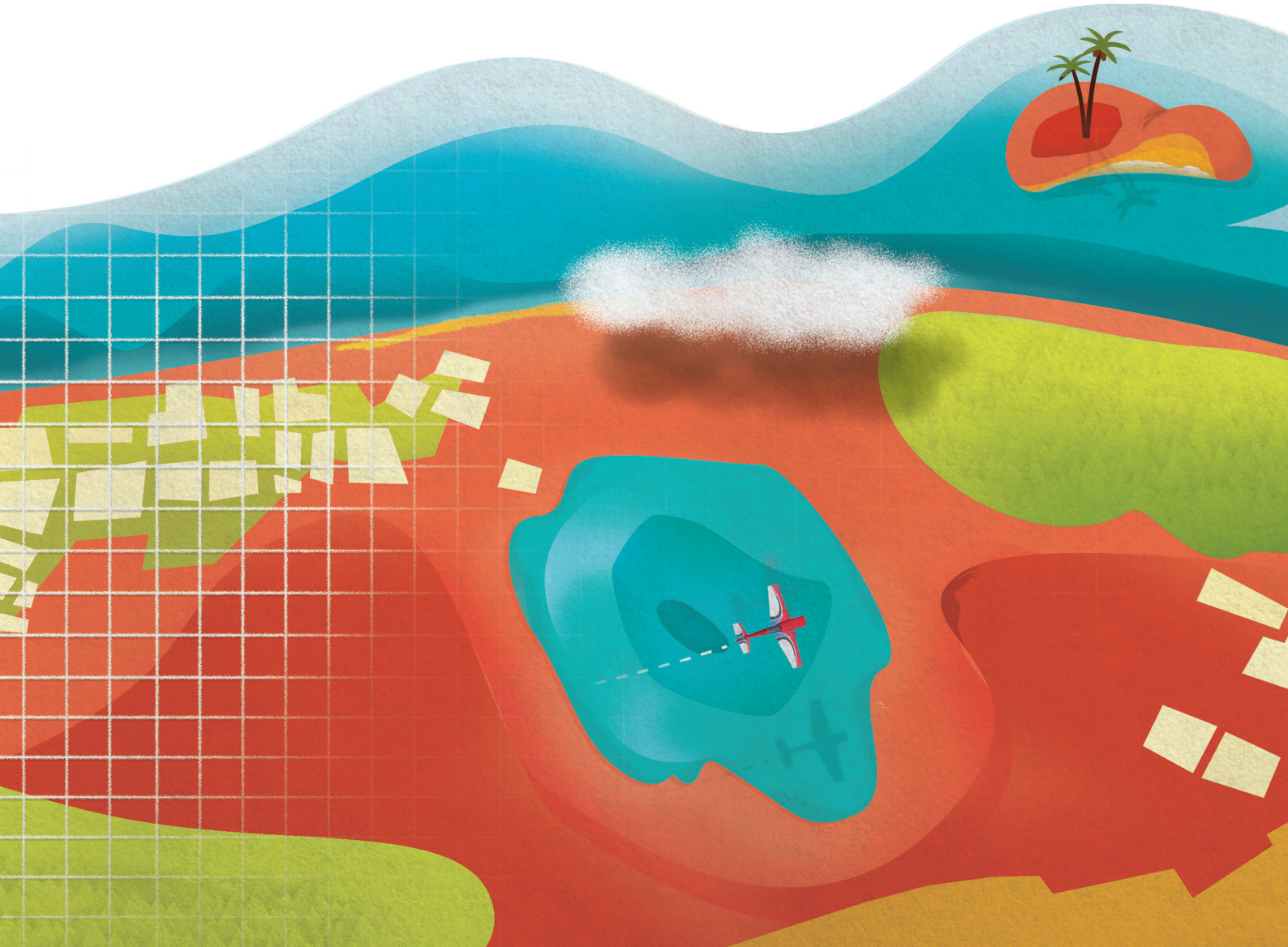
Food and Agriculture Organization of the United Nations

GOVERNANCE OF TENURE
TECHNICAL GUIDE

10

Improving ways to record tenure rights



The FAO Governance of Tenure Technical Guides are part of FAO's initiative to help develop capacities to improve tenure governance and thereby assist countries in applying the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.* The FAO Governance of Tenure Technical Guides are prepared by technical specialists and can be used by a range of actors. They:

- translate principles of the Guidelines into practical mechanisms, processes and actions;
- give examples of good practice – what has worked, where, why and how;
- provide useful tools for activities such as the design of policy and reform processes, for the design of investment projects and for guiding interventions.

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GOVERNANCE OF TENURE **TECHNICAL GUIDE** No. 10

Improving ways to record tenure rights

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
Rome, 2017

This publication is intended to support the use of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. It is not intended to contradict the language of the Guidelines as endorsed by the Committee on World Food Security on 11 May 2012 nor the role of States in their implementation.

This publication has been developed with the financial assistance of the Food and Agriculture Organization of the United Nations (FAO), and the United Kingdom of Great Britain and Northern Ireland. The views expressed herein are those of the authors and do not necessarily reflect the official policies or views of FAO.

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ISBN 978-92-5-109834-9

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Preface

On 11 May 2012, the Committee on World Food Security endorsed the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (the Guidelines). By promoting secure tenure rights and equitable access to land, fisheries and forests, the Guidelines aim to contribute to the global and national efforts towards the eradication of hunger and poverty.

The first general principle of the Guidelines is for states to recognize and respect all legitimate tenure right holders and their rights. It calls on states to take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not. Recording tenure rights, such as through registration, cadastre and licensing systems, can be an important way to recognize and safeguard those rights.

This guide addresses the recording of tenure rights with the particular focus on improving existing ways to record rights. There are many recording systems around the world that help to bring tenure security and other benefits to people who hold tenure rights, but there are also many systems that do not function well, and barriers can be placed unintentionally or deliberately to prevent people from using the systems. This guide provides practical advice on how to improve the existing ways to record rights so that the benefits and protections offered by recording systems can be available to all without discrimination.

This guide is accompanied by another guide that focuses on a different aspect of recording tenure rights: creating a new recording system and recording rights for the first time (*Creating a system to record tenure rights and first registration*).

As these two guides cover different aspects of recording rights, they can be read as standalone documents, and as such, they have some text in common. However, some readers may benefit from reading both guides.

These two guides on different aspects of recording rights are part of a series of technical guides that offer advice on various aspects of improving governance of tenure, consistent with the Guidelines.

Acknowledgements

This technical guide on Improving ways to record tenure rights was prepared by David Palmer and Anthony Lamb with contributions by Gavin Adlington, Safia Aggarwal, Haddis Akbari, Anni Arial, Tea Dabrundashvili, Fernando de la Puente, David Egiashvili, Victor Endo, Vladimir Evtimov, Don Gilmour, Louisa J.M. Jansen, Sonila Jazo, Bengt Kjellson, Odame Larbi, Jonathan Lindsay, John Manthorpe, Robin McLaren, Rebecca Metzner, Sergio Nasarre, Neil Pullar, Cecilie Ravn-Christensen, Stefanie Rüntz, Eugene Rurangwa, Rumyana Tonchovska, Paul van der Molen and Margret Vidar.

The guide benefited from a review of an earlier draft by Alberto Andrade, Malcolm Childress, Lorenzo Cotula, Peter Dale, Ivan Ford, Lionel Galliez, Willy Giacchino, Charisse Griffiths-Charles, Lynn Holstein, Peter Laarakker, Hugues Marcard, John McLaughlin, Didier Nourissat, Marco Orani, Amanda Richardson, Elizabeth Stair, Victoria Stanley, Stefan Svenson, Teng Chee Hua and Mika Törhönen.

The guide was edited by Shannon Russell and Luca Feliziani designed the layout.

The Food and Agriculture Organization of the United Nations (FAO) thanks the Government of the United Kingdom of Great Britain and Northern Ireland (Department for International Development) for its financial contribution for the preparation of this guide.

This guide is about making the recording or registration of tenure rights more relevant to people who hold those tenure rights, and particularly to people who are currently poorly served by systems to record or register tenure rights. It provides practical advice on ways to improve the recording of tenure rights, including by addressing barriers that prevent people from using recording systems.

In providing this advice, this guide reflects the internationally recognized principles and practices of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (the Guidelines). See Recording rights, the Guidelines and this guide in this chapter.

This chapter outlines the need for such advice, describes what is covered in the guide, and shows how it can be used and by whom.

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1. ABOUT THIS GUIDE

A NEED FOR THE GUIDE

Systems to record tenure rights exist in almost all countries of the world. Most of these systems address land tenure rights and are sometimes referred to as land registration systems, deeds systems, title systems and cadastres (recognizing that terms such as cadastres can be understood differently in different countries). Some systems developed for land tenure rights also include forest tenure rights (particularly where access to forests is determined through the holding of land tenure rights) and some record fisheries rights (e.g. the land registry in England and Wales in the United Kingdom of Great Britain and Northern Ireland allows them to be recorded). In addition, there are systems with a focus other than land tenure rights. Examples include systems for recording forest use rights, fishing shares, water rights and mineral rights.

There are many examples of systems to record tenure rights that function well and bring benefits to individuals and society, such as increasing tenure security and facilitating transparent markets for transferring rights, as well as supporting broader economic and social well-being and a range of administrative services (see Benefits of recording rights in this chapter).

Equally, there are many examples of systems that do not bring such benefits. Barriers can be placed unintentionally or deliberately to prevent people from using the systems. Sometimes the evidence is clearly visible: long queues of people, records in poor condition in unorganized piles on the floor and on desks, and staff who are apathetic, rude or openly seek bribes. Other indications may not be as visible, such as the absence of people who do not use the systems because of the barriers (see Barriers to recording rights in this chapter). Some barriers arise because of problems of capacity that limit accessibility and the reliability of information in the recording systems. Other barriers can exist because of vested interests that promote inefficiencies in order to benefit from the resulting opportunities to receive bribes.

Poorly-functioning systems place a significant burden on society. Incomplete and inaccurate information gives an incorrect reflection of the reality of the tenure arrangements. Instead of providing clarity on who holds which tenure rights and under what conditions, systems bring confusion and conflict where records are contradictory, incomplete or missing, and where records have been changed through fraud and corruption. In addition, weak administration of tenure rights can contribute to more general societal failures, such as unsustainable development, market failures and inappropriate taxation strategies.

A major cost to society is that poorly-functioning systems are not responsive to the poor and to others who are vulnerable to losing their tenure rights. As a result, their tenure rights may not be officially recognized and protected. Systems may even be used to provide legitimacy to the tenure rights of people who illegally or unjustly appropriated the land, fisheries and forests used by the poor in earlier times. Poorly-functioning systems thus can have a disproportionate effect on the poor. The barriers imposed can raise the costs to a level that makes it difficult or impossible for the poor to use a system. They may never acquire the benefits and protection of tenure rights that these systems are supposed to provide. Where the poor had acquired benefits and protection, the inadequacies of the system may cause them to lose those benefits and protection. Improvements are needed to ensure that the benefits and protection are available to all without discrimination.

Another major cost to society of poorly-functioning systems is the loss of the investments used to create those systems. There is usually a large cost for the initial creation of the tenure records, including identifying the people who hold the rights at the time the system is established. But the information in these records is dynamic: as these people die, their heirs will need to have the records updated or, alternatively, a purchaser will have to take action if the rights are sold. So unless the system operates well, it progressively becomes out of date and, therefore, becomes

less useful. There are many examples where the records have become outdated because people did not consider it worthwhile to have changes recorded. The initial public investment is eroded over time. Positive steps are needed to ensure that the systems become sustainable.

A basic test of a system is the extent to which people use it, the range of people who use it, and the quality of their experience. A focus on customers should be at the centre of designs to improve systems.

INTENDED READERS OF THE GUIDE

The guide is aimed at people who are responsible for improving a system to record rights. As such, it is assumed that the readers have some knowledge of the recording of rights. While this target audience has a single definition, it comprises people who have different responsibilities (e.g. technical operations, management, regulations and law), and who are drawn from different sectors (e.g. public and private sectors) and different backgrounds (e.g. legal, surveying, and information and communication technology (ICT)). It is also recognized that readers may understand various aspects of recording rights differently because of differences between their countries.

In addition, a range of people who interact with a system may find the guide to be useful when negotiating for improvements in areas such as communications, anti-corruption, customer services, customer councils and sharing of information. These people may include right holders and their associations (e.g. property owners associations, user associations), professionals (e.g. lawyers, notaries, surveyors, real estate agents), banks and other lenders, academics, civil society and non-profit organizations (e.g. those working to aid the poor or protect the environment), the courts, and managers and staff of other agencies responsible for the administration of tenure. The guide may also be useful for people in public administration, local government bodies, tax authorities and agencies responsible for infrastructure development, and for matters of privacy and access to public records.

MATTERS COVERED IN THE GUIDE

The guide provides general advice on ways to improve the recording of rights. How can systems deliver services of the appropriate quality, at the time and place needed, at costs that are affordable, and on a continual basis?

A great variety of systems exist. In some, a transfer of rights takes place upon recording at the registry while in others the transfer occurs upon the execution of a contract. Some provide evidence of the holding of rights while others show conclusive proof. Other differences between systems arise because of the legal frameworks in which they operate; for example, civil law or common law, or as various mixtures with Roman law, customary law or religious law.

Examples of well-functioning systems can be found across the range, and successful systems have a number of practices in common. Much of this guide is on what is common to effective systems. It provides guidance on matters that can improve most systems, regardless of their specific rules. The main emphasis of this guide is on how systems can become more relevant to the people who use them.

- Chapter 2 addresses a question that is often asked where there is a chaotic, inefficient and ineffective recording system: Should the system be completely replaced with a new, different system, or should there be an effort to improve the existing system? There are a number of different types of recording systems, and the different types can give different outcomes for the same situation; for example, a transaction under particular circumstances will be considered to be valid in some systems and to be invalid in others. If a new system is to be introduced, what outcomes would be desirable for particular situations? The desired outcomes should influence the choice of the system rather than the other way round. The chapter shows how different types of systems can provide different outcomes for the same situation and reviews the effects of changing from one type of system to another.
- Chapter 3 provides some basic considerations for improving customer relations. It also addresses the importance of responding to the needs of customers who are women or who otherwise may require special treatment.

The theme of improving the focus on customers is then addressed in six specific areas:

- Chapter 4 looks at improving the design of offices to benefit customers as well as to improve security.
- Chapter 5 identifies improvements to management. Good customer service depends on strategic and business planning, and also sustainable financial models.
- Chapter 6 presents actions to ensure that staff have the knowledge, skills and capacity to provide the required services to customers.
- Chapter 7 addresses the need to reduce fraud and mistakes. The better the quality of information, the better the system serves its customers and the less likely it is for things to go wrong. It also looks at managing disputes with customers.
- Chapter 8 considers the use of ICT in improving a recording system. Introducing ICT brings many benefits, but care and caution are needed.
- Chapter 9 considers what can be done to improve the relevant policy and legal frameworks. Some

improvements will require changes to policy and legislation.

- Chapter 10 recognizes that the context of recording rights is constantly changing and it provides a brief look at developments that are likely to have an impact on the recording of rights in the near future.
- Finally, the annex highlights areas of the Guidelines that are relevant to recording rights as an aid to reading them, but the annex is not a substitute for the Guidelines.

This guide is a relatively concise description of ways to improve the recording of rights. It is not an encyclopaedia that attempts to provide an exhaustive treatment. Nor is it a manual: it does not provide detailed step-by-step guidance as such steps would be useful only if placed within the context of the specific legal and administrative systems of a particular state.

This guide is about removing barriers that prevent or discourage people from using existing systems. There are also barriers that prevent people from having their tenure rights recorded in the first place; for example, through what is often referred to as "first registration". Removing those barriers is critical to ensure that all people, poor as well as rich, are able to benefit equally from recording systems without fear of any discrimination. In addition, it is important to assess where new systems can be effective and where they might not be appropriate. These topics are beyond the scope of this guide and are addressed in a companion guide on *Creating a system to record tenure rights and first registration*.

RECORDING RIGHTS, THE GUIDELINES AND THIS GUIDE

Guidance on systems to record tenure rights is provided by the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security,* which were officially endorsed in May 2012 by the Committee on World Food Security (see www.fao.org/docrep/016/i2801e/i2801e.pdf).

The Guidelines are based on a global process of consultation and were finalized through negotiations by governments representing different economic, social, cultural, religious and environmental views, and with the participation of civil society and the private sector. They thus represent an unprecedented international consensus on principles and practices.

The objective of the Guidelines is to improve governance of tenure of land, fisheries and forests for the benefit of all, with an emphasis on vulnerable and marginalized people (see Guidelines paragraph 1.1). The ten principles of implementation direct that states and others adopt such approaches as respect for human dignity, acting in a non-discriminatory and gender-equal way, consulting and engaging with stakeholders, applying the rule of law and ensuring accountability and transparency, and continually improving programmes, laws and other matters related to tenure. The annex to this guide identifies some of the recommended practices to improve the recording of rights that are described in the Guidelines. The annex is intended to help with reading the Guidelines and is not a substitute for them.

This guide focuses on the contribution that effective recording systems can make to the governance of tenure for the benefit of all, including vulnerable and marginalized people who are often not well-served. In doing so, it reflects the Guidelines.

This guide is relevant to efforts to improve existing systems, regardless of whether they record land tenure rights, fisheries tenure rights or forest tenure rights, or indeed, other rights, such as water rights and mineral rights. The preface of the Guidelines, which was negotiated along with the Guidelines themselves, notes that states can take the governance of water and other natural resources into account when they implement the Guidelines.

Where different types of rights are recorded in different systems, these systems should be linked through an integrated framework to allow for the sharing of information (Guidelines paragraph 17.2). Doing so allows all rights (whether to land, fisheries or forests) to be identified and protected, for example, where there are proposals for expropriation by the state, investments by the private sector, responses to climate change, etc. While this guide is relevant for systems to record tenure rights for fisheries and forests, it draws heavily on the experiences of improving systems for land tenure rights, simply because of the longer history of land registration and cadastral systems and the large number of such systems that exist around the world.

This guide is relevant to the recording of a wide range of tenure rights, including public, private, communal, collective, indigenous and customary (see Guidelines paragraph 2.4), and those that are based on informal tenure (see Guidelines section 10). For example, it can be used to improve systems that record customary rights as well as systems that record private ownership rights because much of the guide is on what is common to effective systems rather than on what is different about them. However, the guide takes as a starting point that the rights being recorded are tenure rights that have already been granted legal recognition. This is because people tasked with recording rights should have clear instructions as to which rights can be recorded.

TERMINOLOGY

A-Z

The complexity and variations in recording systems around the world complicate discussions on improving the recording of tenure rights. Accommodating this diversity in a precise way would require terms to become lengthy and would make the text difficult to read. Some simplifications have been introduced in this guide to improve readability:

STATES

The places in which recording systems operate

Some systems operate nationally while others operate within jurisdictions, such as provinces, states or other autonomous regions. This guide uses the term "states" to cover all these jurisdictions, whether national or subnational.

RECORDING

The recognition of records associated with tenure rights

Consistent with the Guidelines, the term "recording of rights" is used. It applies to the registration of rights in states where the term "registration" is used.

RECORDING SYSTEM

The system that records tenure rights

Systems for recording rights are often referred to in different ways in different states; for example, land registration systems and cadastral systems. Consistent with the Guidelines, the term "recording system" is used to cover all types of these systems.

REGISTRY

The organization that operates the recording system

In some states, the records on rights and the records on parcels are managed by a single agency. For such states, the term "registry" refers to such single agencies. In other states, where a "dual agency" model exists, one agency is responsible for the records on rights and another is responsible for the records on parcels. For such states, the term "registry" is used to apply to both agencies as appropriate.

PARCEL

The area to which tenure rights apply

The Guidelines refer to parcels, holdings and other spatial units, recognizing that in certain contexts terms other than a parcel can be more appropriate. To simplify this text, the term "parcel" is used but it should be understood to also cover other spatial units where appropriate. As a further simplification, the term parcel includes any buildings or other constructions that might be erected within the parcel.

