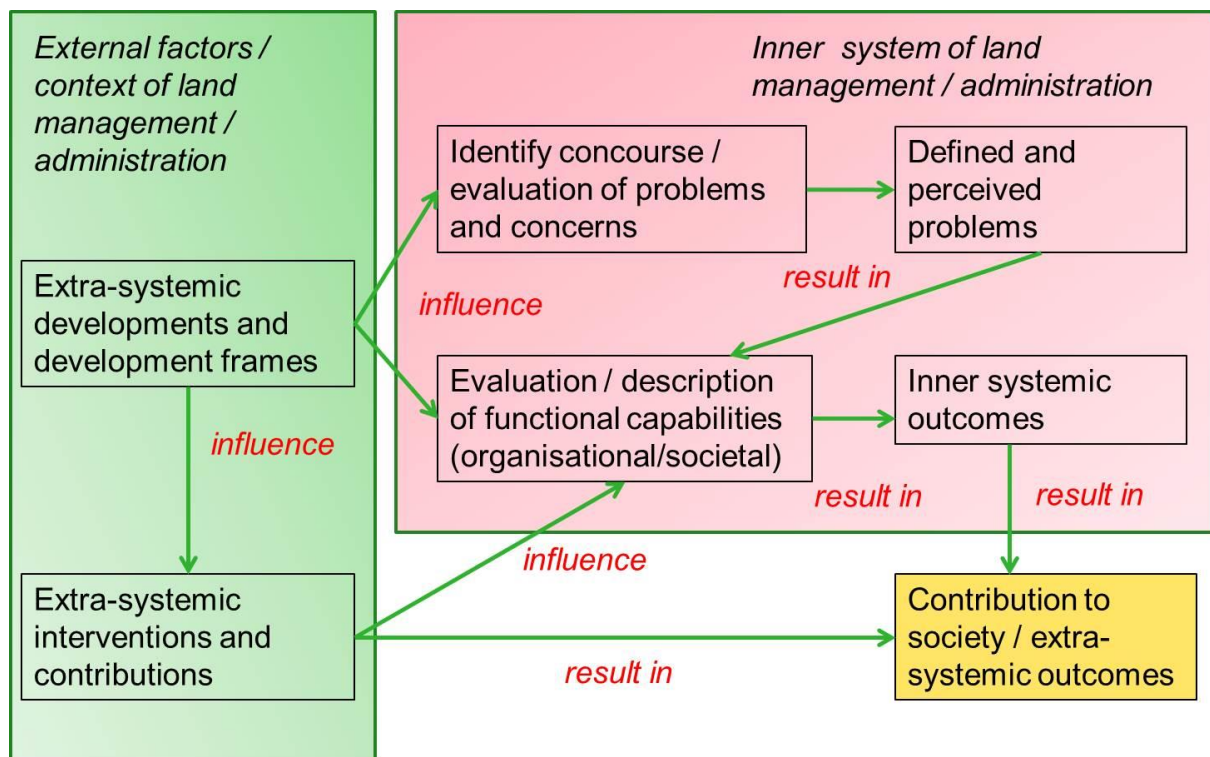


Figure 1. Contribution of land management and land administration capacity to society

This overview distinguishes two main systems - an inner and an outer / external system of land management and administration activities. The inner system comprises of actors who interact on a daily basis on land related matters and decisions, and who do so using their own frames, views and mandates on what is considered good or bad for land management and administration. This arena of policy views tends to derive a certain degree of consensus – either voluntarily or by compliance - which shapes how actors fill in their daily activities. The figure also makes clear that capacity and capacity development has to be judged against both the framing and the desirability of societal outcomes. It cannot be seen in isolation of that.

The basic assumptions of capacity development in light of supporting land policy include:

- Capacity development is an intangible complex of processes connected to land matters which generates changes and impacts in society.
- Capacity or capacity development cannot be measured directly but needs to be measured by external contributions or interventions that change it, or by the changes that the complex of processes generate
- Capacity and capacity development in land matters are not universal. They depend on local context

Whether capacity development is needed, and in which direction it is needed depends on how stakeholders at all levels define and frame a problem in land matters. As a result, any capacity assessment on implementation of land policy will be based on both the degree to which there exists consensus among stakeholders on the goals of the land policy, and the degree to which there exists consensus on the way to achieve the goals.

4. OUTLINE OF CAPACITY DEVELOPMENT ASSESSMENT METHODOLOGY

The redesigned methodology is based on the notion that capacity development may be an intangible concept, yet that assessment of capacity development is possible by carefully combining the 3 types of approaches associated with the 3 different views whilst taking into account the specific nature and characteristics of the land administration and land management domain. The resigned methodology contains 4 subsequent phases. The 4 phases of the capacity assessment include :

- 1. Identify national concourse of land issues at stake, and frame concerns, goals, resources (is assessment needed and why)**
Identify the broad scope of national and local land issues in the country; the breadth of views and concerns; the claims and arguments; the main funder; urgency of results needed
- 2. Scoping of functional assessment and mobilize resources.**
Prepare a Terms of Reference (ToR) of assessment by: engaging stakeholders, clarifying functional objectives and primary clients, (collectively) determining data and information collection, deciding on the assessment team composition, the cost and duration of the assessment.
- 3. Conducting the assessment and interpreting results.**
Execute assessment through a combination of interviews, focus groups, documentary analysis and collection of indicators. Inform and involve stakeholder where possible and appropriate and validate intermediate results regularly.
- 4. Presenting , disseminating and acting upon results.**
Plan and execute the presentation and dissemination, and design and plan of action based on the capacity assessment results.

The 4 sub phases correspond to the combination of the inner and outer system of land capacity and how this capacity aims to reach societal goals. The first step aims to clarify these

goals and to reach a better understanding the breadth of values and opinions which exists on both the fundamental goals and on the societal outcomes. This step is not necessarily a repetition of formulating a land policy, but it is an assessment of the breadth of values that exist on the execution and implementation of the land policy. It thus includes a first assessment on whether there are essential overlaps of views or contradictions of views. The overlaps can be used to stimulate certain outcomes, the contradictions to highlight potential difficulties during the implementation.

5. CONCLUDING REMARKS

The land sector is clearly a sector where discussions, recommendations, expectations and follow up actions can be more sensitive than in other sectors. Participants of the validation workshops noted that the terms “land administration” and “land management” are not consistently applied in the practice of land policy making and policy implementation. As a result, a generic capacity assessment method for land policy may be understood differently in each country, and also in each local government. It is similar to other sectors where it concerns the potential resistance to cooperate in an assessment when there exists a perception that people might lose their jobs, yet it is dissimilar where it concerns the framing and understanding of the land sector issue itself.

If there is really no debate (possible) about the goals of the land policy, or if the capacity assessment is only relevant in a very limited context (e.g. within a single organization) then the step can be avoided. The assessment itself can be based on a set of basic questions which can be collected and evaluated using a simple spreadsheet. The basic questions may need alteration based on the results of the previous two steps. This step seems indeed very dependent on the previous steps, yet, it should also be noted that certain issues may not necessary need to be collected if they are simply outside of an agreed terms of reference. This is always the result of a consultative process which is by nature unique and idiosyncratic. It is therefore not possible or advisable to adhere to a “one-size-fits-all” approach, but to adapt the approach to local policy debates and institutional and/or organizational contexts.

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