



# Policy Advisory

No. 2008-05

## **LAND ADMINISTRATION SYSTEM: FUNCTIONAL AND EFFICIENCY IMPLICATIONS**

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**Congressional Planning and Budget Department  
House of Representatives**

## EXECUTIVE SUMMARY

*The land administration system in the Philippines can be aptly described into two words: multiple and complex. The whole system has been governed by multiple laws, regulations, processes and standards, and has been managed by multiple institutions with limited collaboration. These inherent flaws have been largely attributed to the dual process of land titling and registration—administrative and judicial. This time-consuming and expensive process has not encouraged a “culture of registration” hence a large share of the country’s real estate sector remained undocumented.*

*The inefficiency in the land administration system has become a disincentive to investment in the land market because of the high transaction costs in securing, registering and transferring property rights. Moreover, the complicated land institutions and processes have further strained limited public sector budget due to unnecessary duplications in management and administration support, and land information and records.*

*It is imperative that Government is able to balance the competing demands between the increasing need for economic activities and the finite land resources. In so doing, it needs to implement key reforms in the land market that are geared towards the establishment of a single land administration agency that would harmonize -- all land related laws and functions, and where possible, adopt administrative rather than judicial approaches for formally recognizing rights in land.*

## LAND ADMINISTRATION SYSTEM: FUNCTIONAL AND EFFICIENCY IMPLICATIONS

*By Novel Bangsal and Ma. Leni Lebrilla*

*“It is important to note that there are no quick fixes to land tenure problems. Except in particularly favorable circumstances, improvements in this field can only be achieved in the long run.”*

Wachter and English, 1992<sup>1</sup>

### LAND MARKET AND ECONOMIC GROWTH

In most developing countries, land is often the key instrument for accumulating wealth and transferring it between generations. It represents a large share of asset portfolio of the poor hence, giving secure property rights to land can greatly increase the wealth of the poor. There is evidence of the economic benefits of improved land tenure security. For instance, investment in property in Peru increased ninefold when squatters obtained formal titles to their homes, while farmers in Costa Rica who hold formal land titles have much higher incomes than those who do not have titles.<sup>2</sup>

An efficient, formal land administration system<sup>3</sup> is an essential requirement for the operation of a formal land market. A systematic titling and registration program supported by strong legal, institutional

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<sup>1</sup> D. Wachter and J. English, “The World Bank’s Experience with Land Titling”, World Bank, Washington, DC. March 1992.

<sup>2</sup> Anna Brits et al. “Comparative Study of Land Administration Systems”, Regional Workshops on Land Policy Issues Asia Program, Land Equity International, 2002.

<sup>3</sup> Land administration is the regulatory framework, institutional arrangements, systems and processes that encompass the determination, allocation, administration, and information concerning land. It includes the determination and conditions of approved uses of land, the adjudication of rights and their registration via titling, the recording of land transaction, and the estimation of value and taxes based on land and property (AUSAID, 2001).

and policy framework facilitate the exchange and distribution of land at low cost through rental or sales. This is also central in expediting land access that increases the incentive of households and individuals to invest, and often provide them with better access to credit.

The functioning of land markets is far more important today because of the increased payoffs from land investment resulting from population growth and opportunities arising from greater market integration and technical advances. These economic imperatives require the appropriate land institutions and policies that can ensure enforceability of land tenures. On the other hand, failure of the institutions administering land rights to respond to these demands can lead to land grabbing, conflict, and resource depletion that can undermine societies' productive and economic potential.

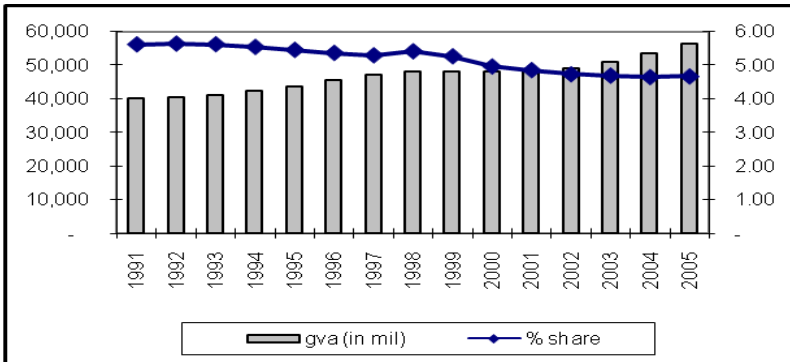
The country's land administration system has not helped deliver the expected social and economic outcomes. Because of institutional and legal barriers, these have resulted to high transaction cost in registering property rights that has been a disincentive to investment and credit access. Moreover, the absence of a clear mechanism to resolve land disputes and inappropriate land valuation has continued to erode public confidence in the system.