PEOPLE

The holders of tenure rights

A wide range of people and organizations can hold rights, either individually or jointly. They can hold the rights as natural persons (human beings) or as legal or juridical persons (business enterprises, associations, governments, traditional authorities, etc.). This guide uses the term "people" to refer to both natural and legal/juridical persons. It covers owners as well as people who hold other tenure rights to the parcel.

CUSTOMERS

The people who use the registry's services

There are many people who use the information and services of a registry, both within the public sector (ministries, agencies, etc.) and in the private sector (individuals, companies, associations, banks, etc.). This guide uses the term "customers" to refer to people who use the registry.

PROFESSIONALS

The specialists outside the registry who provide services to customers

Customers are often assisted by trained and licensed specialists who provide advice and prepare documents for recording. These specialists can include lawyers, notaries, surveyors and real estate agents. This guide uses the term "professionals" to refer to such specialists who assist customers in dealing with the registry.

BENEFITS OF RECORDING RIGHTS

The recording of rights can bring benefits to people who hold the rights as well as to broader society. Potential benefits include:

Improved tenure security: The public recording of rights can help to improve tenure security in two ways. First, tenure security improves where information on rights is easily available to all. If people do not know that a right exists, they can inadvertently do something that infringes on it. For example, if government officials do not know that people already hold legitimate tenure rights to an area, they can decide to reallocate that area for the use of other people, such as to those who have been displaced and need resettlement, or to investors who are looking to expand agricultural production. Where information on rights is not easily available, it can be easier for someone to acquire those rights illegally, such as through fraud. People are unable to object if they do not know that something wrong is happening.

Second, where systems provide legal recognition of rights, they open the way for legal protection of those rights. Where people have their rights and parcels recorded, they can get the benefits that are established by the law. If there are disputes, the records can be used in mediation or court to establish who holds the rights. The nature of legal protection that is provided depends on the legal framework for the recording system and so differs from one state to another.

Improved operation of markets: Markets, such as sale and lease, are important ways in which many people acquire access to natural resources. Recording systems can assist markets to operate by providing reliable information. In a transfer between strangers, the seller usually has better knowledge of the parcel and its associated rights. Where systems do not have good records, people will often transact only with people whom they know or are recommended by someone they trust. By providing reliable information, a system makes it possible for a person to be satisfied that the seller has the right to sell. It reduces asymmetry of information between the parties in the transaction. In doing so, it introduces a level of institutional trust and transparency that allows strangers to conduct business with one another.

Recorded rights and parcels are a more attractive option for banks and credit bodies to lend money against because the creditors can be more certain of who holds the rights and of the characteristics of the parcel. Owners of recorded rights can find it easier to obtain a mortgage than owners of unrecorded rights. However, factors such as the potential borrower's ability to repay the loan (i.e. income) and the willingness to repay (i.e. credit history) are greater considerations to lenders than the existence of collateral in the form of recorded rights to parcels.

Improved economic and social well-being: People with secure rights to a parcel can feel more confident when leasing it to others, using it for a business, investing in it and making other improvements. As the largest capital asset in any state, efficient management and use of these assets can increase national wealth and benefit all income levels of society. Government bodies may be more likely to provide services to areas where rights are recognized. As people benefit from the services available, they are likely to feel socially secure and settled. Where people feel they have secure tenure, they are more likely to invest in improving their holdings, either for economic purposes or to improve their quality of life, such as through better quality housing.

Improved support for other administrative purposes: Recording systems provide information on parcels and rights for multiple purposes to citizens, governments and others. These systems form a key element of National Spatial Data Infrastructure, which allows information on tenure to be combined with information from other sources (see Guidelines paragraph 6.5). Records can be used for purposes as diverse as managing disaster and emergency situations to collecting annual property taxes in order to fund local services. They can also be used for expropriation for infrastructure and other public developments.

Improved environmental protection and conservation: If people are certain of their rights, they are more likely to take care of the resources and avoid destructive, short-term actions that result in erosion, soil degradation and loss of vegetation. Recording systems also provide useful information for government agencies responsible for managing the environment and dealing with climate change. For example, government agencies cannot design and enforce plans to protect sites with environmental or cultural significance unless they know who has authority over those resources.

Improved support in cases of emergencies: Reliable records, if safeguarded during natural disasters, provide a basis for reinstating or improving the conditions that existed prior to the disaster.

BARRIERS TO RECORDING RIGHTS

Some recording systems provide benefits but only to a small portion of the population in their states, such as specific social groups. Complex, expensive and time-consuming procedures can be insurmountable barriers to people who are unable to pay professionals to solve their problems of recording rights. They face additional barriers where registry offices are available only in major urban centres, often long distances from their homes.

People can feel that the costs and other burdens of recording their rights outweigh any benefits that they could gain, and particularly where the costs of recording rights is greater than the financial value of a parcel. As a result, those who acquire rights through inheritance or purchase can feel no incentive to have the records updated to reflect the change. Over time, the information in the system becomes outdated and cannot be used effectively by individuals or for the broader benefit of society.

People can be prevented from using systems for many reasons, as shown in the figure below.

PROBLEM	BARRIERS	EXAMPLES OF WAYS TO ADDRESS PROBLEMS AND BARRIERS
A person has legally recognized rights but does not know what to do to record them. ◆ No information is available. ◆ The information exists, but is too difficult to obtain (e.g. too far away, too many formalities, hidden amongst other information, or too costly to obtain). ◆ The information cannot be read because the person is illiterate. ◆ The information cannot be read because the person is sight impaired. ◆ The information is too complicated to be clearly understood. ◆ The information is not in the right language.	Information and knowledge barriers	See: Chapter 3: Improving the focus on customers Chapter 8: Using information and communication technology
The person knows about his or her rights but these rights are not respected by others. ◆ The husband illegally transfers the rights without the wife's consent (e.g. the wife's signature was forged as her consent is not considered important or she is simply ignored by the husband, officials, judges, etc.). ◆ The person's rights are legally recognized, but they are ignored in practice by officials because the person belongs to a vulnerable or marginalized group. The law is not implemented in practice.	Social and cultural barriers	See: Chapter 3: Improving the focus on customers Chapter 5: Improving management Chapter 6: Improving staff resources

PROBLEM	BARRIERS	EXAMPLES OF WAYS TO ADDRESS PROBLEMS AND BARRIERS
The person knows what to do in order to record rights but cannot get to the registry to do so. ◆ The office is too far away (e.g. travel will take too long, the roads are in a bad condition). ◆ The office is not on a public transportation route. ◆ The building is not accessible because the person has a physical disability (too many stairs, etc.).	Physical and geographic barriers	See: Chapter 4: Improving offices Chapter 8: Using information and communication technology
The person can get to the office, but cannot afford the cost of doing business. ◆ The fees and taxes to be paid to the registry are too high. ◆ The fees of professionals (surveyors, lawyers, notaries) are too high. ◆ The opportunity costs are too high (lost earnings because of the visit to the office, etc.).	Financial barriers	See: Chapter 3: Improving the focus on customers Chapter 5: Improving management
The person can afford the cost but cannot get the service at the time, and by the time it is needed. ◆ It is not possible to get served: the hours are limited and there are long queues of people waiting. ◆ The staff do not know what to do: they are untrained and incompetent. ◆ The staff cannot find the records, which are lost or otherwise unavailable. ◆ The records are unreliable and inaccurate and have to be corrected before the transaction takes place. ◆ The transaction has taken too long and the person has lost the access to financing, etc.	Low operating capacity of the registry's staff Regulatory barriers Administrative barriers	See: Chapter 3: Improving the focus on customers Chapter 4: Improving offices Chapter 7: Improving ways to address fraud, mistakes and disputes Chapter 8: Using information and communication technology Chapter 9: Improving the policy and legal frameworks
The registry offers access through the Internet but the person cannot use it. ◆ The person does not know how to use a computer and the Internet. ◆ The person knows how to use a computer and the Internet but there are no public computers that can be used. ◆ The website is down. ◆ The connection is too slow. ◆ The website has broken links and is too complicated to use. ◆ The website is not designed for the person who is sight impaired.	Information and communication technology barriers	See: Chapter 8: Using information and communication technology

Improving ways to record tenure rights often prompts a choice between reforming the existing system or replacing it with a completely different system. Replacing an existing system with a new system should not be considered a simple technical matter of changing the way in which the records are managed because different systems can produce different outcomes for the same situation. This chapter reviews some of the important differences between systems and why they can produce different outcomes in the same situations. It also identifies some aspects that should be considered in a decision either to improve an existing system or to replace it with a different system.

If a system is functioning poorly because of chaotic and confusing records, there will be a need to re-organize the records regardless of whether the decision is to maintain the existing system or convert it to a new system. This chapter also discusses how the records can be organized so that information on parcels and rights can be found quickly and easily.

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2. THE CHOICE OF REFORMING A SYSTEM OR CONVERTING TO A NEW SYSTEM

Key points of this chapter

- Options for improving the recording of rights include leaving the existing system in place and improving it, or replacing it with a completely new system.
- Replacing an existing system with a new system should not be considered a simple technical matter as there are various options for a recording system: evidentiary and conclusive; and constitutive and declaratory.
- Different systems can produce different outcomes for the same situation; for example, where there is fraud. However, systems that look similar to each other can also produce different outcomes, and systems that look different can produce similar outcomes.
- Some systems provide compensation for people who are defrauded. Who receives the compensation varies from system to system.
- A compensation fund needs to have sufficient funds to cover all present and future claims, and can be funded by a variety of means, including a small levy on each transaction that is recorded.
- Rather than converting from one type of system to another, many benefits can be delivered simply by better organization of records, such as ensuring that all parcels are uniquely identified and referencing all transactions to the record for that parcel.

GENERAL CONSIDERATIONS

What can be done with a recording system that is ineffective and has chaotic and confusing records? There are two basic choices: to leave the existing system in place and improve it, or to replace the existing system with a completely new, different system. For example, where a deeds system is performing poorly, there is sometimes a proposal to convert the deeds system to a title system.

A common way of describing the difference between a deeds system and a title system is that in a deeds system a transfer of rights takes place upon the execution of a contract and the records provide evidence of the holding of rights, while in a title system a transfer of rights takes place upon recording at the registry and the records provide conclusive proof.

However, in practice there is a variety of recording systems. There are differences between title systems that cause them to have completely different outcomes in particular situations, such as in cases of fraud. While most people are not devious and most recordings involve transactions between law-abiding citizens, fraudulent transactions find their way to the registry. Fraud is carried out not only by strangers but also by people whom the victim trusts, such as family, friends, business partners or professionals, such as lawyers.

This chapter reviews a case of fraud where the original owner loses a parcel through fraud and another person buys that parcel in good faith: only one of these two people can keep the right to the parcel. In one type of title system, the outcome is to protect the new, innocent buyer and to provide compensation to the original owner for the loss incurred. In another type of title system, the outcome is the opposite: the original owner is protected and the innocent buyer is compensated for the loss.

As a result, the choice of whether to replace an existing system with a new system should not be considered as a simple technical matter of changing the way in which the records are managed. Instead, it should be based on an analysis of the desired outcome in particular situations: for example, what do the people who currently hold rights think would be the fairest outcome if they lost their rights because of fraud?

In addition, such an analysis should also consider whether the outcomes produced by the existing system in particular situations are already the desired outcomes. Are the problems with the existing system because of the way in which it is managed or because for particular situations it produces outcomes that are not desirable?

VARIATIONS OF RECORDING SYSTEMS

Recording systems are designed to do the same thing – to provide a public record of rights – but they manage to do it in strikingly different ways around the world. People who want to set up a system have a range of choices before them, as the following discussion shows.

One variation relates to ways to demonstrate the proof of rights. Systems can be evidentiary or conclusive:

- **An evidentiary system** provides evidence of the right and who holds it. Recording shows that a transaction has occurred, with the evidence being documents such as deeds of transfer. Proof of ownership is in the form of a "chain of title" that shows the historical sequence of transfers from one person to another.
- **A conclusive system** provides conclusive proof as to the existence of a right and the identity of the person who holds that right. Proof of ownership is often in the form of an entry in a register.

Another variation relates to ways to acquire rights. Systems can be constitutive or declaratory:

- **In a constitutive system** the transfer of rights takes place upon recording. A right cannot be acquired except through recording.
- **In a declaratory system** the transfer of rights takes place when parties execute a contract. Recording provides some protection; for example, a recorded claim to a right may take priority over an unrecorded claim to that right.

These variations have been combined in a number of ways for land registration systems as shown below.

These types of systems exist in many states around the world, and so the following list and review could have identified a number of other states, both developing and developed, instead of those states that have been identified: Australia, Denmark, England and Wales in the United Kingdom of Great Britain and Northern Ireland, Finland, France, Germany, the Netherlands, Spain, Sweden and the United States of America. These states have been identified in order to illustrate that even states with similar social, political and economic settings have chosen different systems; the existence of a particular system in a state is not dependent on the particular conditions of that state. A second reason for identifying these states is that their systems can be considered to function well; the success of a system is not necessarily dependent on its type, and good deeds systems can function as well as good title systems.

- **Constitutive and conclusive systems** (e.g. Australia, England and Wales in the United Kingdom of Great Britain and Northern Ireland, and Germany). Transfer takes place upon recording of the transfer document and the resulting entry in the register provides conclusive proof of ownership.
- **Constitutive and evidentiary systems** (e.g. the Netherlands). Transfer takes place when the deed of transfer is recorded. Being evidentiary, the records show that a transaction took place but a person should not rely entirely on information in the system as a flaw in a transaction may affect whether a right was transferred. Being constitutive, a person can assume that transactions that are not recorded do not have to be taken into account.
- **Declaratory and conclusive systems** (e.g. Spain, Denmark, Finland and Sweden). Transfer occurs when the buyer and seller execute a contract. Recording is declaratory but it can be done only if the buyer acquired the rights from the person identified as the owner in the system. (In Spain, the system is declaratory for transfers of ownership and leases but constitutive for mortgages as they require recording in order to exist).
- **Declaratory and evidentiary systems** (e.g. France and the United States of America). Transfer occurs when parties execute a contract. Recording does not create ownership but gives a presumption that the person recorded as the owner is, in fact, the owner.

TYPE OF SYSTEM	CONSTITUTIVE	DECLARATORY
Conclusive ("title systems")	Australia, England and Wales, Germany Spain (for mortgages)	Denmark, Finland, Sweden Spain (for transfers)
Evidentiary ("deeds systems")	the Netherlands	France, the United States of America

CHOOSING THE DESIRED OUTCOMES

All systems tend to give the same results in two situations. The first is where there are no problems: the rights of the seller are not challenged, the transaction is in good faith and all requirements for the transfer are fulfilled. All systems will recognize the buyer as the new holder of the rights, either conclusively or as a presumption. The degree of protection depends to a large degree on the entire legal system of the state, as the law of recording rights is not isolated from other legislation. The second situation is where a person attempts to acquire the rights by committing a fraudulent act: systems typically do not recognize such transfers as being valid.

However, in other situations, systems that look similar can produce different outcomes while systems that look different can produce similar outcomes. The question of what to do with an existing system is not a simple technical matter of how to manage the records, but it also requires addressing what right holders think is the fairest outcome in situations such as when a person loses a parcel through fraud and another person buys that parcel in good faith. There is an innocent owner and an innocent buyer, and a system cannot protect them equally. Inevitably, one person wins and the other person loses.

Who wins and who loses depends on the rules of the system as the following examples illustrate. Which rules are considered to be fairest by the people who hold tenure rights?

Transfers of rights

The first example is that of a transfer of rights.

> The system shows person "A" to hold the rights to a parcel. Another person "X" impersonates "A" and sells the parcel to a third person "B" who is unaware of the fraud. The transfer document is false because "A" did not sign it but the transfer to "B" is recorded. What happens if "A" discovers the fraud and takes action to recover the parcel?

The owner "A" is protected in deeds systems such as in France, the Netherlands and the United States of America. An invalid contract is not capable of transferring the parcel and so "A" has not lost the parcel and "B" has not acquired it.

In contrast, the buyer "B" is protected in some types of title systems, such as in Australian states and in England and Wales in the United Kingdom of Great Britain and Northern Ireland. The owner "A" has lost the parcel because these title systems provide an indefeasible title (i.e. the title is conclusive and cannot be overturned) through a rule of "immediate indefeasibility of title". The buyer "B" has an indefeasible title upon recording even if the transaction is based on documentation that was forged or otherwise invalid.

Other types of title systems protect the owner "A" as is the case in Denmark, Finland and Sweden. These systems provide a title that is indefeasible except under specific conditions:

- if the transfer document is false or has been signed by someone who was not authorized to do so, or was signed under a legally defined kind of threat;
- if the rightful owner is in bankruptcy, does not have legal capacity, or is mentally incapacitated; or
- if the acquisition is by law invalid because it has not been enacted in due form or lacks the consent of someone whose rights are affected, or the permission of the court or another authority.

In yet other types of title systems (such as in Germany and Spain), the owner "A" is also protected as the transfers are considered to be invalid even if the buyer "B" conducted the transaction in good faith.

The following table illustrates the range of possibilities.

TYPE OF SYSTEM	CONSTITUTIVE	DECLARATORY
Conclusive ("title systems")	Australia, England and Wales: "B" is the owner Germany: "A" is the owner	Spain, Denmark, Finland, Sweden: "A" is the owner
Evidentiary ("deeds systems")	the Netherlands: "A" is the owner	France, the United States of America: "A" is the owner

A variation of the example produces yet another variation in the result.

As with the previous example, a person "X" impersonates "A" and sells the parcel to "B" who is innocent and unaware of the fraud, and the transfer is recorded. Another person "C" purchases the parcel from "B" and records the transfer of rights. What happens if "A" then discovers the fraud and takes action to recover the parcel?

For the deeds systems, "A" is still the owner because the number of transfers does not remedy the defect of the earlier false transfer document.

For the title systems of Denmark, Finland and Sweden, "A" continues to be the owner for the same reason.

For the title systems of Australia and England and Wales, "C" is the owner.

For the title systems of Germany and Spain, there is now a difference. These title systems operate under the rule of deferred indefeasibility: indefeasibility of title is deferred to the first buyer who relies on the records to determine the owner, and who records a transaction that is not fraudulent.

This is illustrated below:

TYPE OF SYSTEM	CONSTITUTIVE	DECLARATORY
Conclusive ("title systems")	Australia, England and Wales; Germany: "C" is the owner	Spain: "C" is the owner Denmark, Finland, Sweden: "A" is the owner
Evidentiary ("deeds systems")	the Netherlands: "A" is the owner	France, the United States of America: "A" is the owner

Mortgages

Fraud is often associated with mortgages and people have used many inventive schemes to enrich themselves through mortgage fraud.

The system shows person "A" to hold the rights. A second person "X" impersonates "A" and arranges for a loan from lender "D", who is innocent and unaware of the fraud. The mortgage is recorded. Person "X" is able to get the loan money and disappears. What happens when "A" then discovers the fraudulent mortgage?

The outcomes follow the same pattern as the first example of the transfer above and they emphasize the financial loss that people can suffer as a result of problems with recording rights.

In the systems where the owner "A" is protected, the lender "D" suffers financial loss as a result of the fraud. (While the system of Spain is declaratory for transfers, it is constitutive with regard to mortgages as they require the act of recording in order to exist).

In contrast, in title systems with immediate indefeasibility, the lender "D" has a legal claim against the owner "A", and a mortgage debt now encumbers the parcel of "A" even though "A" did not sign the mortgage agreement. The owner "A" has to pay the value of the loan to "D", even though "A" did not receive the money.