### **ECONOMIC CONTRIBUTION OF LAND MARKET**

The average contribution of land market to the economy as measured by the gross-value added (GVA) in real estate and ownership dwellings was P915.4 billion per year from 1991 to 2005, or roughly 5.2% of the country's GDP (*Figure 1*). The sector is indeed a key economic growth engine, and studies show that

domestic output responds positively to growth in the land market. For every percent increase in the GVA of the land market, there is a corresponding 1.1% increase in the country's GDP.<sup>4</sup>

**Figure 1**  
**GVA in Ownership of Dwellings and Real Estate, 1991 to 2005**  
 (In million pesos: at constant prices)



Source: NSCB, 2006 *Philippine Statistical Yearbook*, 2006

Despite its impact to growth and poverty reduction, land and real estate assets are seriously underutilized. This suggests that a large share of the value of the Philippine real estate sector estimated at 40% is undocumented—meaning untitled and unregistered. To get an idea of this size, a study of the Land Administration and Management Project (LAMP) indicated there are about 34,840,746 parcels of land in the country, of which, 12,411,956 parcels or about 36% is presently untitled.<sup>5</sup> In terms of percentage of untitled parcels to the total number of parcels, the areas with more than 50% ratio include Region IX (68%), ARMM (56%), CAR (55%), CARAGA or

<sup>4</sup> Brits et al, *Land Equity International*, 2002.

<sup>5</sup> Land Market Study, DENR, May 2004.

Region XIII (55%), Region XI (55%), Region VI (52%) and Region VIII (51%).<sup>6</sup>

Consequently, these “dead” assets whether private-or publicly-owned, cannot be used as collateral to raise financial capital for investment in real properties or in other economic ventures. The estimated value of “dead capital”<sup>7</sup> based on government and private sector valuation is substantial.<sup>8</sup> The government pegged this value at a low of P778.9 billion to a high of P841.6 billion; on the other hand, private sector had a more conservative estimate between P41.8 billion to a high P104.4 billion<sup>9</sup> (*Table 1*).

**Table 1**  
**Estimates of the Value of Dead Capital in the Philippines**  
**(In million pesos in 1985 constant prices)**

Particulars	2000		2005		2010	
	Low	High	Low	High	Low	high
Government perspective*	778,894	841,550	1,049,350	1,133,761	1,304,874	1,409,840
Private sector**	41,770	104,426	56,274	140,686	69,977	174,944

\* From government perspective, “dead capital” is measured as transaction value of land that escaped detection and was not recorded in official government statistics plus the foregone transaction value arising from the discounting applied on the land.)

\*\*From private sector, it is measured as foregone transaction value arising from the discounting applied on the land.

Source: *Land Market Study, LAMP-DENR, May 2004.*

<sup>6</sup> Ibid.

<sup>7</sup> Peruvian economist Hernando de Soto (1999) defined dead capital as undocumented, meaning untitled and unregistered lands. These are considered as informal real estate such as: squatter areas, high & low density permanent informal settlements, areas with collective ownership, public housing, or resettlement areas, and/or properties with defective titles.

<sup>8</sup> Urbis Philippines, *Land Markets Study, LAMP-DENR, 2004.*

<sup>9</sup> These estimates were based on the assumption that the degree of informality in the urban areas was 57%, and the degree of informality in the rural areas was 67%.

Compared to other types of financial indicators, the stock value of informal market real estate assets is easily five times greater than the value of total foreign direct investment (at P169.3 billion) in 2006 or one-third of the domestic debt (at P2,226.2 billion) as of the same year.

## **DISTINCT FEATURES OF THE LAND ADMINISTRATION SYSTEM**

Typical among Asian countries is the strong influence of colonial intervention in the land administration system. In most jurisdictions, these have resulted to a dual system in which imported systems based on western models operate mostly in urban areas and commercial agriculture and customary systems are still recognized in areas occupied by indigenous communities.<sup>10</sup> Some countries such as Thailand and the Philippines have introduced innovations, including systems based on the Torrens title system<sup>11</sup> that was originally introduced in Australia in 1858.

Interestingly, the Torrens system in the Philippines—which was based on the American model—was particularly contentious because it required the intervention of the courts in the title registration process whereas the system adopted in other countries did not.<sup>12</sup> This distinct feature of the tenure system has in large part been critical in determining institutional and legal arrangements, as well as functional and efficiency implications, in the land transaction process.

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<sup>10</sup> Tony Burns, "Land Administration Reform. Indicators of Success and Future Challenges", *Agriculture and Rural Development Discussion Paper No. 37*, The World Bank, 2007.

<sup>11</sup> The Torrens title system is a system of land registration in which the government authority issues title certificates covering the ownership of land that tend to serve as title insurance.

<sup>12</sup> Philippine–Australia Land Administration and Management Project (PALAMP), *Land Laws and Regulations Policy Study*, July 2002.

Indeed, most Asian countries have a complex legal and policy environment. The land administration systems can be generalized as over-regulated and under-enforced. Moreover, the systems have difficulties accommodating the changing needs of the economy and the changing situation regarding land resources. In most of these countries, the Philippines included, there is a complex, inconsistent web of laws and regulations that erodes public confidence in the land market.

## LEGAL AND REGULATORY FRAMEWORK

An inventory of the laws relevant to public land disposition revealed that more than 60 laws that are now considered outdated. Some laws are no longer consistent with other existing legislation especially those related to land registration. For instance, Presidential Decree (PD) 1529 otherwise known as the Property Registration Decree of 1978—which is the governing law on land registration—stated that all title disputes, including smallest corrections on title, have to go through the courts.<sup>13</sup> Also, PD 1529—the express intent of which was to codify the laws relating to land registration—did not repeal or replace many of the provisions of the Land Registration Act (Act 496) and Cadastral Act (Act 2259) even though it dealt with the same subject matter.<sup>14</sup> It was because of this practice of introducing new laws without repealing previous laws that the number of land-related laws has increased.

Unlike the Philippines, other countries in Asia have embodied major land-related laws in a single code, generally confined to basic principles, with the subsidiary laws contained in more easily

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

amended regulations. A comparison of the legal infrastructure of countries in the region is shown in Table 2.

The important pieces of legislation in land administration are those that define the parameters for land titling and registration. The basic laws affecting the titling and registration of lands<sup>15</sup> are as follows:

- ↪ CA 141 (*Public Lands Act*) serves as the foundation of subsequent laws on public land;
- ↪ Act 496 (*Land Registration Act of 1902*) as supplemented by PD 1529 (*Property Registration Decree*). Both provide for the registration of lands claimed as private property, requiring all patents, certificates, deed and conveyance issued by the Bureau of Land to be registered at the Registry of Deeds;
- ↪ Act 2259 (*Cadastral Act*) provides for the cadastral survey and institution of compulsory and mass judicial proceedings for the settlement and adjudication of claims to all kinds of land;

**Table 2**  
**Legal Framework of Selected Countries**

Country	Legal Framework
Thailand	Land Code
Malaysia	Land Code
Indonesia	Land Code
Cambodia	Land Code
Laos	Land Code
Philippines	Numerous overlapping and inconsistent Acts and Decrees

Source: PALAMP, *Land Laws and Regulations Policy Study*, July 2002.

<sup>15</sup> It should be noted that the laws on land tenure also include the Comprehensive Agrarian Reform Law (CARL) of 1988 (RA 6657), the Indigenous People's Tenures (RA 8371, Fisheries Tenures (PD 704), and are not limited to the list cited.

- ↳ Section 194 of Act 3344 (*Administrative Code*) provides for a system of recording instruments or deeds relating to real estate not registered under Act 496 or under the Spanish Mortgage Law.<sup>16</sup>

Note that the Philippines is unique because the land titling process here is done judicially and administratively while in Thailand, Malaysia, Indonesia, Cambodia and Laos, registration are through administrative processes only. The Land Registration Act and the Cadastral Act both fall under the Torrens system of titling process and the proceedings in both Acts are judicial in character.<sup>17</sup>

Evidently, the requirement for time-consuming and expensive judicial processes have led to the demise of the Torrens system in most of America and has contributed to the informality and lack of coverage of the titling and registration system in the Philippines. The cost of these proceedings has placed registration beyond the reach of landholding Filipinos (*See Box 1*). More so, the delays contribute to the lack of credibility of the system.