These outcomes are illustrated below:

TYPE OF SYSTEM	CONSTITUTIVE	DECLARATORY
Conclusive ("title systems")	Australia, England and Wales: "D" has a valid right Germany, Spain: "D" does not have a valid right	Denmark, Finland, Sweden: "D" does not have a valid right
Evidentiary ("deeds systems")	the Netherlands: "D" does not have a valid right	France, the United States of America: "D" does not have a valid right

Compensation

In deeds systems, for the examples above, the owner "A" is protected and the buyer "B" or the lender "D" suffers the loss. The registry or a public fund does not pay compensation to the person who loses as a result of a transaction. However, buyers may be able to pursue claims against professionals who were involved with preparing the transaction or against their title insurance policies. (Here, it is assumed that the person "X" who committed the fraud has no money or has disappeared).

The title systems of Germany and Spain protect the owner "A" during the period in which indefeasibility is deferred and do not provide state compensation to people such as the buyer "B" or the lender "D" who suffer loss. In this manner, they resemble the deeds systems.

The title systems of Denmark, Finland and Sweden protect the owner "A" and provide state compensation to the buyer "B" or the lender "D", although certain conditions will apply, such as that the lender "D" has carried out a thorough risk assessment of the borrower.

For the title systems of Australia and England and Wales in the United Kingdom of Great Britain and Northern Ireland, the rule of immediate indefeasibility results in the owner "A" suffering a loss: in the example of a transfer, "B" is now the owner; and with the mortgage, the lender "D" has a legal claim for the repayment of a loan. These systems provide compensation to the owner "A" for the loss but even here there can be considerable differences. For example, in some states, the compensation fund is a last resort: before claiming compensation from the state the person who suffered the loss must try to be compensated by the person responsible for the loss, such as by suing the fraudster ("X") or demonstrating that it was not possible to do so.

These differences are illustrated below.

TYPE OF SYSTEM	CONSTITUTIVE	DECLARATORY
Conclusive ("title systems")	Australia, England and Wales: "B" gets the ownership "A" gets state compensation Germany: "A" gets the ownership "B" gets no state compensation	Denmark, Finland, Sweden: "A" gets the ownership "B" gets state compensation Spain: "A" gets the ownership "B" gets no state compensation
Evidentiary ("deeds systems")	the Netherlands: "A" gets the ownership "B" gets no state compensation	France, the United States of America: "A" gets the ownership "B" gets no state compensation

CONSIDERATIONS FOR THE CHOICE OF IMPROVING AN EXISTING SYSTEM OR CONVERTING TO A NEW ONE

As the examples above show, there is a variety of systems and ways in which they operate and whom they protect. Deeds systems protect the original owner in the case of a fraudulent transfer as do some title systems, while other title systems protect the new buyer or lender. This variety suggests that no single set of rules is inherently correct and that others are wrong. Instead, the rules must be accepted by the society in which they are to be implemented.

Extensive debate of proposals for reform: An analysis of whether to improve an existing system or to convert to a different system should address the question of whether or not the existing system produces the desired outcomes for particular situations. If a different outcome is more desirable, what should it be? As the examples above show, a deeds system protects the original owner in the case of a fraudulent transfer. A proposal to convert a deeds system to a title system should not be presented as a simple technical change, as there is more than one type of title system. If a new title system is introduced to replace the deeds system, who should be protected: the original owner or the new buyer or lender?

There are choices to be made, and there should be a transparent debate on changes to the protection provided by the current system. People who hold rights should decide what outcomes are the fairest in particular situations. If it is desirable to introduce a new system, the rules of the new system should be developed to produce those outcomes. People should know the impact of any change in rules and agree with them.

Adequate, sustainable and accessible compensation funds: The example of a fraudulent mortgage highlights that the conversion of a deeds system to a title system can result in a financial loss to a person. In the case of a title system with immediate indefeasibility, the owner is required to pay the lender the loan amount even if the owner did not receive the money.

A proposal to convert to a title system of immediate or deferred indefeasibility should include an adequate and sustainable way to compensate people who suffer a loss as a result of a change to the system.

Compensation funds have been introduced in a number of states. A promise of compensation is good only if it is delivered, and it is unrealistic to assume that the need to pay compensation will arise only after sufficient funds have been collected through a fee on each transaction. Instead, a substantial initial amount needs to be committed when the fund is created, which can be maintained through small fees on each transaction (see How a compensation fund can be used in cases of fraud and mistakes in chapter 7). In addition, a compensation fund should not be a fund of last resort that pays compensation only after all the alternatives have been tried and have failed. A poor person who suffers a loss through a fraudulent mortgage should not have to pay the costs of initiating legal proceedings before a claim can be made for compensation.

A state guarantee, financed through the state budget, is an alternative to a compensation fund. Such a mechanism requires a stable and trustworthy governance structure, but where there is a well-functioning recording system, the amount of damages or compensation to be paid should not be large.

Compulsory professional liability insurance is another means of providing compensation where losses arise as a result of actions of professionals; for example, when drafting legally binding documents or when advising the parties in a transaction.

IMPROVING THE ORGANIZATION OF RECORDS

Both deeds and title systems need well-organized records to function well. Such records enable people to identify quickly and easily who holds rights to a parcel and to carry out transactions. They also reduce the chance for fraud and mistakes, and so increase confidence that the information can be relied upon. In contrast, ambiguous and confusing records make it difficult to find and interpret the information needed for a transaction. If fraud and mistakes are common in a system then offering compensation is not sustainable, as the amount to be paid out is likely to be higher than what can be afforded.

Reducing mistakes and fraud and reducing the time and costs of recording are not necessarily trade-offs. Both can be achieved in large part by reorganizing the records. Improving the records is often done when converting a deeds system to a title system and the reorganization of records is accompanied as part of the conversion. When an existing system is being converted to a new one, the term "first registration" is sometimes used for the work of reorganizing the records. (Other types of first registration (where information on rights, holders and parcels is recorded for the first time) are addressed in the companion guide on *Creating a system to record tenure rights and first registration*). In addition, such a reorganization of records can also be done as part of improving a deeds system. Examples below illustrate how records have been reorganized by registries in quite different settings.

Organizing records around parcels means assigning a unique identifier to a parcel and listing all transactions against the record for that parcel. Using the identifier on all records for the parcel allows all rights to the parcel to be quickly and easily identified and any gaps or competing claims to become visible. The record for each parcel can be created using its identifier and the information in documents and maps of the registry.

The quality of the results can be improved by supplementing or cross-checking the registry records with other government records, such as property tax maps and records. Where parcel information is missing or incomplete, it is often necessary to create parcel maps. An alternative to detailed field surveys is the creation of parcel index maps, which are sufficiently accurate to show parcels (with regard to their shape, location and relationship with other parcels) and their unique identifiers. As indicated by their name, parcel index maps do not provide details on boundary measurements or the features that represent the parcel corners and boundaries.

The reorganization of records can be done sporadically on a case-by-case basis or systematically, working area by area and covering every parcel within each area. With a sporadic approach, the work is typically initiated by triggers such as

sales, leases, inheritances and mortgages. With a systematic approach, there is a need to identify where to carry out the work and in what sequence. A good approach is to start in a range of areas (e.g. urban areas as well as peri-urban and rural areas) and to target a range of beneficiaries (including allowing the vulnerable to protect their tenure rights from encroachment) to reduce the risk that the benefits serve only the interests of the rich. Both sporadic and systematic approaches should include cases where there is a need to clarify the information of parcels and rights, such as where there are proposals for expropriation, consolidation and redistribution, or where large parcels are to be divided and sold or allocated.

Sporadic and systematic approaches have been used successfully around the world. However, sporadic systems often pass the cost to the right holders and so they tend to benefit those who can afford it. In contrast, systematic approaches tend to provide more equitable treatment for all right holders as they are usually funded by governments. In addition, reforms can be completed more quickly through a systematic approach, which also allows for a higher quality of information as all claims in an area are checked simultaneously.

Reorganizing records without converting to a new system

Two examples are given below: the Netherlands and the Canadian province of New Brunswick.

The Netherlands

In the Netherlands, the records on rights were established to provide publicity of transfers while the records on parcels were created to raise revenue through property taxation. The two sets of records had duplicated and inconsistent information because they were used for different purposes and maintained separately. Over time, the linkages and consistency between the two sets were improved through reforms, such as by placing their management within the same agency and requiring the parcel number to be used in deeds for transfers and mortgages.

As a deeds system, the records are documents, mainly notarial deeds, which are compiled in books in the order that they are submitted for recording, although all records are now in digital form. In addition, a cadastral administrative database contains information extracted from the deeds and allows for the easy identification of a parcel and the people who hold rights to it. Registrars are required to record all notarial deeds submitted to the public registry. However, if a deed is considered to be suspect the registrars have the discretion to add a warning in the cadastral database. As a result, any person searching the database will receive notice that a problem might exist with that transaction. In practice, such problems are rare because of the close cooperation between the registrars and notaries.

As a constitutive system, the transfer of a right through a sales transaction can occur only with a recorded deed. As a result, people who rely in good faith on the records of the public registry are largely protected: a person should not rely absolutely on records of the public registry, but he or she can assume that what is not recorded does not have to be taken into account. Because of the high quality of information in the system, the reports provided through the cadastral administrative database are similar to the title records in a title system.

New Brunswick

New Brunswick provides an example of a deeds system that initially did not have comprehensive records of parcels, and so finding information on a particular parcel required considerable research. A parcel-based approach was introduced by developing a comprehensive inventory of parcels and their representation on parcel maps, and systematically assigning a unique number to each parcel. These parcel maps were compiled using aerial photography and existing taxation maps and survey plans. Visual inspections were made of each parcel to see if the boundaries on the maps reflected reality, but no new surveys were carried out.

A computer file was created for each parcel number, which included information on the last recorded document of each type (e.g. transfer, mortgage, survey plan). Deeds continued to be filed in books and in addition, when a new transaction was recorded for a parcel, the computer file of current documents was updated, and the information on the previous document was transferred to a historical computer file for the parcel. Over time, the historical computer file represented a computerized chain of title that had no legal effect but which served as a resource at the start of a title search. Automated reports identified records where problems existed: although the registry did not try to resolve these problems, the notification in the computer system alerted people that a problem might exist.

While New Brunswick later converted to a title system, the work described above was done while the deeds system was in place. The experience shows that it is possible to improve the organization of records in a deeds system that is declaratory, i.e. where the transfer of rights takes place upon the signing of a document such as a deed and not by recording.

Reorganizing records while converting to a new system

A number of states have reorganized their records as part of the conversion from a deeds system to a title system. The following examples illustrate approaches used in different settings. In the case of Sweden, the change included the integration of parcel maps, whereas in Australia and England and Wales in the United Kingdom of Great Britain and Northern Ireland, the conversation from deeds systems to title systems did not initially include the creation of parcel maps.

Sweden

In Sweden, the title system was not introduced quickly as a replacement to a deeds system. Instead, there was a gradual

movement to a system that corresponded to the changing needs of society; for example, with regard to increasing rights of women, inheritance, transfers of land outside the family and the need for financing. The result is a title system that provides conclusive proof of ownership except for specific cases where the indefeasibility of the title can be overturned, such as in the case of fraud.

Similar to the Netherlands, the records of parcels were originally developed for taxation while the records of rights were created to publicize transfers. Although different agencies were responsible for the two sets of records, their collaboration resulted in a single integrated computer system. In 2008, the two sets of records were placed under the responsibility of a single agency.

Australian states and England and Wales

In the states of Australia and in England and Wales in the United Kingdom of Great Britain and Northern Ireland, the information on a title certificate identifies the parcel, the owner and the other rights and their holders if they exist in the cases of mortgages, leases and easements.

Australia and England and Wales in the United Kingdom of Great Britain and Northern Ireland are examples of states where records were reorganized without initially creating parcel maps. Without an inventory of parcels, it was not possible to link records to systematic parcel numbering. Instead, a sporadic approach was used with the parcel identifier being the number of the title certificate. In Australian states, for example, the first certificate issued for the first parcel in a title system was identified as Volume 1, Folio 1. Over time, as the availability of parcel mapping increased, each state introduced standard parcel numbers for all parcels to allow information on parcels collected by different agencies to be linked together. England and Wales adopted an alternative approach because existing large-scale topographic mapping could be used to create index maps that contain information on the parcels, including their title numbers.

Conversions with limitations

The conversion to a title system involves issuing and recording titles based on an examination of available information. Some states treat information of different quality by issuing titles with different levels of confidence.

For example, when New Zealand converted to a title system, the registry could issue a title with limitations ("limited as to title") if the title met some but not all the requirements for a standard title. If the title was unchallenged, the limitation was automatically extinguished after twelve years (a period

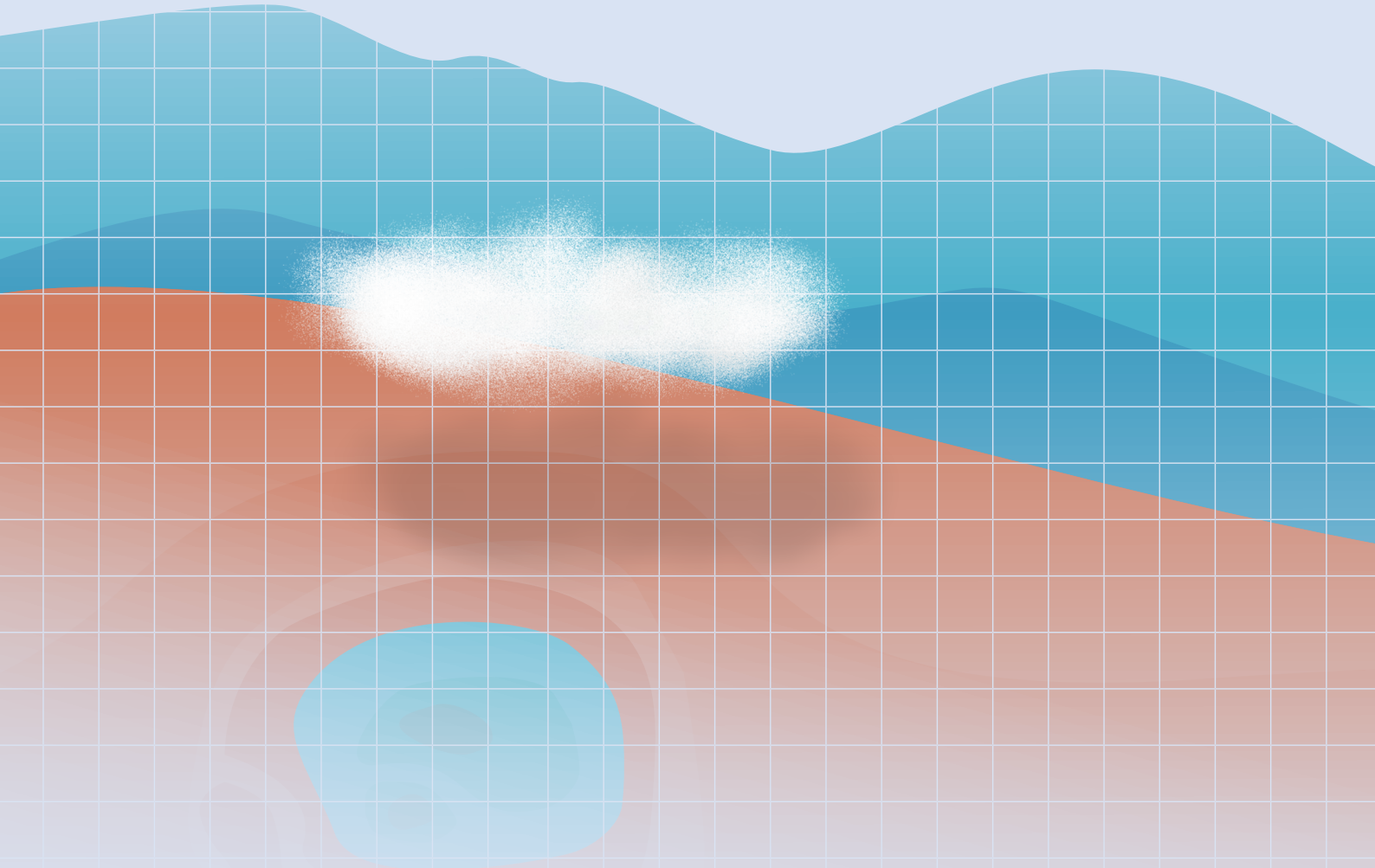
associated with acquiring rights through adverse possession). A similar procedure exists in states such as Ghana but there the title holder has to request the upgrading to a full title. New Zealand also introduced a "limitation as to parcels" on titles where the existing surveys were of a lower accuracy than the standards in place at the time of the conversion. Many owners did not have their parcels resurveyed to remove the limitation from the titles, which suggests that the perceived lower quality of information did not affect the use of the parcels.

Correcting records to reflect the reality on the ground

Records of parcels can differ from the situation on the ground; for example, because the original surveys were of low accuracy or because the records were created for tax purposes and without links to the records on rights.

Particular problems exist where the original titles were granted in the distant past and when there were no standards for the description of boundaries and units of measurement. Over the years, major discrepancies have sometimes occurred between parcel records and reality as the features defining parcel corners disappeared and large farms were subdivided into smaller parcels. The law of most Latin American states requires a judicial decision in order to modify the records. As a result, many owners have tended to fit new deeds into what was already recorded instead of paying the costs of the long and expensive measures to correct the problem.

One approach to simplify the requirements for legally correcting the parcel records is to introduce administrative procedures to apply the principle of "prevalence of field information" where the holders of rights to the adjoining parcels are in agreement. Another approach is to empower an administrative authority to approve the adjustment of the parcel descriptions, using alternative dispute-resolution mechanisms to reach agreement between holders of rights to the adjoining parcels, and with the option of a right of appeal to the courts.



The customer is the primary reason for the registry to exist, but serving customers often gets overlooked due to day-to-day concerns with managing an office, recording transactions and keeping records up-to-date. This chapter describes why it is important to constantly keep in mind how the needs of customers can be met in the most efficient and effective way. It provides advice on service standards, communication and special considerations for women, special groups and the vulnerable and marginalized.

Meeting the needs of customers involves many activities, and some of these are addressed in other chapters (see A quick reference to other parts of this guide that address customer service in this chapter).

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3. IMPROVING THE FOCUS ON CUSTOMERS

Key points of this chapter

- Identify the full range of people and bodies who are customers, including citizens, professionals, credit providers, other ministries and agencies, police and the courts, and people who live outside the state. Each group has special interests and needs.
- Develop a set of service standards that defines how services will be delivered, particularly how long it should take to provide a service. Distribute the document to customers so they understand their rights.
- Staff should understand the service standards so they know their duties. Provide training for staff on the standards, and introduce a system of monitoring and reporting on compliance with the standards.
- Provide all relevant information to customers through various means, including notice boards, websites, help lines and advertising. Customers should have access to general information, instructions on how to complete forms, and information on fees, service standards, code of conduct and ethics, and complaints and appeals options.
- Carry out customer surveys to get the opinions of customers on the registry's performance and where improvements could be made.
- Improve services to women through such means as including changes to the legal framework, training for staff to provide better service to women, publication of information directed at women, providing mobile office services and reporting on gender-disaggregated data.
- Improve services for other special groups and vulnerable and marginalized people.
- Incorporate good customer service in the registry's vision, goals, strategies and business plans.
- Re-engineer registry processes to make them simpler, quicker and easier to understand.
- Introduce a legal aid service at the registry and provide contact details for professionals who can assist customers.

A QUICK REFERENCE TO OTHER PARTS OF THE GUIDE THAT ADDRESS CUSTOMER SERVICE

Other parts of this guide are also relevant to improving services to customers:

Office design: Many aspects of office design and layout can improve the customers' experience, including women and people with special needs. See Improving the design of offices in chapter 4.

Customer councils: Customer representative groups are a way to obtain customer feedback. Such groups should include representatives of all customer groups, particularly women and people with special needs. See Improving institutional aspects in chapter 5.

Vision, goals, strategies and business plans: Customer service should be a foundation of the registry's vision and goals, and at least one part of the strategy and business plan should be to improve the delivery of services and create a customer focus. See Examples of a vision, goals, strategic plans and business plans in chapter 5.

Monitoring and reporting: Compliance should be monitored with regard to service standards, ethical standards, customer satisfaction and reforms to improve service, including to women and people with special needs. The results should be reported and used to develop further improvements (see Improving institutional aspects in chapter 5).

Code of conduct and ethics: Clear, specific guidance is useful for all staff and management on how they should behave at work, how they should deal with difficult situations and how they should treat customers and other staff (see Staff policies and protocols in chapter 6).

Staff training: Training in customer service helps to develop a positive attitude towards customers, an understanding of their needs, and an ability to solve problems, resolve disputes and communicate effectively (see Staff training in chapter 6).

In developing a customer focus, attention should be paid to the ten implementation principles of the Guidelines (section 3B). These principles are directly relevant to how a registry should think about its customers as they address: human dignity, non-discrimination, equity and justice, gender equality, a holistic and sustainable approach, consultation and participation, rule of law, transparency, accountability and continuous improvement.

IDENTIFYING THE CUSTOMERS

Developing a customer focus requires knowing who the customers are. They can include:

- members of the public;
- professionals who act on behalf of their clients;
- banks and other credit providers;
- ministries and government agencies, such as those responsible for natural resources, transportation and infrastructure, and tax collection;
- local government and local authorities;
- police and courts, particularly for information relating to criminal cases, dealing with parcels obtained illegally or enforcing decisions of civil cases; and
- people outside the state, including members of a diaspora and foreign investors.

Each group has particular needs which should be kept in mind when improving responses to the needs of customers.

USING SERVICE STANDARDS

Service standards can be regarded as a customer's "bill of rights". They define which services are available, how long it should take to provide a service and how much customers should pay. They can be covered in a short document or one with more detail, such as a description of each type of service, the quality and treatment that can be expected (such as courtesy and respect), how the services are evolving, future targets of reducing waiting times, plans for introducing new technology and other aspects of the registry's services that are relevant to customers.

The standards should also cover what happens if there are problems. They should provide for appropriate

communication with customers; for example, if a problem arises, the customer should be able to know that there is a delay and the reason for it. The standards should describe how a customer can complain (such as through a complaints mechanism), should provide contact details for making a complaint, and should outline the consequences if the complaint is valid (such as a refund of application fees). A clear statement of the standards and remedies for breaches of the standards also helps to reduce opportunities for corruption.

After the standards have been adopted by the registry, but prior to their publication, there should be training for staff to explain the standards, their purpose and what happens when the standards are not met. Staff members should be aware that an answer has to be given to each and every question asked by customers. The complaints mechanism should be put in place at the same time.

The standards should be published as a stand-alone document and can also be included as part of another document, such as the registry's business plan, code of conduct and ethics, or instructions for using the registry's services. The publication can be prepared simply or professionally. An introductory message at the front of the publication should be signed, as appropriate, by the head of the registry or by the responsible minister (recognizing that while the registry should be independent from politics, it is a public service). The standards can be distributed in various ways, such as on noticeboards, in brochures and booklets, and on the registry's website.

The time taken to deliver services should be monitored and the results compared to the published standards. The number of complaints should also be recorded. The results should be included in the registry's annual report and published on noticeboards and online to create trust, transparency and openness.

Monitoring the delivery of services against the standards should be done as part of a programme of continuous improvement (see Continuous improvement and change management in chapter 5). The results of the monitoring can be interpreted by a manager, a specialist in evaluating such data or a small team, depending on the size of the registry. Discrepancies should be identified, their causes investigated and appropriate responses developed where needed. Sometimes factors such as an economic crisis or civil disturbance will cause the registry to miss some targets. As such factors are outside the control of the registry, little can be done to deal with the problem. However, there can be many cases where the registry can redesign processes and introduce changes that will improve its operations and customer services.

IMPROVING COMMUNICATIONS WITH CUSTOMERS

Providing information to customers

Information and publicity are important for customer service. Customers have a right to know how to do business with the registry. Also, if customers are better informed, staff will face fewer problems, the registry will operate more efficiently, and people will have greater levels of satisfaction and confidence in it.

Information should be provided in languages that people can understand. The information should be presented using words that most people would understand, and it should not use the specialized terminology of professionals. There might need to be different approaches for women and for special groups and the vulnerable or marginalized (see Improving services for women customers and Improving services for special groups and vulnerable and marginalized people in this chapter). Examples of information that should be available include:

- general information on the location of the offices, opening hours, the services that are available, how customers can get access to these services, how much services cost, what documents the customers must bring;
- service standards, which set out how much time is required to deliver each type of service and what happens if the office fails to deliver on time (see Using service standards in this chapter);
- blank forms next to writing tables with examples of completed forms to guide customers;
- information on common reasons why the registry rejects documents that have been submitted (such as because customers have completed the forms incorrectly or have misinterpreted the requirements of the legislation);
- complaint and appeal information, such as how a customer can complain about a decision or appeal against it;
- anti-corruption information, such as the telephone number or website address of a complaints hotline; and
- special information, such as on women's tenure rights and contact details for legal aid or non-governmental organizations (NGOs).

A clear strategy to communicate with customers can guide the development of an integrated communication campaign. Preparing a strategy requires understanding the main messages that the registry wants to convey and an assessment of the different types of customers, their levels of understanding, the languages used, the levels of use of the Internet, etc. The strategy should define the most effective means to provide the required information to specific groups of customers.

HOW IMPROVING CUSTOMER SERVICE CAN HELP TO CUT CORRUPTION

A strong customer orientation can help to reduce corruption. A simple approach was launched by Zubair Bhatti when he served as District Coordination Officer in 2007 to 2008 in Jhang District, Punjab Province, Pakistan. He asked officials at the Land Revenue Department (the registry) to submit daily lists of the transactions that were recorded, the amount of taxes due, other details of the transactions and the mobile telephone numbers of the buyers and sellers. Mr Bhatti called buyers and sellers at random to check if they had been asked for a bribe. When staff realized their actions were being checked, there was a reduction in corrupt practices, and buyers and sellers started to report an improvement in services.

This model, now known officially as the Punjab Model for Proactive Government, is being applied by the Punjab Government to evaluate its own performance by contacting citizens through SMS messages or phone calls. Rather than waiting for complaints, the proactive service asks customers about their experience. The telephone numbers of customers provided by government officials are analysed to guard against fictitious information being provided; for example, the appearance of duplicate numbers can show that some staff are trying to subvert the process.

The approach is cost efficient and has helped to reduce petty corruption. People are excited about being contacted for their views on the service they received. One respondent replied: "Respected Sir, your message transported [me] to an imaginary land and filled me with delight and jubilation on the check and balance introduced by the government. Nothing like [it] has happened with me before" (Bhatti, Zall Kusek and Veheijen, 2015).

ADDITIONAL INFORMATION

Quotation and information from Bhatti, Z. K., Zall Kusek, J., Verheijen, T. 2015. *Smart government solutions from South Asia.* Washington, DC, World Bank, p. 50 (available at openknowledge.worldbank.org/bitstream/handle/10986/20487/9781464803123.pdf?sequence=1).

The strategy and campaign can be modified over time as some means of communicating are found to be more effective, as messages change, or as the communications budget increases or decreases. If funds permit, the registry can engage a specialist firm to design and implement activities. The activities should be coordinated with the government's overall programme for communication, and assistance might be available from the agency responsible for government-wide communications.

The options for communicating with customers range from high to low cost, broad or narrow in focus, and traditional or modern in the means of delivery. They include:

- information desks at the offices;
- brochures, pamphlets and booklets that are available at the offices, at other government offices and those of professionals, and from the registry's website;
- help lines using a telephone or Internet enquiry service;
- public meetings and open days at the registry's offices;
- signs and billboards;
- traditional media, such as newspaper articles and advertisements, television and radio programmes, interviews and commercials. Press releases and interviews can be a cost-effective means of communicating with the public because they are broadcast with the news. Newspaper articles can be published dealing with current issues;
- internet and social media, such as frequently asked questions and other information on the registry's website and social media page, and Internet advertising;
- apps for smart phones;
- internet channels for videos.

Working closely with key customer groups allows ideas to be tested cheaply and effectively. Examples of such groups include a customer council (see Improving institutional aspects in chapter 5), professionals, women's representatives and NGOs. They can provide input on the means of delivery and in developing messages, and even advise on minor things such as font size and colour of paper.

Obtaining customers' opinions

Customer surveys are a good way to find out what customers think and what changes are needed. They can target the general public as well as specific groups, such as professionals, banks and government agencies. There are various ways to obtain information, such as:

- **On-the-spot feedback:** Customers can be asked to rate the services that they have just received. A simple electronic device (with buttons marked "good",

"neutral" and "poor") can be put on the counter with a sign asking customers to rate the service. Other effective and inexpensive examples to gather opinions are suggestion boxes and web-based feedback.

- **Questionnaires:** These can be given to customers to complete and leave with the office, or people can be employed to interview customers in the public reception area as they wait for service or after they have been served. Customers who use online services can be asked to complete the questionnaires, which can also be sent by email to all customers.
- **Formal surveys:** An independent survey firm can be hired to carry out in-depth surveys of individual customers and focus groups.
- **Staff surveys:** Information can be gathered from staff who deal with customers on a daily basis, including through telephone hotline or advice services.

The need for the information should be balanced against the time and cost of producing it, including the time spent by customers when giving their opinions. Detailed surveys can be expensive as someone has to ask the questions, record the responses and collate the results. This work has to be contracted out if the registry lacks the expertise or if neutral interviewers are required. Simple questionnaires provide less information but can be used more easily and cheaply.

Asking customers' opinions is not a one-off exercise. Surveys should be undertaken at regular intervals to monitor changes, particularly after reforms to services are introduced. Detailed surveys are usually not undertaken every year because of their expense so other means can be used to obtain opinions between the surveys. Each new survey should use the same questions as in earlier surveys so that the results can be compared.

The topics selected for the survey depend on what the registry needs to know. Commonly, questionnaires start with general questions about the customer (e.g. age, gender, how often they use the services), particular questions on the services and some open-ended questions that allow the customer to express his or her opinions. Space can be provided for suggestions or criticism. The survey should be designed to collect gender-disaggregated data in order to improve services to women customers (see Improving services for women customers in this chapter).

The results of the surveys can help with raising standards, dealing with particular problems, business planning and communication. The results should be published to increase the transparency and openness of the registry. They can be included in the registry's annual report, shown on its website, presented at conferences or published in papers or booklets. The publication of the results should be publicized, such as through a press conference.

Customers often get used to good services, so after a while their levels of satisfaction with better services can decrease unless improvements are constantly being introduced. However, as improving customer services needs to be an ongoing programme, it should be possible to maintain (or even improve) the ratings that customers give to the registry.

IMPROVING SERVICES FOR WOMEN CUSTOMERS

Women often face particular barriers when protecting and using their tenure rights, so special steps are required if the registry is to deliver good services to women customers. Many actions can be introduced for little or no additional cost and without difficulty, and they can build on existing initiatives to improve customer services. Areas that can be addressed include:

Assessment of gender equality and tenure: The first step is to identify the particular issues affecting women who want to use services. The assessment must consider both the needs of women customers and the barriers that they encounter.

The legal framework is a fundamental aspect of providing services to women. The registry's services will be irrelevant for women unless the law permits women to hold rights, to use them freely, and to claim rights by inheritance or in cases of divorce. The legal framework should be reviewed and amended (if necessary) to remove barriers that stop women from acquiring, using and recording their rights. It might be necessary to include positive statements in the law that require officials and others to take special steps to recognize the rights of women. This is often needed to overcome the subtle, cultural barriers that can stop women from enjoying equal status with men.

Registry staff are a valuable resource in serving women customers. An appropriate mix of male and female staff, particularly at service counters, can help to make women customers feel more welcome. All staff should be provided with training on gender equality and serving women customers. This can be facilitated by creating a gender focal point officer who can develop skills and promote service to women customers.

Opportunities for women to learn about the services: Legal literacy is important so that people, especially older and rural women, know their rights. It is also a means of changing traditional views and customs by highlighting legal entitlements and the norms expressed in laws. Options include:

- books that use simple text to identify the relevant parts of all the laws that touch on women's rights in relation to tenure, such as inheritance, divorce, recording rights, ownership and use rights;
- short brochures on women and tenure rights, which

can be distributed widely through local government, social services, NGOs, banks and professionals;

- campaigns directed at women and their tenure rights, including interviews on radio and television;
- open days at the registry's offices or community centres, and collaboration with local community leaders and women's representatives to ensure that women know about the events and attend them;
- a website that lists the relevant laws, services and contacts that are helpful to women; and
- reports of gender-disaggregated figures on customers and ownership and other tenure rights in the registry's annual report, as well as the registry's achievements in improving services to women.

Delivery of services: Women often have many responsibilities at home (e.g. child care, elder care, home duties, home-based work), have non-home-based work to perform or have difficulties visiting offices in central cities. These barriers can be addressed in several ways. For example, staff who have specific training in gender and tenure-related laws, issues and services can help women with information or advice through a telephone or Internet enquiry service. The registry can open earlier and close later in order to accommodate people who are unable to go to the registry during the traditional office hours, and this is increasingly a trend as public administration responds to the needs of its customers. In addition, it may be possible to deal exclusively with women's enquiries at the registry office at specific hours or on specific days of the week. Mobile services could be delivered to women at community centres or even to them at their homes.

IMPROVING SERVICES FOR SPECIAL GROUPS AND VULNERABLE AND MARGINALIZED PEOPLE

A large range of marginalized or otherwise vulnerable customers may require special assistance, such as people with disabilities, linguistic or other minorities, including indigenous peoples, children, the elderly and illiterate people.

A multi-step approach can be used to improve services for them:

- Identify the special groups and the barriers they face. This can be done by working with government agencies with responsibility for such groups, academics, NGOs and community members representing them. Registry staff and managers can also provide information on local communities. If funds permit, a more formal social assessment can be conducted by specialists.
- Develop responses and test them with the people concerned or their representatives.
- Train staff and publicize the responses before introducing them widely.
- Monitor the effectiveness of these responses and introduce improvements as necessary.

The actions described to improve services for women can be modified and used for other groups of customers (see Improving services for women customers in this chapter). Actions can also include:

- working with government bodies or NGOs to develop solutions to problems that people experience when using the registry;
- ensuring there is a good mix of staff from all social, ethnic, linguistic and other backgrounds working in the registry, particularly in the front office;
- training staff and management to sensitize them to the needs of such people and explain what they can do to deliver good service;
- creating a focal point so that at least one person can specialize in providing services to people with particular needs and who can promote these services across the registry;
- designing publications with plain, non-legal text and large fonts, and using visual (not only written) means of communicating;
- publishing information in all relevant languages;
- amending the laws to remove barriers and include provisions that assist with inclusiveness; and
- including specific directions in the procedures manual on how to deal with special cases, such as signing by illiterate people, and making this information available to the public and professionals (see Using a procedures manual to address fraud and mistakes in chapter 7).

ADDITIONAL INFORMATION

FAO. 2014. *Respecting free, prior and informed consent.* (available at www.fao.org/docrep/019/i3496e/i3496e.pdf).

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Website:
www.unwomen.org

HOW SERVICES CAN BE IMPROVED BY MAKING PROCESSES MORE EFFICIENT

Improving customer services can require improving processes where they are time-consuming, complicated and expensive. Improving procedures is not a one-off exercise. The procedures should be constantly reviewed and revised as the legal framework changes, as new technologies become available, as customers' needs change and as the registry identifies new problems.

Re-engineering of the procedures begins with an examination of the current situation. Each step should be identified along with the requirements and the law, regulation or practice that regulates it. The steps should be analysed from the viewpoint of what is legally required and what is the best way to function. The same approach can be used when developing new procedures. Whenever new procedures are introduced, the impact on costs and to the timeframe should be assessed, and adjustments should be made to the procedures if needed.

Commonly occurring problems that result in delays and mistakes should be documented. Each type of problem can then be analysed to identify the cause and possible solutions. Experienced managers and staff should be involved in identifying inefficiencies and assessing whether proposed changes would work in practice. Regular customers (such as professionals and banks) can be asked to identify problems and possible solutions.

The analysis of the steps and requirements for recording each type of transaction should address the following aspects:

Remove unnecessary steps: Procedures often have many unnecessary steps. Each step should be assessed to see if it is essential, a legal requirement or otherwise obligatory. Only those steps should be retained and duplicated tasks should be eliminated.

Remove unnecessary requirements: The registry should require only information and documents that are essential for it to identify the parcels and right holders, make the necessary changes and ensure that legal requirements have been satisfied. Where the registry already has a document, it should not require the customer to provide that document again; certified copies should not be required where the staff can make a copy from the original document and the staff should be required to make copies only where necessary. The documents that are required for each type of transaction should be clearly listed, along with a statement that no additional documents will be required. The registry should eliminate a culture of asking for more information just in case it might be needed.

Maximize the efficiency and skills of staff: It is inefficient to have highly skilled staff dealing with every step of the process when less qualified people can do the straightforward tasks just as well. Procedures should be divided into steps for different staff members to maximize their capacities. For example, at the reception desk, a staff member can be trained to use a checklist to see if a document complies with the basic requirements, the necessary documents have been provided and the fee has been paid. The document can then be forwarded to a more specialized staff member for processing.

Test the revised procedures: The new provisions of the law, procedures and requirements should be tested with experienced staff and selected customers to make sure the changes are capable of being executed and are appropriate before being implemented widely.

Provide training and publicize new procedures: Staff and regular customers should be provided with training on the changes. Information should be prepared and disseminated to the public and other customers on the changes and their effects.

Amend the law to reflect efficient practice: If necessary, the law and regulations should be amended to delete unnecessary steps and requirements, and to establish new, streamlined procedures.

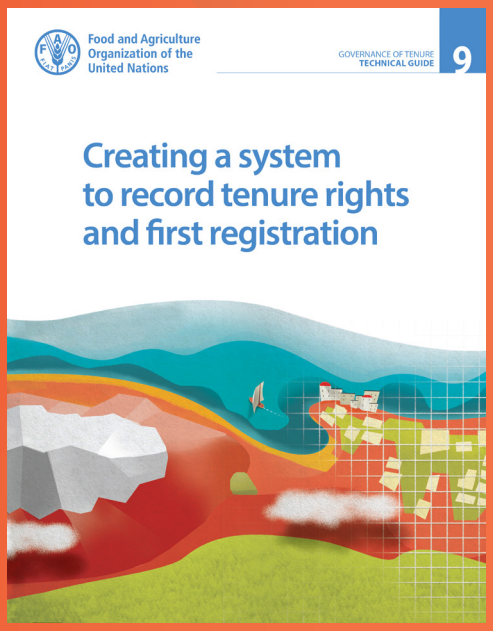
HOW LEGAL AID CAN HELP WITH DELIVERING SERVICES

In developed economies, transactions typically involve professionals (even if their role is not mandatory) and the cost of their services represents a small percentage of the total transaction cost of buying a parcel. In contrast, in many developing economies, the costs of professional services are a major obstacle for many people. This can be a serious problem in states where legislation allows only lawyers to provide legal advice: registry staff who are not lawyers can advise on making applications but cannot give legal advice.

In addition to professional legal advisors, legal aid centres can play an important role in assisting people in their dealings with a registry. Depending on the state, advice could be given by lawyers and also by other legal service providers, such as paralegals. Registry staff should be able to help customers to find legal advisors. The registry could display a list of lawyers and other legal service providers who can help customers with their cases and problems.

ADDITIONAL INFORMATION

FAO. 2016. *Responsible governance of tenure and the law: a technical guide for lawyers and other legal service providers.* (available at http://www.fao.org/3/a-i5449e.pdf).



Governance of Tenure technical guide No. 9

Creating a system to record tenure rights and first registration

This guide is available in **several languages**

Rome, 2017
ISBN 978-92-5-109834-9
76 pp, 210 x 270

Where offices are located and what is inside them can have a great effect on the experience of customers and also of staff. This chapter looks at how the registry can provide services to customers, even in small and remote places, and how offices can be designed to improve the delivery of services.