Obtaining a formal title through voluntary judicial proceeding has not encouraged a “culture of registration.” This can be attributed to a number of steps involved and the delays due to an overloaded Court system and the inability of the Courts to allocate sufficient time to land titling matters. A recent survey of Regional Trial Courts indicates that 15% of all cases handled by the Courts are related to land registration issues.<sup>18</sup>

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<sup>16</sup> PALAMP, Land Laws and Regulations Policy Study, 2002.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

Moreover, the requirement for judicial determination is not confined to original registration. It includes matters such as reconstitution of lost original titles, replacement of lost duplicate titles, removal of notifications on administratively reconstituted titles and correction of errors (including even minor clerical errors) on titles.<sup>19</sup> In making these requirements, the Philippines made a major departure from the original aim of the Torrens system which was to provide a simple, inexpensive administrative process.

**Box 1**  
**Original Registration**  
**by Court Process—Legal Expenses**

- ↙ Acceptance fee P20,000 for regular sized land;
- ↙ Retainer fee – about 4-5 times more than the acceptance fee i.e. P80,000-100,000 (or more if commercial or industrial land or high-value agricultural is involved);
- ↙ Retainer fee includes filing of the application (P10,000); completion of presentation of evidence (P10,000-20,000); appearance for every trial or conference attended; and other miscellaneous costs.
- ↙ Applicant also has to pay cost of publication – P5,000-10,000
- ↙ Sometimes the lawyer and client would agree on a success fee (% fixed).

**Average case can take 18 months and cost from P60,000 to >P100,000.**

Source: PALAMP, *Land Laws and Regulations Policy Study, 2002*

<sup>19</sup> Ibid.

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Formalization of title through administrative process was also made possible by successive Public Land Acts through the issuance of a patent—known as Free Patent—to persons who have continuously occupied and cultivated agricultural public lands. Free Patent is much different from judicial confirmation because of conditions attached to the grant of Free Patent. One, there is a limitation on the area that can be obtained—a maximum of five hectares is allowed. And two, a Free Patent cannot be sold or mortgaged for a period of five years after issue. These conditions are regarded more as constraints to a freely operating land market given the time lags to make productive use of such resources.

The voluntary judicial proceedings and the administrative proceedings can operate in parallel. This means a claimant may have a choice of which process to obtain or formalize a title. But the resulting problem here is that each process involves different agencies and the coordination between and among the agencies has been problematic, to say the least. In most cases, competing claims from different proceedings can lead to more friction in the land market.

## **INSTITUTIONAL ARRANGEMENTS**

Arguably, issues relating to the institutional framework present a major challenge to effective land administration. Most jurisdictions in the Asian region face the existence of multiple organizations, each with legislation empowering them to participate in the delivery of some part of the land administration cycle. The powers often overlap and add to bureaucratic red tape, which encourage agencies to

remain self-serving with little regard to national needs and demands.<sup>20</sup>

The inherent flaws in Philippine land institutions have been attributed to the dual process of land titling—administrative and judicial. This feature that is unusual among countries applying the Torrens system, has been the source of conflicting titling decisions, unnecessary duplication of land activities and functions, and avoidable costs and delays.

As is evident from Table 3, the duplication/overlap of activities between agencies is not unauthorized or ‘accidental’. Rather, it reflects the defects of the present land titling system and the laws that underpin it together with the ‘institutionalization’ of reform priorities in relation to agrarian land redistribution and the rights of indigenous peoples such as in the case of the Department of Agrarian Reform (DAR) and the National Commission of Indigenous Peoples (NCIP).

Examples of agencies overlapping functions abound. The Administrative Code of 1987 states that the Department of Environment and Natural Resources (DENR) shall serve as the sole agency responsible for the surveying of lands. However, the same Code specifies that the Bureau of Land Development under DAR shall develop and prescribe procedures and techniques for land surveys in accordance with approved standards. Moreover, section 46 of the Indigenous Peoples Rights Act of 1987 provides that the Ancestral Domains Office within the NCIP shall be responsible for the identification, delineation, and recognition of ancestral lands/domains.<sup>21</sup>

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<sup>20</sup> Burns, World Bank, 2007.