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4. IMPROVING OFFICES

Key points of this chapter

- Improve customers' access to offices by using alternatives to the stand-alone registry office, including one-stop shops, multi-function service centres, mobile offices and virtual offices.
- Improve the physical conditions of offices and customer access by locating offices in accessible areas.
- Separate the office into a front office that is accessible to customers and a back office where staff work and where the public cannot enter. If necessary, introduce a security system to separate the two areas.
- Provide pleasant conditions with good lighting, furniture and other facilities in the front office.
- Enable customers to obtain information easily by providing clear signs, information boards and publications, a reception desk and other customer-focused facilities.
- Consider introducing other services, such as banking and legal advice services at the registry to assist customers.
- Help to fight corruption through good office design by such means as separating the front and back offices, providing information and service standards, and introducing a complaints box and complaints hotline.

IMPROVING ACCESS TO OFFICES

Services to customers have been traditionally provided through dedicated registry offices but now several types of offices are possible. Some changes have been driven by the need to save costs, so offices are sometimes located with other tenure agencies ("one-stop shops") or even with unrelated government agencies (multiple service centres), but these approaches are also introduced to improve access to services. Similarly, mobile offices have been introduced to not only save the costs of having a number of small fixed offices, but also to improve access to services. In other cases, ICT developments have resulted in a number of innovations as people no longer have to travel to offices or rely on the postal service, and this has expanded opportunities for virtual offices.

Embedded in these options is the concept of the front office and back office. Customers visit the front office, while the processing of transactions takes place in the back office. ICT is not an essential requirement but its introduction allows the back office to be physically separated from the front office. Any office, even a mobile one, can then provide a full range of services where it is connected to a back office, which could be located anywhere (see Separating front offices from back offices in this chapter).

Options for offices include:

Traditional registry offices: Whether the registry operates from a single centralized office (often in the capital city) or through a number of decentralized offices, the traditional approach is to provide all services in one physical place where the public go to obtain information or record their documents, and where the staff process the applications. (The use of decentralized offices places services closer to more customers, but it will incur additional costs and require more staff).

"One-stop shops" have been a recommended practice in land administration for some time as processes often involve several agencies. In this approach, several tenure agencies are placed in one location so that customers no longer have to go from one office to another to submit and collect various documents and make payments. For the registry, the one-stop shop can be the location of both the front office and the back office; alternatively, it can provide only the front office services with the processing taking place in a back office that is located elsewhere.

Multiple service centres or multi-function centres are an extension of the concept of the one-stop shop. These centres provide a range of services for many different government ministries and agencies including the registry, services for passports, car registration, health checks and others. These centres function as ▸▸

SEPARATING FRONT OFFICES FROM BACK OFFICES

A good practice is to separate the part of the office where the customers go for service from the part where they should not have access. The front office is where customers obtain information and forms, submit applications and make payments. It is staffed by a small number of people whose job is to work with the customers. The back office is where the applications are processed and the archives are kept. The front office and the back office can be in the same building or they can be in different locations. Where they are in the same building, it is common to have locks or security devices to exclude the public from the back office area.

Separating the front office from the back office reduces the opportunity for corruption. It can also make the processing of transactions more efficient as the registry staff are not constantly interrupted by customers, and documents are more secure if members of the public are excluded. The back office can allow staff to develop greater experience and capacity due to the range of work, have access to colleagues and their experience, and receive experienced supervision.

Separating the functions means that not every office needs to have the same mix of skills. Places with a small number of transactions can be provided just with front offices and they can send the applications to a back office for processing. One back office could service a number of front offices, which allows the registry to reach out to customers while maintaining only a small presence at many locations.

The concept can work with a paper-based system where documents are regularly transported between the front office and the back office. With an ICT system, the front office and back office can appear fully integrated as requests for information and simple applications can be submitted electronically from the front office and processed immediately by the back office.

front offices for the various ministries and agencies. With an adequate ICT system, they can also provide information and record applications by connecting to a physically separate back office. The Russian Federation has extensive networks of such centres, which can also include a notary's office so that people making transactions involving purchase or inheritance can then record the document at the registry counter.

Mobile offices providing services can be an economical substitute for permanent offices in remote areas. A mobile office can travel to a community, either on a regular schedule or when requested, setting up a field office in a community space or going from house to house. Often, the registry will work with local community leaders to provide this service. Mobile offices are also helpful for people with mobility problems and for those, such as many women, who have numerous responsibilities at home.

A mobile office can consist simply of a vehicle, one registry staff member and the materials and equipment (such as a computer and scanner/copier/printer) necessary to provide services. In a paper-based system, customers can be provided with the appropriate forms, and the completed documents can be returned to the back office for processing, with the results being delivered on the next visit. Where there is Internet access, applications can be processed immediately. Mobile offices have been introduced in a number of states. In Azerbaijan, they have been combined with the concept of multiple service centres, and buses provide a range of services to remote locations by using the Internet (see the video www.youtube.com/watch?v=av78W2sekIY).

Virtual offices: For some years, the Internet has been an important way for many registries to provide information, and it is becoming increasingly important with the introduction of online transactions, particularly for regular customers, such as professionals and banks. Cost-cutting measures and improved efficiencies are likely to result in physical front offices being increasingly replaced by websites and customer help lines.

For those who use online services, the physical location where the services are provided does not matter; instead, they interact with a virtual office. For example, there are six offices in the Netherlands where the deeds are recorded but the overall workload is managed centrally, which allows the work to be allocated to the different offices so that it can be carried out in the most efficient way. While customers can go to physical offices if they make an appointment, this has become an exception. Similarly, in The former Yugoslav Republic of Macedonia, customers rarely need to visit the physical offices because of the rapid adoption of digital signatures and online lodgement of documents.

It is also possible to operate a virtual registry with paper-based systems. Traditionally, the share registries of companies operated in this way. The register of fishing rights for Australia provides a tenure example: it has no front office but instead has a website, telephone number and a post office address. Customers send their documents to the postal address for processing and use the website to obtain information.

IMPROVING THE DESIGN OF OFFICES

Office design and office security are two important aspects when improving customer service, as well as protecting records, promoting transparency and minimizing corruption opportunities. A well-designed and secure office makes the working life of staff better and improves their attitude to customers and their work.

There are many aspects to good office design, some of which can be introduced quickly while others can be introduced over time, such as when a new building is occupied or when major renovations occur. Improving the office requires a number of steps. Initially, the registry should prepare an inventory of the features that it has already adopted, consider design possibilities for the new layout (as discussed below), and develop an estimate of the cost and timing for the changes. If funds permit, an architectural firm could be hired to prepare detailed plans and a design firm could be contracted to prepare the look, colour scheme, logo, etc.

The changes could be introduced in phases, with small changes being made over time. Alternatively, a complete programme of renovation could be undertaken at once. In either case, there will be a need for supervision of the various contracts and activities, to ensure that they are adequately completed. At least one staff member would be required to supervise the work, and he or she would have to work regularly with procurement staff. If funds permit, an external project manager and quality control specialist could be contracted.

A regular programme of renovations is required to maintain the building, but also to create a welcoming and helpful atmosphere for customers. Even where offices are built or renovated to high standards, they can soon become tired and unsuitable. A regular programme of maintenance and renovation sends a clear message to customers and staff that they are valued.

Key areas to be addressed in office design are:

Location of the office: The office should be in an easily accessible area, close to public services and transport. It is often good to locate the office with other government offices, such as in one-stop shops and multiple service centres.

Branding: The registry can use a unique colour scheme, logo and other recognizable features. Staff can dress in a standard colour or in a uniform. These elements can

make the office quickly recognizable to customers and can improve morale among staff.

Signs: Clear and large signs, with large fonts, that incorporate the registry's logo should identify the office. These signs should be placed outside, at the entry and inside the offices. The signs should make it clear to customers where to go within the office, such as to which counter for a particular service.

Access: The front office should be on the ground floor with wide doors (for people with disabilities), and steps should be avoided or a ramp provided. If an office is not on the ground floor, there should be access by means of a lift or elevator.

Reception area: The front office should be open, light, airy and uncluttered, with plenty of suitable seating for the public to wait, and desks or tables for writing. Other recommended features of the reception area include:

- toilets;
- bank teller machine and other payment machines;
- "take a number" system for busy offices;
- water cooler;
- first-aid cabinet;
- children's play area;
- fire-fighting equipment;
- free wifi; and
- television.

Counters: There should be a reception desk where customers can obtain information and directions for the correct counter. Specific counters can provide particular services or all counters can provide the full range of services. In some circumstances, separate counters for women can be appropriate. At least one counter should be adapted to serve people who need to sit and those in wheelchairs.

Information and forms: Customers need to know about the services, opening hours, requirements for recording documents, the costs involved, complaint and appeal options, and other matters. The service standards should be publicized to inform the public about how long it takes to process a document or application and what happens if the registry does not meet its own standards (see Using service standards in chapter 3). Information can be provided through brochures, information boards and computer monitors, and staff at the reception desk should be able to answer questions.

Interview rooms: At least one room should be available to meet with customers in private so they can talk about personal matters without others hearing, and there should be a box of tissues. Having such a room is particularly important in cases of death (and thus inheritance) and divorce. At least one side of the room should be made of glass to minimize the risk of corruption or harassment.

Security: The front office should be separated from the back office to ensure that documents in the back office are safe and staff are not distracted by customers (see Separating front offices from back offices in this chapter). Additionally, depending on the local environment, it is sometimes necessary to have a security system to protect the building as a whole, such as bars on the windows and security staff.

Archive or records room: The archive should be contained in a separate room that can be locked. Fire prevention and fighting equipment should be a standard requirement of the archive room, which can range from a bucket of sand to an argon gas system. Stable and easily accessible shelving is also important, particularly from a safety viewpoint.

Payment options: Customers should be able to pay for the service at the office, using cash or electronic payment methods. If they can pay only through a bank, then a small branch bank office should be opened at the registry. Where online services are provided, payment options other than cash must be available.

Legal and notarial services: These services (either by government, an NGO or private firm) can be provided at the office, and a specific room and waiting area for those services should be incorporated in the design (see How legal aid can help with delivering services in chapter 3).

Local cultural requirements: These requirements should be respected and additional facilities might be required, such as separate entrances or reception areas for men and women, and a room or area for religious obligations (particularly for the staff).

HOW IMPROVING OFFICES CAN HELP TO CUT CORRUPTION

Good office design can reduce corruption opportunities through the:

- separation of the front office from the back office;
- display of information, fees, requirements and opening hours in a prominent place in the front office;
- display of service standards, particularly the time required to process an application, in a prominent place in the front office;
- provision of a complaints box and anti-corruption information, including the telephone number or web address for reporting alleged corrupt conduct, in a prominent place in the front office; and
- provision of an interview room that provides confidentiality in consultations, but at the same time is visible to others to prevent illegal payments and other corrupt acts.

Good management of a registry is needed to provide good services to customers. This chapter looks at three areas where a customer focus should be introduced: the institutional setting, planning and monitoring, and finances.

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5. IMPROVING MANAGEMENT

Key points of this chapter

- Improve institutional arrangements by introducing a board of management that would oversee the direction of the registry, improve transparency and, by including external members, bring additional expertise.
- Introduce customer councils comprised of representatives of the registry's main customers (professionals, banks) and groups with a special focus for improving customer services (women, marginalized or vulnerable people), which can advise and represent users of the registry's services.
- Ensure a regular programme of reporting, beginning with an annual report, covering operations, financial matters, special initiatives and plans. Publish the reports in paper and electronic form, and conduct publicity around the publication.
- Improve planning through the introduction of strategic and business planning, and the creation of a unit responsible for reporting on progress. The process begins with a mandate, vision and goal, from which a strategic plan can be developed. Annual business plans turn the strategy into practical actions to achieve the goals. Routine monitoring and reporting on the results is an integral part of the process.
- Improve financial management through the use of business accounting and planning standards, which cover future expenditure and income expectations.
- Adopt a programme of continuous improvement and change management that routinely reviews registry operations and introduces improvements.
- Fight corruption in the registry through various measures, including service standards, re-engineering of procedures, office design, institutional arrangements, staff policies, training, procedures manual and ICT.

IMPROVING INSTITUTIONAL ASPECTS

Good institutional arrangements will assist with overall management of the registry, improve services and the registry's reputation, and introduce the checks and balances that the Guidelines advocate for cutting corruption (see Fighting corruption in this chapter).

Registries are often a component of another government organization or ministry, but there are a growing number of cases of stand-alone and self-financing organizations. As such, they sometimes adopt a corporate structure. There are numerous possibilities, some of which are described below, but regardless of the approach, the registry should be free from political pressure.

Executive officers: The traditional approach is for the chief registrar to be responsible for the overall management of the registry's operations and also for developing and implementing its strategies. Day-to-day management of the registry is left to the individual managers under the authority of the chief registrar.

Board of management: The board has overall responsibility for the management, planning, reporting and organizational matters. One option is for the board to consist of the chief registrar and senior managers of the various units within the registry. Another option is to include members on the board from outside the registry and government. The inclusion of external members on the board aids transparency, expands expertise, improves decision-making and can provide a direct link to the registry's customers. External members of the board can bring different skills and knowledge (such as management, finance and planning) and could include representatives of women customers and customers with special needs. As necessary, the board can create committees to investigate and report back.

Customer councils provide a direct link between the registry and representatives of its customers, and they are another option for improving communications, services, governance and transparency. A customer council is a group of customers who routinely meet with the registry staff to discuss problems, consider new ideas and offer opinions, particularly on new initiatives, and advise on how the registry's operations could be improved. The members of the council can be drawn from professionals and should include representatives of the people who use the registry, including women and those with special needs. The council should meet on a regular basis (for example, three or four times a year) with a formal agenda and minutes. The minutes should be published to increase the transparency and openness of the registry and to allow everyone to benefit from the information.

An ombudsman can play a useful role in improving institutional aspects by helping customers to resolve problems with the registry and to understand what can and cannot be done.

Reporting can help to improve the perception of the registry as a transparent and open organization that can be trusted. It, too, can help to cut corruption. At a minimum, the registry should publish an annual report in both paper and electronic formats. It should cover the financial matters (such as income and expenses), achievement of services standards, special initiatives (such as to improve services) and future plans for improving services. Publishing the results of surveys, such as customer surveys, can also help create an atmosphere of openness. Such reports create opportunities for the registry to gain media attention and thus free publicity, further promoting it (see Using service standards and Improving communication with customers in chapter 3).

ADDITIONAL INFORMATION

OECD. 2004. *Principles of corporate governance,* chapter VI. (available at www.oecd.org/corporate/ca/corporategovernanceprinciples/31557724.pdf).

OECD. 2015. *Guidelines on corporate governance of state-owned enterprises,* chapter VII. (available at www.oecd.org/corporate/ca/corporategovernanceofstate-ownedenterprises/34803211.pdf).

IMPROVING PLANNING AND MONITORING

Improving customer services requires planning at various levels: identifying the vision and goals of the registry in accordance with its mandate and developing strategic plans and business plans. It is common to develop a multi-year strategic plan and an annual business plan, with the timeframe for the strategic plan being determined by factors that are internal to the operations as well as external factors. The implementation of these plans then needs to be monitored (see Examples of a vision, goals, strategic plans and business plans in this chapter).

It is important to understand the customers' needs and expectations, and then to use that understanding when developing the vision, goals, strategic plans and business plans. These documents are a means to meet customers' needs in a structured and transparent way, as well as to implement government-wide initiatives. At the start of the process, therefore, the registry should obtain its customers' perception of the quality and timeliness of services currently provided and any new services they would like

to see put in place. Some form of a customer survey is normally required to obtain that information (see Improving communication with customers in chapter 3).

The vision, goals, strategic and business plans should be developed by the senior management of the registry. It is common that consultants are hired to assist management to work on these plans because of time constraints and the expertise that is needed. It is vital that staff are consulted at all stages through workshops and regular interaction, and that senior management are fully involved and agree with conclusions, proposals and the final product. The strategic plan should be approved by the board of management and the government, as the owner of the registry. Business plans should be approved by the management board and also by the government, where appropriate.

Mandate, vision and goals: The registry needs to first consider what it is required by law and the various policies and initiatives of the government. It also needs to consider core values, both of the government as a whole and the registry. From this mandate, it can develop its vision and goals, which should fit in with the overarching vision of government. For example, if the government is focusing on e-government services, decentralization, anti-corruption measures and support to minority communities, then the vision and goals need to take them into account. If other associated organizations already have their strategies developed, these need to be taken into account, too.

Strategic plans lay out the approaches (the strategies) that are needed to reach the stated goals and are consistent with the mandate and core values. For each strategy, an overall timeline, risk assessment and associated mitigation measures need to be prepared. A first step should be to assess the current capacities and resources of the registry using management tools such as the analysis of strengths, weaknesses, opportunities and threats (i.e. SWOT analysis). More detailed reviews should be undertaken once the key constraints and problems are identified. Once the initial investigations are completed, a set of strategies can be developed, such as:

- human resource strategy based on an analysis of the organizational structure; skills levels, numbers of staff with each skill level, age ranges of staff (and therefore the expected rate of people leaving because of retirement); career development prospects for staff; skills that are difficult to acquire because of salary levels (such as for ICT, law or surveying); and training resources and capacity to provide training;
- ICT and information management strategy based on an analysis of updates to equipment and ▸▸

EXAMPLES OF A VISION, GOALS, STRATEGIC PLANS AND BUSINESS PLANS

The vision, goals, strategic plans and business plans should follow from the mandate of the registry and the overarching vision of government. They are illustrated by the following.

An example of a vision: to provide rapid and reliable customer services for the recording of sales, mortgages, leases and other transactions.

An example of goals: By the end of year 20xx, to:

- provide online access to information in the database;
- record mortgages within four hours of lodgement;
- record all other transactions within 24 hours of lodgement;
- establish and provide adequate funding to a compensation fund and provide an independent mechanism for assessing claims against the registry.

An example of strategies:

- re-engineer office processes to provide more streamlined services;
- modernize the information system to provide online services;
- provide mobile services at least once a week for rural communities;
- reduce fee levels by 20 percent.

An example of business plans for the year 20xx:

- Renovate offices in locations X, Y and Z to separate the front office and back office and to provide counters, detailed notice boards, complaints boxes and hotline numbers, ticket system for queuing, adequate seating for customers and a television providing access to national news programmes.
- Tender and complete production of a module for the ICT system to provide online services to professionals and banks by 31 March; receive feedback from users by 30 September and make necessary modifications by 30 November.
- Purchase and equip three vehicles to be used as mobile service units and pilot their implementation in locations A, B and C. Prepare an analysis and proposals for a national roll out for the following year.
- Train xx staff in two-day course on anti-corruption measures and streamlined processes by 31 December.

software, special funding arrangements, staff retention and continuous and rapid training programmes to replace specialist ICT staff who leave;

- policy and regulatory strategy based on an analysis of relevant policies and laws in order to make the necessary changes that are required to turn the vision statements into a reality;
- income and expenditure strategy based on an analysis of the fees and taxes received for services, and with projections for the future years, which should be compared with the costs for providing the services and any investments planned for future years (such as production targets, new building/ renovations). A cost recovery study and strategy is needed for self-funding agencies;
- investment strategy, which goes beyond cost recovery and should be based on an analysis of investment priorities, such as those related to improving services, human resources, technology and assets.

Business plans assess the current situation in the registry, including its limitations, and develop time-based plans to achieve the goals. For each strategy a specific business plan should be developed with annual targets. Annual business plans set interim actions and targets, and they can be used to monitor success in meeting the strategic objectives. They also contain specific plans for the work to be carried out during the next year.

Monitoring and evaluation: The various strategies and plans need to be carefully monitored, taking into account the risk assessments that have been made. Software for monitoring and evaluation should be developed and a small unit established specifically with the task of monitoring and evaluation for implementation of the business plans. The registry should ensure that the implementation takes into account any dependencies (i.e. where one target must be reached before the next can be achieved) and unforeseen changes or new government policies that had not been previously expected. Risk mitigation measures identified in the plans will need to be applied. An annual report on the progress and a revised business plan for the subsequent year should be produced.