<sup>21</sup> PALAMP, Institutional Arrangements Policy Study, July 2002.

**Table 3**  
**Key Duplication/Overlap between Agencies**

Duplication/overlap	Agencies involved	Source of duplication/overlap
Primary classification of public land as A&D land	DENR / NAMRIANCIP	Conflict between responsibilities for land classification as determined by EO 292 of July 1987 (instituting the Administrative Code), and the Indigenous Peoples Rights Act (IPRA) 1987.
Undertaking of land surveys for titling purposes	DENR (LMB); DAR; Potentially NCIP	Administrative Code provides authority to both DENR and DAR to undertake land surveys. IPRA 1987 gives NCIP responsibility for the identification, <u>delineation</u> , and recognition of ancestral lands/ domains.
Approval of subdivision surveys for titling purposes (for land already titled)	LMB; LRA	Property Registration Decree (PD 1529 of June 1978, as amended) permits either LMB or LRA to approve such plans.
Award of original private rights in A&D land	DENR (Patents); DAR (CLOAs); Courts (court decrees); NCIP (CADTs)	Two titling processes (administrative, judicial), both mandated by law. Legislation authorizing different forms of ownership rights in land, by administrative process.
Maintenance of independent, uncorrelated versions of cadastral maps/records	DENR (LMB); LRA	A consequence of two agencies involved in two titling processes. The practice is neither explicitly mandated nor necessitated by law.
Compilation of land maps and information	Multiple agencies	A reflection of differing agency needs for land information, but some unnecessary overlap occurs.
Land valuation and related mapping for tax purposes	BIR; Local Government Units	Different valuation methods mandated by different property taxation laws.

Source: PALAMP. *Institutional Arrangement Policy Study*, July 2002.

Please note the following abbreviations: BIR (Bureau of Internal Revenue); CADT (Certificate of Ancestral Domain Title); CLOA (Certificate of Land Ownership Awards); DAR (Department of Agrarian Reform); DENR (Department of Environment and Natural Resources); LMB (Land Management Bureau); LRA (Land Registration Authority); NCIP (National Commission of Indigenous Peoples); and, NAMRIA (National Mapping and Resources Information Authority).

Since generally, there are no provisions for harmonization among these related laws, these often result in unsynchronized activities and duplication of requirements or overlapping of functions among agencies. These multiple systems of recording, documentation and integration of data and information apparently increase transaction cost in the land market. Specifically, the operational defects in the system have resulted to the following:<sup>22</sup>

- ↪ **Multiple standards for mapping and land surveys.** There are too many maps overlapping territorial boundaries conducted by NAMRIA, DENR, and IPRA (Indigenous Peoples' Rights Act). While the DENR was the sole agency responsible for classifying land as per Commonwealth Act 141, the IPRA of 1987 gave (NCIP) a similar function with respect to ancestral lands, which significantly encompasses unclassified forest lands.
- ↪ **Multiple forms for title certificates.** Currently there is confusion over the status and relative merits of various rights in land, e.g. CLOAs, patents, original Certificates of Title, Certificate of Ancestral Land Title, and other decrees. For example, a patent is widely regarded as a lesser title than a Certificate of Title issued on a judicial decree. Courts have not respected the indefeasibility of registered patents to the same degree as other titles, while some banks will not lend as much money to them.
- ↪ **Multiple standards for land valuation.** There are multiple systems and laws/regulations used by government agencies for land valuation employing different methodologies. The system is used for different purposes including real property

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<sup>22</sup> Ibid.

taxation, compensation for land acquired for public investment, and for land valuation under the Comprehensive Agrarian Reform Program. Valuations are often doubtful, incorrect, and influenced by local politics.

### **INDICATORS OF FUNCTIONALITY AND EFFICIENCY: A COMPARATIVE SURVEY**

While it is recognized that each country has different requirements for cadastral and land administration infrastructures due to their specific circumstances (e.g. cultural, economic) there are common principles in the design and implementation of land administration infrastructures that are expected to deliver desired social and economic outcomes.