The team undertaking monitoring and evaluation need not be large but should include at least one experienced and competent person who can understand the vision, goals and strategies, why they have been put in place and whether they are having the expected impact.

IMPROVING FINANCIAL MANAGEMENT

Providing good services requires stable funding. Various mechanisms have been used to finance registries:

- **State (or local government) financing:** The government funds the running of the registry and in return the fees charged by the registry are provided to the government.
- **State financing with the option to earn and retain additional income:** The registry is permitted to retain part of the fees that it has charged, particularly those resulting from efficiencies and entrepreneurship.
- **State-owned enterprise (full or partial):** The registry operates as a business arm of the ministry, and the fees cover the cost of running the registry, with taxes or a dividend paid to the government.
- **Self-financing:** The registry retains all fees and operates as an independent entity but might pay taxes.
- **Private-public-partnerships (full or partial):** The registry cooperates with a private enterprise to implement reforms (such as introducing ICT), and the fees are used to pay the private enterprise for the services it provides. Most partnerships operate like a concession in which the private enterprise takes over delivery of the service for the fees for a set period of time.

Whichever mechanism is used, there are common considerations that must be taken into account when developing the business model and working out the financing needs. Annual accounts need to be prepared and an annual audit conducted in order to ensure that funds are properly accounted for. Open and transparent procurement procedures are important. Annual estimates for expenditure need to be prepared and compared with the expected revenue that will be generated. The expected revenues should be compared with the actual expenditures from previous years to show trends and to ensure that the funding is realistic.

Expenditure projections should match the needs of work identified in the annual work plan. Typically, the programme includes normal running costs, specific projects that might be planned and capital investments. A qualified accountant should be used when preparing accounts, and people with intimate knowledge of the registry must also be involved. Expenditure projections should include such matters as:

- **Customers:** The costs of regular consultation with customers to ensure that the services being provided meet their expectations and that service standards are met should be considered.
- **Offices:** Even if the buildings are owned by government, the opportunity cost of using them for other purposes should be considered along with alternatives such as leasing or amalgamating offices, and the ratio of floor space to staff. Maintenance costs must be included.
- **Assets:** Assets (e.g. furniture, equipment, vehicles, machinery) should be depreciated as necessary

FIGHTING CORRUPTION

Corruption is a well-known problem in registries around the world. It can range from a small gift to ensure a case is dealt with quickly to large sums paid to improperly acquire land or other resources. The issue is the subject of a special Transparency International-FAO publication entitled *Corruption in the land sector* (available at www.fao.org/docrep/014/am943e/am943e00.pdf).

Corruption is addressed in many places in the Guidelines (such as general principle number 5 and implementation principle number 9) because it is such a threat to legitimate rights and it has a greater impact on the poor and vulnerable than on other members of society.

A range of actions can be taken to deal with the threat of corruption and to minimize that threat, such as:

Service standards: Informing customers about their rights and providing them with a complaint mechanism that lets them know that they can do something about corrupt behaviour. Staff, too, will know that the registry treats the topic seriously and does not tolerate corruption (see Using service standards in chapter 3).

Re-engineering of procedures: It is important that the registry limits the discretion of a staff member to a minimum. The law, procedures and requirements should be sufficiently clear and straightforward that the staff simply have to follow them. See How services can be improved by making processes more efficient in chapter 3.

Office design: The way that an office is designed and furnished can help to reduce corruption opportunities (see Improving the design of offices in chapter 4).

Institutional aspects: The registry's vision, goals and strategic and business plans should cover anti-corruption targets and initiatives. Reporting on corruption complaints and responses should be included in the registry's annual report. The registry should have a clear institutional mandate to ensure that other agencies do not duplicate its tasks (see Improving institutional aspects and Examples of a vision, goal, strategic plans and business plans in chapter 5).

Staff policies: A code of conduct and ethics can help to reduce corruption by educating staff about what is acceptable behaviour. Enforcing those standards and behaviour will send a clear message that only proper and ethical behaviour is tolerated (see Staff policies and protocols in chapter 6).

Training on anti-corruption measures can cover what is corruption (ranging from minor and major cases), how to identify corruption opportunities, how to minimize the risk of corruption occurring, and what to do if a case comes to the staff member's notice. See Staff training in chapter 6.

Procedures manual: Corrupt practices are likely to arise where there are gaps, overlaps and confusion in terms of procedures. A manual on procedures can ensure that the registry's requirements and rules are clear (see Using a procedures manual to address fraud and mistakes in chapter 7).

ICT can assist in reducing corruption and increasing transparency in several ways, such as reducing the time needed to record a transaction or obtain information, and allowing customers to track the progress of transactions (see Benefits and risks of introducing ICT in chapter 8).

Other activities to fight corruption can include the following:

- Ask staff members for their opinions on identifying corruption and dealing with it.
- Routinely transfer staff in sensitive posts.
- Allow customers to make appointments. An appointment system can remove the opportunity for officials to seek bribes for helping customers avoid queues.
- Improve delivery of services. If there is little or no backlog, then an opportunity for corrupt payments largely disappears.
- Introduce an express service to reduce the possibility that customers can offer bribes for faster services. Some registries have a two-tier fee structure: the normal fee and an express fee that ensures recording in a shorter time. Another approach is to introduce a system of application for expedited recording based on published guidelines which will allow officials to assess the urgency of each case.
- Seek opinions of a representative sample of customers, through interviews and surveys, on the level of corruption, the types of corruption and what can be done to reduce it.
- Introduce a hotline such as a telephone or Internet service to report alleged corruption, even on an anonymous basis.
- Deal with complaints by introducing a robust, transparent and efficient system for complaints on corruption and other governance problems, with clear rules, deadlines and obligations for responding to complaints. External investigation, such as by an ombudsman, could be considered.
- Publicize successes of anti-corruption initiatives. For example, where a person is successfully prosecuted for corrupt behaviour, his or her case could be publicized, possibly on an anonymous basis.
- Work with others to cut corruption. Partners can include national anti-corruption agencies, civil society and international anti-corruption organizations. For example, an anti-corruption or integrity unit of the registry could be staffed with personnel from national anti-corruption agencies.

and the cost identified for maintaining and replacing the assets. For example, computer equipment tends to have a short life span and may need complete replacement over a five-year period.

- **Staff:** Staff numbers should be compared against the work output per person, with standard norms being calculated. There can also be requirements to meet norms for numbers of staff with regard to gender, ethnic origin or people with disabilities.
- **Training:** Staff require training in new technology, processes and knowledge development, as well as opportunities to participate in formal education programmes that will upgrade their qualifications and status (see Staff training in chapter 6).
- **Operating costs:** These costs include utilities, consumables (such as printer cartridges, paper), transport, travel and daily living allowances, cleaning, software licence fees and communications lines for the links to decentralized offices. The provision of a cafeteria, child care and a fitness centre might be considered for larger organizations. Some of these services might be outsourced.
- **General government requirements:** These requirements could include costs related to carbon emission, recycling and the provision of access for customers and staff with disabilities. Overarching government policies which require cost reductions for all government departments need to be considered. Other costs may relate to requirements for e-services, international service standards, record management standards and linking with other government services.
- **Provision of information to other government departments, local government or the courts:** This information can be supplied freely or fees can be charged. Experience shows that where information is provided free of charge, then requests can be high and can consume available resources. However, if information is provided online for free the cost is reduced.
- **Debt and other costs:** The cost of servicing debt and paying for audits and consultancies for specific tasks must be considered.
- **Compensation fund:** A number of states have a fund for paying out compensation and this must also be included in the budget (see How a compensation fund can be used in cases of fraud and mistakes in chapter 7).
- **Pensions:** Costs of pension and redundancy payments, if applicable, must be considered.

Income projections should be based on the experience of previous years, projects or capital investment programmes funded from outside sources and the expected activity in markets, etc. The projections should take into account income from fees based on expectations of market transactions, income to be earned from new services being provided, sales of assets (such as offices that are no longer required) and interest from invested funds.

As registries are monopoly organizations, an adequate level of control is required to ensure that they do not abuse the monopoly and that reasonable fees are charged. It is common for self-funding registries to be "not-for-profit" and pricing policies include reductions in fees if revenues increase above a threshold. For example, as a result of the strong land market in 2014, the England and Wales registry made a surplus of £135 million and consequently reduced fees for recording lower-cost transactions (related to a policy to encourage home ownership in lower income groups) and, in addition to its normal percentage for a dividend, it paid a special dividend of £100 million to the government, which owns all the registry shares. However, the revenues of self-funding registries can be sharply reduced during economic crises, and the variations in revenues need to be addressed. For example, as a result of the weak housing market of 2008/2009, the same registry made a loss of about £130 million, which included the cost of voluntary redundancy and early retirement schemes.

See land registry annual report and accounts for England and Wales in the United Kingdom of Great Britain and Northern Ireland for 2008–2009 (available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/248248/0700.pdf) and 2014–2015 (available at www.gov.uk/government/publications/land-registry-annual-report-and-accounts-2014-to-2015).

CONTINUOUS IMPROVEMENT AND CHANGE MANAGEMENT

One of the ten principles of implementation of the Guidelines is continuous improvement, which calls on states to "improve mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and secure ongoing improvements".

This principle has a special relevance to recording systems, which are operational in nature and well suited to constant improvement. But it is not only the operations that need to be continuously improved. The laws, human resources, response to customers and other aspects of the registry can be subject to monitoring, analysis of results, and development of improved means of operations and delivering services. Quality control is another way of describing the process.

A variety of means can be used to gather information on performance overall and in terms of meeting the needs of customers. Managers can make assessments of how staff

are performing, how they interact with customers, how well they comply with the procedures, and whether they are meeting standards. Performance reviews provide a regular opportunity to give staff feedback and to discuss how improvements can be made. Other tools include customer surveys, discussions with members of customer councils and the establishment of customer feedback facilities (such as complaints boxes or simple electronic rating machines on each counter).

With ICT, a range of reports can be generated quickly and easily, for both the office as a whole and for individual staff members. It should be possible to produce reports on the number of transactions recorded, the time taken to record, the frequency of errors that must be corrected, the number of applications rejected (and why) and other factors that show how the system is operating. However, without an ICT system records on performance can still be kept as has occurred in paper-based systems for several centuries.

Monitoring of results is also important to meet a registry's reporting obligations, so that stakeholders know that the registry is functioning well. Key results can be published in the annual report and more regularly on the registry's website. The results should be analysed in order to design ways to improve operations so they meet the service standards (see Using service standards in chapter 3).

Continuous improvement in the context of a registry also means being open to new ways of doing business, responding to changes in the law, and embracing new technology. This means being aware of changes as they are emerging. It means that the management cannot exist in a vacuum: it must engage with other ministries and agencies, customers and other registries in neighbouring states and across the world.

Continuous improvement requires change, which can range from changes that are small and easily implemented to those that are large and disruptive. Small changes can be managed with basic skills but substantial changes require special skills in change management and the use of its principles. These include keeping all stakeholders informed of the reasons for the change, the schedule for change and progress in meeting targets. Change managers need to persuade staff to be part of the change, and where resistance is encountered, they must deal with it promptly. Monitoring and evaluation of the results of the change (and making the necessary modifications) is also an important element of change management.

Nonetheless, despite the best efforts at change management, some changes will be difficult, particularly when they concern staff and their lives and livelihoods (see Managing difficult decisions in this chapter).

MANAGING DIFFICULT DECISIONS

Introducing changes can involve difficult decisions, even with the best attempts at change management. Georgia is widely considered to have introduced many good practices for improving the recording of rights. The registry management recognised the need to improve transparency and efficiency. It had inherited a large bureaucracy that was overstaffed: about 600 people were required for the registry to operate efficiently but it had a staff of 2 100 who were poorly paid and many lacked motivation. A new recruitment process was introduced to ensure that people in the registry had the required skills. New job descriptions were created and an open competition with qualifying examinations was held to select personnel. The selection process included two stages: a written test and interviews that were conducted by the selection committee, which included representatives from the Ministry of Justice, the registry and NGOs. Staff cuts were complemented by training programmes for retained staff and improved wages. The average monthly salary increased from 57 lari (about US$ 27) in 2004 to about US$ 450 in 2006. The increased salaries for retained staff were funded partly by reducing the number of staff, and partly by increasing the fees for services, which had been low.

Prior to the reform, the new vision for the agency was shared and discussed with staff, as well as with other stakeholders. The staff were actively involved in round-table discussions on the reform process and became the owners of organizational development. This approach empowered the staff, improved awareness of changes and increased commitment to rigorous changes. Although 1 800 people lost their jobs, there were no legal claims or allegations against the process. People who were dismissed acknowledged that the decisions were fair and objective and understood that there was no room for nepotism. Many of the people found employment in the private sector: at the start of the reform only one private survey company existed; after the reforms there were 100 companies.

Staff are the public face of the registry. How customers are served by staff makes a significant impression on them. Even if customers deal with the registry through the Internet, the staff are involved in the process. This chapter identifies possibilities for improving service delivery and the capacity of staff through policies, protocol and training.

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6. IMPROVING STAFF RESOURCES

Key points of this chapter

- Develop a human resources policy that brings together existing laws on staff conditions, rules, codes of conduct and other relevant documents in one place. Cover the variety of issues that are relevant to staff employment, including recruitment, training entitlements, organizational structure, duties, anti-corruption obligations, rewards and communication with the public.
- Implement a code of conduct and ethics to guide staff in their duties, provide staff training on the code, and place the code in registry offices for the public to read.
- Carry out an assessment of human resources and develop a training strategy and programme in light of existing resources and the registry's needs. Produce an annual training programme and publicize it among staff. Topics can include service standards and customer service, technical areas, management, law and procedures, and ICT.
- Ensure that training is given to staff who have been identified as needing it.
- Provide training for all staff on gender equality and people with special needs.
- Deliver training through various means, such as face-to-face learning, remote learning, web-based learning, and conferences and workshops.
- Involve the private sector and other customers of the registry in an annual conference on the registry's activities and achievements.
- Monitor, evaluate and report on training, including a breakdown of the gender of participants.

STAFF POLICIES AND PROTOCOLS

Overall guidance on staffing matters should be provided through a clearly defined policy on human resources and a code of conduct and ethics.

Human resources policy

A policy on human resources can deal with a range of matters relating to the conditions of employment, obligations and entitlements of registry staff. Even if many of these matters are already covered elsewhere (such as laws and national government human resources policies), it is useful to consolidate all relevant material in one document. Similarly, the human resources policy should incorporate, or at least refer to, the registry's code of conduct and ethics (see below), even though it is a separate document. Where other laws or policies do not address conditions, obligations and entitlements, then the registry is able to develop its own and present them in its human resources policy.

While each registry needs to decide what should be included, some commonly addressed topics include:

- vision and objectives of the registry, and the role of management and staff in achieving them;
- organizational structure, reporting lines, classifications, grades of positions;
- obligations and duties of staff, norms and workloads, working hours;
- dress code;
- anti-corruption rules and practices;
- regular asset declarations by staff;
- career development and progression, and performance appraisal;
- rewards and recognition programme;
- recruitment practices (including for promotions);
- performance monitoring and appraisal, and progression to higher grades;
- sick leave, holiday leave and other entitlements;
- training entitlements and rules for taking part in training and skills development;
- communications with the public, other government bodies and media;
- relationships with staff representatives and trade unions;
- disciplinary action for breaches of laws, procedures, policies, etc., which should apply to positive actions that result in breaches and also to omissions and gross errors;
- grievance processes for staff who feel that they have been unfairly treated, for example with regard to performance reviews and promotions; and
- pensions and other benefits for staff in the case of registries that are self-financing entities and not part of the broader civil service.

Although this type of policy is usually developed by management, staff representatives should be involved because the staff will be subject to it. Once the policy has been adopted, it needs to be widely publicized to the staff so that they know their rights, obligations and responsibilities.

Policies can address a number of relevant issues (see Examples of staff policies in this chapter).

Code of conduct and ethics

Clear, specific guidance is useful for all staff and management on how they should behave at work, how they should deal with difficult situations, and how they should treat customers and other staff. A code of conduct and ethics can deal with these matters. It should represent the core values of the registry and what it stands for. The code can provide staff with information on whom to contact to discuss difficult situations, as well as setting clear benchmarks for staff when it comes to possible breaches of discipline. It can also help with reducing corruption by educating staff about what is acceptable behaviour. By enforcing those standards and behaviour, the registry will send a clear message that only proper and ethical behaviour can be accepted.

The details of the code will vary depending on the local context but it should address matters such as:

- to whom the code applies and how it applies to daily work;
- good conduct and ethics (such as issues of impartiality, respect for the law, truthfulness and integrity, non-discrimination and non-harassment);
- how to deal with customers (such as identifying the need for respect, prompt service and pleasant attitude);
- how to deal with other staff members (including prohibitions on staff harassment and the need to respect individuals and the authority structure);
- how to identify and deal with corrupt or unethical situations (such as undue influence, gift giving and pressure from customers or management); and
- responses to breaches of the standards (such as counselling, disciplinary action or even dismissal).

The code should be published as a booklet and distributed to every staff member and it should also be ▸▸

EXAMPLES OF STAFF POLICIES

Identification of staff: Having the staff members easily identifiable can help to improve staff morale, transparency and respect for staff among the public, and can also help to minimize opportunities for corruption. Staff should introduce themselves when speaking on the telephone so that the caller knows to whom he or she is talking. Uniforms, or at least a common colour worn by all staff, and name tags will allow the customers to identify staff members quickly and easily.

Rotation of staff: Moving staff between positions within an office, or between offices, can provide several benefits. Staff can gain experience and insight, have new challenges, and expand their skills and knowledge. Rotation can also help to fight corruption because if a person occupies a position within a registry for too long and establishes close relationships with customers, this can create an environment for corruption. Kyrgyzstan recognised the importance of addressing potential opportunities for corruption and introduced a policy whereby managers are moved from one office to another every three years. Similarly, staff can be moved from the front office to back office routinely.

Adequate salaries and recognition: To the extent that resources permit, states should ensure that registries have the human, physical, financial and other forms of capacity to implement policies and laws and deliver their services in a timely and effective way. Poorly paid and resourced staff are likely to be less motivated to serve customers. Also, setting salaries at an adequate level can be important for reducing corruption as poorly paid staff might feel entitled to seek extra payments from customers.

Oath and declaration of assets: In many states, politicians, judges and senior officials are required to swear an oath when they are appointed. Rwanda has used this approach for registrars who, in addition to an oath, are required to declare their personal assets on an annual basis.

Appropriate mix of staff: To ensure that services are more comfortable and accessible for women, there should be a balance of male and female staff on the front office counter. Where culturally appropriate, female staff could be selected and trained to deal specifically with women customers. In some states, it might be necessary to have a separate counter for women that is staffed only by women. Similarly, there should be a mix of staff from ethnic and other groups and registries may need to take special measures to ensure this diversity.

Appropriate service in all required languages: In many jurisdictions, more than one language is used. Customers of different language groups should be able to receive an appropriate level of services in the language of their choice, particularly if the language has an official status. The registry should have a mix of staff from different language groups, and the staff should be provided with opportunities to gain skills that allow them to provide services in more than one language.

Focal point for women customers and those with special needs: The registry should consider appointing one of its staff members (in each office) as the focal point for gender matters, and that person could develop greater skills and knowledge on gender and tenure issues, which could then be disseminated to all the staff. Likewise, a person should be appointed as the focal point for customers with special needs.

▸ placed on notice boards and the registry's website. It does not need to be long but it should cover all the key issues. It should be a living document that evolves over time as circumstances change and new situations arise.

Training in the code should be mandatory for staff at all levels. Once they have completed the training, they should sign a declaration or make a public oath to behave and carry out duties in accordance with the code. Compliance with the code should be monitored over time and the results reported in the registry's annual report and on its website.

STAFF TRAINING

Training is essential for a registry and its operations. The work is a specialist area that requires people who have learned how the system operates, how rights can be recorded and protected, and how customers can be provided with accurate information and good services.

Training is about improving and developing the registry's human resources, which can be the most difficult of its resources to acquire and keep. This is because there is a long lead-in time for staff to acquire the skills and knowledge that they need, and these people cannot be easily replaced. Training should be seen as an element of the broader business operations of the registry, and resources and planning must go into ensuring that the registry has the skills and knowledge required to do the job. The strategic and business plans should explicitly include development of highly qualified and capable staff, which occurs primarily through training. Similarly, staffing plans must take into account generational changes as senior people retire, as well as the time needed to replace them.

The failure to train staff adequately can have serious consequences, including risks for operations and the registry's reputation. Where staff are poorly trained and do not have the skills and knowledge required, they cannot provide good customer service and facing angry customers further lowers the work satisfaction of staff. They are likely to make mistakes that can be costly to customers and the registry could face claims for compensation. Corruption opportunities are also created where training is inadequate.

Developing a training programme

It is common for large registries to have a dedicated training team. They are responsible for developing the training plan, conducting surveys, gathering statistics for reports, and making administrative arrangements, such as registering staff for courses, providing instructions or arranging venues. It is also possible to create a group of trainers within the unit who can present many of the courses.

Training should be approached in a strategic, systematic manner. The first step is to carry out an assessment of the skills, knowledge and experience of the existing staff. This can be done through a questionnaire to individual staff or a report from each office or section of the organization, or by using the records of the human resources department. At the same time, the current and future needs of the registry regarding skills and knowledge should be identified. Once it is clear where the gaps are, a human resources strategy and a training plan (e.g. for a five-year period) can be prepared. The strategy and plan should recognize the need for training to be provided regularly, with one-off training sessions when changes occur or when new skills or knowledge (such as on ICT) need to be acquired. The capacity of staff and the needs of the registry should be continuously monitored, with the results being used to update the plan.

The strategy and plan should be reflected in the overall budget, taking into account the registry's income, needs and strategic direction. Various costs are involved, such as the development and delivery of courses, preparation of materials, equipment, travel, accommodation and daily living allowances. If a training centre is to be established, there must be a budget for equipment, furniture and recurrent costs. Study tours and conference attendance can be a major additional cost.

The necessary courses should be developed (see Designing training courses in this chapter). An annual training plan allows everyone to know what courses are available and to see when each course will be presented, how many people can participate and how many days are required. The plan should be published internally at least a few months before it starts. Managers should nominate staff for training (often related to their annual performance review) or the staff member could self-nominate with the manager's approval. Training of new recruits should be provided soon after they are recruited.

It is often best to conduct training away from the distractions of day-to-day work so that participants can concentrate on what they are learning. Larger registries can create dedicated training rooms or centres. The training centre can be used for all types of training, including on ICT systems, so it should have desks, chairs, presentation facilities and computers. Where it is not possible to create a dedicated training room, other spaces (such as a conference room or meeting room) can be used on a temporary basis. If no other space is available an appropriate venue can be rented and, if that is not possible, the front office can be used after hours.

Training on gender equality and for people with special needs

It is common for registry staff to believe that there is no problem with regard to gender equality, even in states where women face significant disadvantages. The governance of tenure technical guide on *Governing land for women and men* notes that there is a strong need for politicians and officials to be sensitized to gender-related issues and this also applies to the managers and staff of registries.

An important step in improving services to women is raising awareness among management and staff of the needs of women and the types of problems they face. Everyone in the registry should be aware of different aspects of the law and procedures that promote or hinder greater gender equality. If the registry keeps gender-disaggregated data on right holders, then it should be checked to see if women are equally represented with men. If not, which is often the case, such statistics can be used as evidence to demonstrate that women occupy a second-class position in terms of tenure rights and receiving services.

There should be specific training for staff to deal with women and their needs. Such training could cover topics such as how to identify all rights (not just ownership) and how to identify the different rights holders. These inquiries could reveal other holders of rights, not just women, such as children, absentee owners and people with disabilities, who might otherwise be overlooked. Training courses should focus on practical solutions to these problems, rather than on the problems themselves, and try to formulate creative measures that challenge the imagination of staff. If the staff can identify a problem, then they should be able to develop a good solution for it.

In addition to general training for staff, there should be additional training for staff whose positions deal specifically with women customers. Also, there should be gender training for those operating any telephone enquiry service, such as an information hotline, and there should be information materials for staff to give to customers.

These matters are also directly applicable to the training of staff to better serve customers from marginalized or vulnerable groups, including indigenous peoples, and those with special needs.

ADDITIONAL INFORMATION

FAO. 2013. *Governing land for women and men.* (available at www.fao.org/docrep/017/i3114e/i3114e.pdf).

Monitoring and reporting the results of training

Sometimes it is necessary for staff to pass an examination before they can start work, as can be the case for registrars. Other training courses are designed to be informative, and do not have an exam requirement. In either case, all participants who finish a course should receive a certificate and their participation should be recorded in their personnel files, together with details on the name of the course, when they attended and any other relevant information.

A brief report on each course and its outcome should describe the following:

- the topic and material that was covered;
- the number of people and days of training, including gender disaggregated data;
- the opinions of participants, which can be obtained from questionnaires at the end of the course. If questionnaires are used at the start of the course, the results can be compared with those at the end to see if expectations were fulfilled;
- recommendations for improving the course, based on responses from participants and trainers.

An annual training report should outline the courses that were presented, the number of participants and days of training, gender of participants, results, satisfaction levels, budget expenditure and other relevant information. A summary of this report can be incorporated in the registry's annual report.

DESIGNING TRAINING COURSES

The design of training courses should consider the following:

Topics: The type of training required depends on the local needs, the nature of the system and the state's needs at any one time. However, in broad terms, training falls into a variety of categories:

- basic matters, such as an introduction to the registry and its operations, the legal framework, institutional arrangements, recording procedures, document management, ICT systems, gender;
- service standards, customer service, code of conduct and ethics, anti-corruption;
- communications, problem solving, dispute resolution;
- new technology, such as a new ICT systems, digitized documents;
- specific technical areas, particularly new procedures;
- legal aspects, such as conveyancing as well as family law, company law and criminal law;
- surveying principles and techniques for the identification of parcels;
- management;
- project management;
- specialist areas, such as archive management and protection, human resources management, accounting, ICT system administration;
- language training, where there is more than one major language group among customers; and
- one-off needs, such as skills required to renovate or digitize documents.

Beneficiaries of training: All staff and management need specialist knowledge and skills that they can acquire through training. Everyone should receive training.

Another primary focus of training is the regular customers, such as professionals and banks, who work closely with the registry. They need to understand the requirements of the registry and the changes that have been introduced over time. With appropriate training, operations will be more efficient and the relationship with the major customer groups will be stronger. Judges and court officials (such as those who carry out enforcement or bailiffs) can also benefit from basic training about how the registry works. In some recording systems, judges are in charge of the registry, so the reference to judges here is to those who are not engaged in the recording of rights.

Trainers: The question of who should provide training depends on the type of training required. For specialist training that only registry staff can provide, experienced and knowledgeable staff from within the registry are best placed to develop the courses and deliver them. If the registry has a training unit, staff from that unit can also participate.

In other cases, where specialist expertise is required, then people or organizations outside the registry should be recruited to develop and deliver courses. Staff could participate in and learn from a course and then they could deliver future courses to other staff. Such a "training of trainers" approach can be cost effective. External presenters can include:

- professionals, such as lawyers, notaries, surveyors, valuers, real estate agents;
- academics in various relevant fields, such as law, surveying, valuation;
- external specialists (whether within government or in the private sector) in areas such as public administration, customer service, gender, ICT, anti-corruption, accounting, archives, human resources; and
- retired staff who are familiar with the registry's operations.

The delivery of training: There are many options for delivering training and they can be used in parallel. Training for staff can include the following:

- On-the-job training is perhaps the most important. Training should cover the core activities of recording operations and be closely tied to the law and the procedures manual (see Using a procedures manual to address fraud and mistakes in chapter 7). The training can be provided on a continuous basis under the supervision of an experienced supervisor. If it becomes clear that a staff member needs additional or refresher training, such as if he or she makes too many mistakes, then the person can be referred for additional training immediately.
- Formal presentations (delivered face-to-face or by video) can take place in a physical classroom. There should also be practical aspects to training, such as role-playing so that staff can test and practice their new skills. As "practice makes perfect", a variety of role-playing situations and exercises is recommended. Hands-on training is well suited to acquiring new skills, particularly with new software and other technology, customer service, dispute resolution and communications.
- Remote learning, particularly through online facilities, can help people take specialist courses and can be useful where a registry has a number of decentralized offices and transportation is difficult. A training portal can be developed for the registry's Intranet.
- Study tours can help staff to learn how other registries have introduced new approaches and technology and how they have dealt with problems. Study tours need to be well targeted so the visit focuses on the matters that are important to learn; the groups should be small so that everyone can hear, see and ask questions, and the registry being visited should have conditions that are relevant.
- Conferences and workshops can be good learning opportunities for staff.

Learning opportunities can be provided to non-registry staff:

- Formal training courses that are tailored to professionals are useful. For example, a general course on registry requirements could be provided to newly graduated professionals and to others who are interested in using or working in the registry. Specific topic courses can then be presented as changes and new services are introduced by the registry.
- Annual conferences of professional groups (such as chambers or associations) provide a forum for additional training as these conferences usually draw many members.

In addition, university courses can be developed for future registry staff and professionals. Where the existing curriculum is not fully relevant, new courses can be developed or existing courses can be expanded. Once the students graduate, they should have the basic knowledge and skills required.

Customers should be confident that they can rely on the registry's records. This chapter discusses how the quality of the information can be improved by reducing the risk of fraud and mistakes. A procedures manual and standard forms can be important tools for staff to use in these situations. This chapter also covers how disputes between customers and the registry can be managed, such as where a customer disagrees with the decision of the registry.

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7. IMPROVING WAYS TO ADDRESS FRAUD, MISTAKES AND DISPUTES

Key points of this chapter

- Various types of fraud can affect a registry, as well as the people who are defrauded. The main effect on a registry is loss of confidence in the system. If the registry must pay compensation, there is a financial effect, which can be very large if the parcel involved is valuable or if there are many cases of fraud.
- Fraud can occur in many situations and the potential risks for the registry should be assessed and procedures modified if necessary.
- Measures to reduce the risk of fraud include security cameras, security devices in documents, working with professionals, banks and the police, and engaging with customers.
- Mistakes also sometimes occur in registries. Although most are minor and can easily be fixed, it is important for the correction procedure to be clear and well documented.
- A staff procedure manual is a means for reducing the risk of fraud and mistakes. It should set out the rules for recording documents and special features to watch out for, and it should help deliver good customer service. Staff should be trained in how to use the manual.
- Standard forms are a further way to reduce the risk of problems, particularly mistakes. The parcels, people and rights should be clearly identifiable from the form, even if the details of the transaction appear in another document that is attached to the form.
- Customers should have a way to make complaints and to launch appeals against decisions of the registry that is clear, quick and simple to use. There should also be time limits for the registry to respond and obligations to keep the customers informed.
- A compensation fund is a way to deal with financial losses where fraud or serious mistakes occur. The fund should have sufficient money to meet all its current and potential obligations.
- Access to the compensation fund should be available to all who suffer losses, without the need to first go to court.
- Registries can play a useful role in resolving disputes between people by providing expert advice.

Fraud is a criminal offence that can have serious negative impacts on the people who are defrauded (and who suffer financial loss and emotional stress). As an act intended to deceive, fraud can also negatively affect the registry.

Common types of fraud include simple theft, forging documents and certificates, changing records without authority, identity fraud and misuse of powers of attorney or other relationships of trust. Fraud can also be committed by staff who have special access to the system and thus more opportunities to commit fraud, such as by changing records, deleting information or destroying documents from files, or even selling information to others. Corrupt behaviour can also be considered as a type of fraud (see Fighting corruption in chapter 5). As technology changes, new risks can emerge. For example, with the growing use of electronic signatures, there will be opportunities (particularly within the offices of professionals) for the unauthorized use of these by others.

The registry law generally addresses what happens when fraud takes place and someone suffers a loss, and chapter 2 describes how the approaches used around the world differ. Sometimes compensation is provided to the person who suffers a loss (see How a compensation fund can be used in cases of fraud and mistakes in this chapter).

Understanding fraud

The effects of fraud on the registry: Fraud not only affects the people who are defrauded, it can be a major reputational risk for the registry. A system that is open to fraud cannot protect the interests of people who record their rights and consequently their trust in the registry will diminish. There can also be financial impacts if the registry is obliged to pay compensation when someone suffers a loss.

Measuring fraud: The size of the problem can be measured in the number of cases per year, the percentage of fraud cases against all cases per year, the value of compensation that the registry has to pay per year and the reputational damage caused by fraud cases (as assessed in customer surveys). The amount of compensation that registries pay will depend on the value of parcels, but it can be very large. For example, the registry in England and Wales in the United Kingdom of Great Britain and Northern Ireland paid out £6.4 million, excluding related costs, in 2013–2014, but of that amount, £2.2 million was recovered under the rights of recourse (see How a compensation fund can be used in cases of fraud and mistakes in this chapter).

Understanding where fraud can occur: To understand the risk of fraud, there should be an assessment of the procedures and requirements of the recording process ▸▸

HOW A COMPENSATION FUND CAN BE USED IN CASES OF FRAUD AND MISTAKES

A compensation fund ensures that there is money available to successful claimants who suffer a loss due to fraud or a mistake, or where they have some other legal right to compensation. It is a type of risk management: by setting the compensation funds aside in advance, the registry can continue to function within its operational budget even if a large claim has to be paid.

In states that have a compensation fund, it is usually created by the registry law. It can also be created administratively without any specific legal basis, usually in agreement with the finance ministry. If necessary, an amendment to the registry law can give the fund a legal basis and set out the main elements, such as its source of funding and the process for making and paying claims.

Financial considerations

If a fund is to be set up, an initial step is to assess the claims for compensation over the past five or ten years to see what types of fraud or mistakes have occurred and the amount of the compensation payments. This assessment gives an idea of how much money the fund might need for future claims.

When first establishing the fund, an amount of money should be credited to the account, perhaps from the finance ministry, to cover the expected claims in the first few years. After that, approaches to keep the fund at a reasonable level include payments from the finance ministry, payments from the registry's budget (or surplus) or contributions on each transaction that is recorded (also known as a levy). A levy is generally set at a small amount, which reduces its impact on the public, but the amount quickly builds up where many transactions are recorded.

The experiences of similar registries that operate a fund can be helpful regarding matters such as how often claims can be expected, whether they arise consistently every year or come in groups, how to smooth out the good years and

bad years, and how to negotiate with key stakeholders about the level at which a levy should be set. It can also be useful to talk with insurance company specialists who regularly deal with claims and compensation.

An annual review should be conducted and it should assess whether the fund requires additional money to be added, using either an extra payment from the budget or increasing the size of the levy on each transaction. The review should look at current claims, expected claims and whether the fund will have enough money to meet the obligations. It should consider that not all claims will be successful. In addition, even if the registry pays the compensation, it might have a right of recourse (or right of subrogation) that allows the registry to make a claim against others, such as the professionals who were responsible for preparing documents, checking identities of parties and ensuring that the rules were followed.

Administration of the fund and processing of claims

Guidelines should set out the circumstances in which claims will be paid, how they should be made, how long they will take to process, who can authorize payment, how losses are calculated, etc. These guidelines will help the staff and the public to have the information they need. The fund and method of making claims should be publicized, particularly to professionals who will assist people who suffer losses due to fraud or mistakes.

There are several possible approaches to processing claims. One approach is to permit the registry to assess claims and make payments. This requires skilled officials who can apply the rules but it is a quick and cost-effective way to deal with claims, and it is particularly appropriate where the amounts are small. It advantages victims as their claims can be processed relatively quickly and cheaply. Another approach is to assign responsibility to the courts to investigate and determine the claims. It should be clear what topics the court can decide on, such as liability and amount of compensation, and how the compensation is assessed (generally, assessment is based on current market value). A third approach allows the registry to process and make payments in cases up to a certain limit and then for the courts to process claims above that limit. Another option could be to assign the responsibility to an independent administrative third party, such as an ombudsman or national auditor.

The law or guidelines should make it clear whether the fund can be approached immediately or if it is a last resort. In the first approach, a person comes to the registry for payment and then lets the registry use the right of recourse against others (such as fraudsters and professionals) to recover the money; as a fund of last resort, the person should sue the fraudster or the professionals first, and only then come to the registry for compensation if necessary. Either approach is possible, although the first approach is much easier for the person who suffers loss. A poor owner who is innocently deprived of rights through fraud should not have to first pay the costs of initiating legal proceedings before a claim can be made for compensation for the loss.

Reporting and minimizing future cases

The accounts of the fund should be submitted to an appropriate financial supervisory body or a qualified private sector accounting firm for auditing to ensure that the fund is administered properly and to reduce the risk that fraudulent claims for compensation are paid. The registry's annual report should provide information on the cost of operating the fund, the size of the levy and the adequacy of the fund to meet its current and future expected obligation. In the interests of privacy, the details of each case should not be revealed but a general description and precise figures on the amount of payments should be included.

It is important that the registry learns from the claims for compensation, whether they are successful or not, and identifies weaknesses in the system that need to be addressed. Each case should be investigated to determine how the fraud or mistake occurred and what could be done to reduce the risk of it occurring again (see Improving ways to deal with fraud and Improving ways to deal with mistakes in this chapter and How services can be improved by making processes more efficient in chapter 3).

and the processes that occur before documents are presented to the registry (such as how parcels are offered for sale, how transactions are made, and how mortgages are issued). The assessment should cover matters such as how a person establishes his or her identity, how a person demonstrates the holding of rights to a parcel, and whether there is a way to verify signatures. Considerations include the parties who are involved and their roles, with particular attention being paid to how professionals meet their own obligations, whether they have their own insurance for fraud, and how they think that fraud could be minimized.

In addition, every case of fraud should be investigated to understand what went wrong at the vital points. After a number of investigations, patterns are likely to emerge and they will point to areas where changes are required. Common areas of weakness include:

- trusting family and professionals with documents such as ownership certificates;
- limited checks by banks and other lenders when lending money;
- applying by post, so no image of the person is captured;
- applying for replacement documents when the originals are fraudulently reported to be lost; and
- forged identity and registry documents, stamps and signatures (including those of notaries, courts and registry officials).

Managing the risk of fraud

The possibilities to address weaknesses and problems that permit fraud to occur include:

Security cameras can be introduced in offices so there are images of the perpetrators when a fraud is committed.

Procedures can be examined to identify weaknesses and to develop safeguards; for example, certain categories of cases might be prone to fraud, such as a sale using a power of attorney, so the staff should be trained to examine those cases more closely. Staff who accept and record documents need to learn what to look for, what steps are in place to minimize the risk of fraud and what they should do if they suspect a case of fraud (such as reporting it to their managers).

Security devices: Documents can be made more difficult to forge; for example, by switching from handwritten documents to a standard, computer-generated form that incorporates a number of security devices, such as:

- numbering the documents consecutively and recording the numbers in the system so there is a complete record for each parcel;
- micro-printing, which can be seen only under a high-powered magnifier (the printing looks like a line when viewed without magnification);
- applying watermark and holograms;
- using special inks such as those that are heat sensitive and change colour, for instance, with the application of a finger; ink that discolours if alterations are made or ink that adheres to the paper so that it cannot be easily scraped off, thereby enabling another name to be printed on the paper.

Professionals and banks are the interface between the registry and many customers. The registry should help them to learn about the risks, and work with them to improve their processes and requirements to prevent fraud.

Police (particularly the unit responsible for fraud and white-collar crimes) often have a different but complementary perspective on fraud. This can help with developing and implementing risk control measures.