The general principles of a successful land administration system are: 1) whether the land administration system is trusted by the general populace, 2) whether the system protects the majority of land rights, and 3) whether it provides security of tenure for the vast majority of landholders and is extensively used. If these principles are not present, then there is a fundamental problem with the system.<sup>23</sup>

In relation to this, a framework of quantitative indicators was developed by the World Bank grouped into five broad perspectives to assess the efficiency of land administrative systems. This was the result of a global synthesis of a detailed 17 country case studies to explore specific country cost elements for providing secure and

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<sup>23</sup> Williamson, I (2000), "Best Practices for Land Administration Systems in Developing Countries, a paper presented at the International Conference on Land Policy Reform, Jakarta, Indonesia.

transferable property rights, and how these change with the requirements of formalization with the land institutions involved. These indicators are useful benchmarks that provide some measure of operational efficiency, e.g. security, clarity and simplicity, cost and sustainability, of land administration systems in selected developing countries.

The key findings of the World Bank report were presented according to five broad perspectives, namely: a) policy/legal; b) customer; c) community acceptance/ market activity; d) internal efficiency; and e) sustainability. Policy/legal perspective covers the set of indicators on

**Table 4**  
**Indicators for Land Administration System Efficiency**

Particulars	% formal rights coverage	Level of Land disputes	Dispute resolution time	Time required to register transfer (days)	Transfer cost as a % property value	Annual registered transactions as a % of reg'd parcels	# of staff days/ reg'd transaction	Ratio of annual running cost/registered parcel	Ratio of revenue/ expenditure
"MEAN"	100%	low	<1 yr	<5 days	<5%	>15%	<1	<\$5 - \$10	>1
South Africa	80-90%	low				17.7%		\$2.76	1.3
Uganda	12-15%	high	3.5 yrs						
Indonesia	5%	high	Long	14	0.5%	5.8%	0.9	\$0.79	20.7
Karnataka		high	2-25	20	13.0%	3.9%	0.6	\$0.16	2.4
Philippines		med	Long	14	8.2%	11.0%	1.6	\$1.17	5.1
Thailand	37%+	low		1	4.5%	21.2%	0.5	\$2.10	1.6
Armenia		low	3 mons	15	1.5%	0.8%	10.0	\$49.62	0.3
Kyrgyzstan		low	1 day	10	5.0%	3.1%	0.8	\$17.00	1.6
Latvia	70.40 %	low	6 mons	3	0.6 -4%	7.7%	0.6	\$7.00	
Moldova		med		3-4	1.5%	4.0%	2.5	\$2.46	
Bolivia	-20%	high							
El Salvador				30		17.8%	1.2	\$27.47	

Source: Burns (2007)

the percentage of country covered by formal rights of recognition, level of disputes over land; and, time taken to resolve land disputes. The customer perspective is about the number of days to register land properties and the cost as a percentage of property value. On the other hand, community acceptance/market activity perspective covers indicators on the number of registered transactions as a percentage of registered parcels, and number of registered transfers as a percentage of registered parcels. Internal efficiency perspective deals with number of registration staff days per registered transaction, and annual running costs per registered parcel. Sustainability perspective covers ratio of revenue to expenditure.

The overall picture suggests that most of Asia, with the exception of Thailand, is having difficulties in the policy, customer and community and market activity perspectives even though the systems show strong internal efficiency and sustainability.<sup>24</sup> The major highlights of the findings are as follows:<sup>25</sup>

- ↳ **Policy /legal perspective.** The average level of land-related disputes is above the ‘mean’ value—low to medium in the Philippines, but high in both Karnataka and Indonesia, and a substantial number of cases end up in court. In the Asian countries reviewed, the time taken to resolve land disputes takes more than a year as the court systems are congested (causing long delays and high costs).
- ↳ **The customer perspective.** The average time taken to register in Thailand is almost comparable to the developed countries and is due to a number of factors, including a very efficient registration and land-records management system.

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<sup>24</sup> Burns, World Bank, 2007.

<sup>25</sup> Ibid.

Largely due to the relatively high transfer costs, property values are underdeclared in Thailand, the Philippines, and Karnataka, and in all three jurisdictions, there are great uncertainties in the assessment of property value.

- ↪ **Community acceptance/market activity.** Thailand has the highest percentage of registered transactions at 21.1% indicating substantial market activity in the land market. In contrast, the Philippines accounts for only 11%.
- ↪ **Internal efficiency.** An average registration officer in Thailand can complete two registrations in a day while it took on average a registration officer in the Philippines 1.6 days to complete a single registration.
- ↪ **Sustainability.** Karnataka, which has a very manual registration of deeds system, demonstrates that land administration can generate a significant return on investment for the government, as do Thailand and to a lesser degree the Philippines.

## IMPLICATIONS TO INVESTMENT AND GOVERNMENT SAVINGS

The relative inefficiency of the country's land administration system as presented in the quantitative indicators weighs down the country's prospects to attract more investment in the land market. Because of the complexity and inconsistency of land institutions and policies, the results are the following—directly or indirectly: 1) high transaction costs in land transaction processes, and 2) additional administrative costs due to multiple agencies.

**High transaction cost.** The cost to secure and register a property in the Philippines is high at US\$60 per title compared to Thailand's US\$21.66 and Indonesia's at US\$16.30<sup>26</sup>. This cost constraint has been translated to the poor performance of the Philippines in the survey made by the World Bank<sup>27</sup> that ranked the country at 98<sup>th</sup> out of 163 countries in the category of registering property. More importantly, the inefficiency in the land market has affected credit access as indicated by table below.

**Table 5**  
**Regional Comparison – Doing Business**  
**Rankings of 163 Countries**

Particulars	Thai	Viet	Phil	Indo	Camb	Laos
Ease of Doing Business	18	104	126	135	143	159
Registering property (based on number of procedures, time to register and cost as % of property value)	18	34	98	120	100	146
Getting credit	33	83	101	83	174	173

Source: World Bank, *Doing Business*, 2007

**Cost to the national government.** Because of the inherent structural and operational defects of the system, it is highly possible that unnecessary cost is being incurred as budget outlays are appropriated for duplicated management overhead, duplicated land information and records management, and delays in program

<sup>26</sup> Land Equity International, 2003.

<sup>27</sup> The World Bank, *Doing Business* 2007.

delivery. As long as both judicial and administrative processes for original land titling are maintained, it will automatically require two sets of overlapping procedures to administer such activity. As such, these defects in the structure and operations of the land administration system undoubtedly entail substantial unnecessary costs to the national budget. As it stands, the cash operating cost of key land administration agencies that include the DENR, DOJ, DAR, NCIP and the Courts in 2002 was at P3.34 billion. It was estimated that an annual savings of at least P500 million to the government could be achieved if these defects could be eliminated.<sup>28</sup>

## **CONCLUSION**

Competing claims between the increasing need for economic activities and the finite land resources result in many economic, social, political and environmental concerns. This tension a land administration system that can facilitate complex decision-making and implementation processes. Therefore, appropriate and effective land administration is of crucial importance for sustainable development.

However, the land administration system has been rigid and not responsive to the evolving needs of national development, and has not been effective enough to balance competing rights and responsibilities of individual, communal and commercial landholders. The inherent structural and operational defects of the system—as a consequence of having an anomalous, dual titling process—have contributed to a land market characterized by high transaction cost and high level of disputes over land rights.

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<sup>28</sup> PALAMP, July 2002.

There is common agreement that major land laws are already outdated and some are no longer in accord with recent land use legislation. Substantial portion of the country's land assets is not titled; and existing land-record management systems are inefficient. Land registration is characterized by high transaction cost, which discourages registration and is a disincentive to investment. As a result of all these, market confidence in the entire titling and registration system has been eroded.

As indicated in the quantitative indicators, there are several areas in the land administration system that need government's urgent attention. In this regard, the following measures are recommended:

- ↳ Where possible, adopt administrative rather than judicial approaches for formally recognizing rights in land. The judicial system is overloaded and struggling to cope with the number of cases presented to the courts. Government policies must be directed at reducing the use of the court system by determining rights and resolving disputes through administrative rather than judicial processes.
- ↳ Form a single land administration agency or coordinate policy between existing government agencies, with concrete mechanisms to support and encourage coordination. This coordination should define the charter of the respective agencies, clarify roles and responsibilities, define lines of communication, set a framework for coordination with land management agencies, and lay a foundation for institutional reform.

- ↪ Adopt a customer-focus rather than process-focus, and where possible, make clear commitments on quality, time, and cost of key titling and registration procedures. A mass program to systematically register rights in land is only a first step in strengthening a land administration system. It is essential that an efficient, community-accepted system be developed to register dealings in land rights. It is important that a registration culture is fostered, where the community appreciates the benefits of keeping their record of their rights within the formal system. This will involve public awareness campaigns and assurance that the benefits of registration outweigh the costs.

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