Customers should be aware when changes and safeguards are introduced. This can be done through publicity campaigns using brochures that are available at the registry, on its website and published in newspapers. In addition, registries can become more pro-active when dealing with customers. For example, the registry for England and Wales in the United Kingdom of Great Britain and Northern Ireland has introduced a "property alert" whereby a customer who signs up for the service is sent an email alert if the registry receives an official search or application for the parcels being monitored by that customer. This service was created to help owners detect fraudulent activities. The registry reported that between 2009 and 2015, it has stopped fraud worth more than £80 million (see HM Land Registry www.gov.uk/property-alert).

Reducing the risk of fraud can have a cost, which should be considered from the viewpoint of both the registry and customers. These may include additional time, documents, steps or other obligations that might be imposed to minimize the risk. There needs to be a careful balance between reducing the risk of fraud and keeping the costs to a minimum.

IMPROVING WAYS TO DEAL WITH MISTAKES

Unlike fraud, mistakes can be considered innocent even if they are due to incompetence or negligence. In some cases, the mistakes do not affect the rights of any person and the registry law should allow for them to be corrected easily through an administrative procedure. For example, a mistake in recording someone's name can be corrected by reference to a birth or marriage certificate, or an inconsistency between the records and the original correct documentation can be addressed by amending the records to properly reflect what was originally intended.

Some mistakes affect a person's rights. In many states, a court order is required before such a mistake can be

corrected because the registry has restricted powers to correct errors. These checks are in place because of a fear that a broad power to make corrections could be used to disadvantage people, encourage corruption or expose the registry to a claim for compensation.

In some states, there is a recognition that a court order should not be required in cases where all affected people agree to the change. In such cases, the registry notifies the affected parties through such means as a letter of intent to make a correction to the records. If everyone involved agrees to the change in a document or transaction, the registry has the authority to correct the records. Any affected person who does not agree with the proposed change has a right of appeal to the courts.

Where the registry is empowered to correct mistakes, there should be clear procedures on how to do it, with every step being well documented and details kept in the registry files, with a requirement for a senior staff member to authorize the correction.

USING A PROCEDURES MANUAL TO ADDRESS FRAUD AND MISTAKES

Clear guidance should be provided to the staff to address fraud and mistakes and also to ensure that all staff members will process the same type of case in the same way. A good way to provide such instructions is through a procedures manual, containing standard operating procedures, that is issued by the head of the registry. The preparation of the manual is not a one-off process but rather an ongoing process as laws and practices change, and as new types of rights are recorded.

The content of the manual depends on local needs and the legal environment, but common topics include:

- the main laws and regulations that are relevant to the recording of rights and related matters;
- the steps in recording and providing information to the public;
- different levels of authorization for different categories of staff;
- common elements for all types of recording;
- specific instructions on different types of documents;
- security of records and databases;
- requirements for each type of application, including payment of fees and taxes; and
- instructions on customer service and service standards (see Using service standards in chapter 3) and the code of conduct and ethics (see Staff policies and protocols in chapter 6).

Responsibility for designing, preparing and maintaining the manual should be assigned to a team. The team should meet with the staff to identify their needs and it should consider the approaches adopted by other registries.

If funds permit, an education specialist can be hired to advise on the design of the manual. The manual should not just be text. It should use symbols, flowcharts and graphical representations of key requirements because these can be quickly and easily understood. Examples should be included along the various types of forms and with directions on how to complete them (see How standard forms can improve the quality of information in this chapter). The traditional format is a printed document but the increased use of ICT has led to electronic versions that have the advantage of being easily, cheaply and quickly updated and distributed, including through the Internet. An electronic version can be easier to search and can incorporate drop-down items and use hyperlinks to connect to laws and other materials. If a web-based version of the manual is to be produced, then a web designer could also be hired.

Most of the information to prepare the manual is likely to exist but it needs to be brought together in a systematic manner, and any missing information needs to be identified, prepared and added. The manual should be expressed in a way that the staff understand, so draft versions should be tested on a small group of users. The manual should be submitted to the chief registrar for approval. A welcome message from the chief registrar to staff members could encourage them to make the most of this resource. In some states, a manual needs to be approved or at least recorded by the Ministry of Justice, which has a complete set of all legal and quasi-legal documents.

Training should be provided to staff in the use of the manual. When the manual is first introduced, all staff should be trained in its features and use, even if the training is brief. When new staff are recruited, the manual can serve as key material in their introductory training. It can also be useful for managers in ensuring that their staff comply with their obligations. Where breaches of the instructions in the manual occur, training should be provided, but if such breaches continue, then disciplinary action could be necessary (see Staff training in chapter 6).

IMPROVING THE MANAGEMENT OF DISPUTES WITH THE REGISTRY

The registry can play an important role in resolving disputes between parties (see The registry's role in various types of disputes in this chapter). In some cases, however, the registry is a party to the dispute. This can happen where staff make mistakes or where there is fraud, and where those who suffer a loss make a claim against the registry for compensation. Some registries have systems in place for dealing with such claims while others rely on the courts to settle disputes.

In addition, the registry should provide an efficient and transparent way to deal with customers who dispute the decisions made by the registry. In some states, a significant number of transactions lodged for recording are rejected by registry staff. This can occur because of complex legal systems and because transactions can cover a broad spectrum of tenure issues (including state adjudication, expropriation and adverse possession or prescription) as well as other legal issues that affect tenure (such as the civil code, family code, company law or corporate law, bankruptcy law).

Customers should have effective ways for making complaints or appealing decisions. Sometimes a specific law exists to deal with these matters. Information on the process should be available in the registry's offices and on its website, including information on how to apply, what to expect, how long it will take and how the result will be communicated.

Sometimes the complaint is investigated within the registry. If there is no existing procedure, the registry can introduce a simple process. The registry should also appoint a focal point at the headquarters and in each office where the system is decentralized. The main elements should include:

- a means for customers to make complaints, usually in writing;
- a review of the decision by someone within the registry who is senior to the original decision-maker;
- a time limit for making a determination;
- notification of the complainant of the outcome; and
- provision of a right of appeal for the complainant, such as recourse to a more senior level or the court, if he or she is not satisfied with the outcome.

Another approach is to have the complaint investigated by an external organization, such as an ombudsman office. The process can involve face-to-face meetings as well as mediation. A more formal option is an administrative tribunal composed of independent and qualified experts, including recognized professionals from both the private and public sectors.

The decisions arising from complaint or appeal cases should be considered a mandatory precedent for similar cases, and they should be published in a standard format that includes a description of the case and the specific rules that should be applied. The procedures manual should be updated to incorporate such decisions and rules.

THE REGISTRY'S ROLE IN VARIOUS TYPES OF DISPUTES

Where disputes over parcels, rights and right holders occur, the registry's records are important evidence to be provided to a court or tribunal, or considered in cases of alternative dispute resolution. Registries have documents and maps that show the current situation as well as the history of a parcel and the rights to it. Registry staff are sometimes called as expert witnesses.

Registries can also be given responsibility for resolving disputes within their technical expertise. For example, the specialist staff who deal with surveying and parcels can be assigned the authority to resolve boundary disputes between parcels, and the law might specify that the conclusion of the specialists is binding on both parties, although they have a right to appeal to a court.

Registries can help to manage disputes by providing clear, accurate advice at an early stage, before the dispute becomes too big. Customers may be able to rely on registry specialists, who are seen as both expert and impartial, to clear up potential disputes. In some states, staff are not allowed to provide legal advice and so the advisory services are technical and not legal in nature.

HOW STANDARD FORMS CAN IMPROVE THE QUALITY OF INFORMATION

Standard forms help to reduce the risk of mistakes by making it clear to customers what information is required. Commonly required information should appear as much as possible in a consistent place and format across all types of forms, as this can help customers to use them efficiently. Such information usually includes the parcel identification details (i.e. the unique parcel identifier), the name and details of the person (or persons) holding the rights and the other party's name (such as buyer, lessee, mortgagee, beneficiary). The forms should have space for more than one name so that both spouses, for example, are identified.

Standard forms also make it quicker and easier for staff to check the information and record it, as with a standard layout, they can immediately identify if any relevant information is missing.

In addition to forms for transactions, forms are required for administrative purposes, such as a request to obtain information on a parcel and holder of the rights, change of name or recording of a court order.

Forms can be used in all types of recording systems. In some systems, a completed form is all that is needed for the recording of a transaction because the form contains all the legal information and signatures. In systems where there is a deed that contains the legal information and signatures, the form can be added to the front of the deed. In that way, it works as a checklist to make sure everything is included.

All the forms should be easily and freely available in the registry's front office for anyone to take and also on the registry's website. Clear instructions should accompany the forms. Examples of completed forms should be provided to help the customers. If the forms are available online, then pop-up instructions can be included.

Well-designed forms include the following.

A clear identification of parcels, rights and people:

- Parcels should be identified on the forms by their unique parcel identifiers.
- Rights being transferred can be described using standard text in cases of common transactions (such as sales and mortgages). For unusual transactions, the form should allow for a clear description of the rights being transferred in order to avoid disputes (for example, the rights to do what, and for which period of time).
- With regard to right holders, the form's design should allow for easy identification of whether the rights are held by a private individual, married couple, business enterprise, non-profit association, government, etc. The forms should, thus, have space for both spouses in the case of a married couple. There should be space for identifiers such as the company registration number for a business enterprise.

Attachments can be used where there is not enough space to record all details on a form, such as the terms and conditions of leases.

Standard terms and conditions that apply to many transactions (such as the provisions in a mortgage) can be recorded as a separate document in the registry and assigned a unique document reference number. A person preparing a mortgage could then simply refer to the standard terms and conditions by using the unique number of that separate document.

Simple text should be used on the forms so that all words that can be easily understood by customers, and specialized terms used by professionals should be avoided.

ICT can enable customers to obtain information more easily, to carry out transactions more quickly and conveniently, and can reduce opportunities for corruption. While there are many advantages to using ICT, there are also many concerns that need to be considered in advance (see Benefits and risks of introducing ICT in this chapter). This chapter looks at how ICT can be introduced, how paper records can be converted to digital form and the legal issues that should be considered.

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8. USING INFORMATION AND COMMUNICATION TECHNOLOGY

Key points of this chapter

- Options for developing and implementing ICT solutions include using in-house staff, local contractors, a state-owned ICT agency or international contractors.
- ICT solutions should be developed in modules and new modules added once the basic system is proven to function.
- Developing ICT solutions is not a one-off exercise; rather, it is an ongoing process.
- To make the most use of ICT solutions, paper records need to be converted to digital form, and the process of conversion should be based on a clear analysis, strategy and set of standards. Conversion of archive documents is only one part. Newly recorded documents need to be digitized as soon as they are recorded.
- All records must be indexed so that they can be searched, found and used.
- After paper records have been digitized, a decision will need to be made on whether to destroy them (if they are not considered to be of historic or cultural value) or to keep them. Continuing to keep paper records has a cost and a failure to pay for their maintenance will result in their destruction over time as a result of fire, vermin and natural deterioration.
- Digitizing of records involves a variety of legal issues that should be identified and addressed well in advance, such as the legal status of digital copies of paper records.
- Benefits of ICT to customers include greater and quicker access to information and recording of transactions, reduced opportunities for corruption, and tracking of the progress of applications.
- Benefits of ICT to a registry include greater efficiency, easier distribution of workload and improved quality of information.
- Benefits of ICT to society include a more efficient market for buying, leasing and mortgaging tenure rights, improved e-governance and spatial data environment, and better information for policy-makers.
- There are a variety of risks to introducing ICT solutions to a registry, including lack of adequate security measures; automating slow, paper-based processes without re-engineering them to suit a digital environment; privacy concerns due to the greater access to information; and potential loss of records if they are not safeguarded properly.
- Introducing a new system also carries risks with it, particularly if contractors are involved. A further major risk arises from the loss of qualified staff who are needed to maintain the system due to relatively low levels of registry staff salaries. Good contract management is essential, but is often forgotten in the rush to design and develop ICT systems.

OPTIONS FOR IMPLEMENTING ICT SOLUTIONS

The management and staff of the registry should have a clear vision of what is needed as ICT can be introduced in many ways. An early approach was the automation of the indexes in the registry, which allowed customers to quickly obtain the location of the paper records stored in the archives. The creation of digital archives brings great potential for improvements as records in digital form can be available to many people at the same time, unlike a paper document that can be used by only one person at a time. With a communication network, the digital archives can be accessed simultaneously by people in different locations.

ICT can allow online applications, with the use of e-signatures, and automated processes that ensure legal compliance and provide checks (such as that sales do not occur without mortgages being first discharged or that when a parcel is held by more than one person the shares add up to 100 percent). It is increasingly common for registry software to include document management and to be connected with financial management, human resource management, procurement processing and other daily operations.

The larger the ICT system, the more complex it becomes. Systems that hold millions of records and process many transactions must be optimized to ensure that they do not become too slow to be useful. A complex system requires a high level of expertise, such as skills in process re-engineering, system analysis, system integration, system development, database design, geographic information systems (GIS), programming, telecommunications, web services, and quality assurance and quality control. As security is a priority, specialists are needed to address the security of the system and the security of information and records, as well as related matters such as the potential for hacker attacks and viruses.

A strategy for procurement should be developed. Approaches for developing an ICT system include the following:

Using in-house skills allows the ICT system to be built slowly as the need arises, focusing on modules that are required first. It is usually easy to integrate users in the development and to carry out maintenance and upgrade the system because the developers work for the registry. This model was used in Albania where a system was built internally using the ISO standard Land Administration Domain Model 19152 of 2012. The approach requires the registry to hire staff with the necessary skills, but this can be a problem if salary levels in government are below those of the private sector.

Using local contractors can allow the development of an ICT system on a modular basis and with the advantage of having local people to maintain and upgrade the system as needed without requiring the registry staff to have the skills. This approach was used in Armenia, Kyrgyzstan and Montenegro. The budget should include annual costs of maintenance and upgrading as the work will need to be done by the local contractors.

Using a state-owned enterprise is an option where governments have ICT agencies or departments that build software solutions for government agencies. The model retains the internal capacity to maintain and upgrade the system or to link systems with other government agencies, and it was used in the Russian Federation and Turkey.

Using international contractors takes advantage of companies that have developed similar systems elsewhere. Specifications need to be well prepared and the contractors will need to demonstrate relevant experience and be carefully managed and monitored because of the risk of failure of large ICT projects. Bulgaria and the State of Kuwait used this approach.

In all these approaches, the registry can recruit national and international consultants to provide additional expertise and advise on the development of the ICT system.

Whichever approach is needed, the ICT system should be developed in a modular fashion so that it can be extended as different modules are completed. Independent quality assurance and quality control are needed to ensure that international standards and practices are respected and that the contractors fulfil their contractual requirements.

Importantly, ICT development is never finished. As technology develops, new and more appropriate solutions become available and should be incorporated in the registry's operations.

BENEFITS AND RISKS OF INTRODUCING ICT

The introduction of ICT can bring many benefits but it also comes with risks that need to be addressed.

Benefits

Benefits for customers: A well-designed website can allow customers to receive information on the registry and its service standards without having to visit the office, and they can obtain that information even when the office is closed. As digital records can be searched more quickly than paper records, customers can obtain information on parcels and rights more rapidly and a communication network allows them to see the information on computers at their homes and business premises or while travelling. ICT can also reduce opportunities for corruption (see as follows).

Customers can monitor the processing of their applications through online tracking modules and compare the time being taken against the service standards. Examples of states that have introduced this facility in their registries include Albania, the Russian Federation and Ukraine. ICT can provide faster processing of transactions when documents are submitted online, with the payment of fees and the issuance of receipts being done electronically. Customers can benefit financially where registries encourage online transactions by reducing the fees for them.

Benefits for the registry: ICT has the potential to provide a number of benefits for the registry, all of which should ultimately lead to improved services to customers.

ICT can help to improve productivity as staff can process transactions more quickly. If staff can use the digital archives to find and examine documents on their computers, they do not have to spend time going to the archive, waiting for the document to be found, returning to their desk and then returning the document to the archive. The problem of temporarily lost or otherwise unavailable documents is also avoided. Where the registry has a number of offices, access by all of them to the digital archives allows work to be assigned more efficiently. For example, if one office experiences a backlog, incoming work can be distributed to other offices for processing, with the effect of reducing the waiting time. In addition, the introduction of ICT provides an opportunity to redesign procedures by simplifying and streamlining them (see How services can be improved by making processes more efficient in chapter 3).

The quality of information can be improved through ICT. Digital records can improve quality by eliminating illegible handwriting and ensuring that information being entered falls within a range of valid responses. Automated routines can analyse the information and report exceptions or problems. The Internet allows the quality of the records to be improved through crowdsourcing. For example, Croatia and Ukraine encouraged citizens to review the records online and to report discrepancies so they can be corrected.

Training for staff can be provided online through a training portal. This can be particularly useful for staff in decentralized offices. ICT can be used to monitor the performance of offices and staff against the service standards, and to produce the statistics for the annual report and for posting on the registry's website. The standardization provided through a common system of automated practices can reduce unjustified variations between different staff or different offices. The archiving of records can become more robust as back-up copies of the records can be made more easily and stored offsite in safe locations. ICT can help to improve aspects of management that go beyond recording, such as human resources and accounting.

By reducing the time needed to record a transaction, ICT reduces incentives for bribes, as there are no longer reasons for a person to pay more to accelerate the delivery of services. Customers may not be willing to pay bribes when they can track the progress of a transaction and compare it with the published service standards. Opportunities for staff to request bribes are reduced where ICT further limits the interaction between staff and customers; for example, through the introduction of electronic transactions, the use of electronic payments and automatic issuing of receipts, and the automatic distribution of work to staff who may even be in different offices. Security of records can also be improved, such as through audit and tracking features of ICT, which can help to reduce opportunities for staff to take illegal actions. For example, it can be more difficult to alter a digital record or remove it from the system without authorization. The ability to integrate records on rights with other government records can help to identify and reduce illegal transactions, such as mortgage fraud and money laundering.

Benefits for society: The major benefit for society of ICT in the registry is that it allows transactions to be recorded more quickly and cheaply. Information can be provided to the market more widely and cheaply, and the security of records can be improved. ICT assists, therefore, with the economic growth and social security associated with an efficient, reliable and secure registry.

ICT can lead to improved integration of tenure records through e-governance initiatives and a national spatial data infrastructure. The tenure records can be used in new ways and be integrated with work on spatial planning, taxation and disaster risk management as well as the monitoring, mitigation of and adaptation to climate change. Standards for sharing information between government agencies facilitates good administration. For example, linking key registers (such as the tenure register, personal register, companies register, address register and tax register) avoids duplication of efforts

and improves the quality of records by reducing typographical and numerical mistakes. A number of ISO standards now exist for metadata, a land data model (Land Administration Domain Model or LADM), records management, digital archives, open data systems and a variety of related activities that impact the administration of tenure.

ICT can assist policy-making by providing information that is extracted from the digital records. For example, digital records that include the gender of people who hold rights can be used to generate gender-disaggregated data that can help policy-makers to understand the situation and to formulate and monitor policies and actions. Other potential benefits can include those related to demography (such as assisting with national censuses) and finance (such as supporting broader tax initiatives).

Potential risks that need to be addressed

While there are many advantages to using ICT, there are a number of issues and potential problems that need to be considered in advance.

System features: The software used can be proprietary or open source. Regardless of the choice, the skills needed to develop the ICT system remain the same, and the system has to be tailored to specific situations with regard to language, law, custom and needs. There is now a trend to use open source software and avoid reliance on licenses, and combinations of proprietary and open source software are also becoming more common as systems are built on a modular basis.

Robust security measures are needed. While security checks in an ICT system can make it difficult for registry staff to make unauthorized changes to individual records, the system itself can be vulnerable to hacking from outsiders. Sensitive information can be stolen, such as personal information of rights holders that is not available to people who have access to the publicly available records. Staff members who have used complex paper-based systems to seek bribes may resist the change to a digital system, so attempts to disrupt the introduction should be anticipated.

The registry processes will need to be re-engineered to ensure that they are improved and suited to the new technology. ICT technology cannot by itself correct any faults that exist in the processes for recording rights and it cannot correct information that is inaccurate. It is important to assess the quality and completeness of the records and to have a strategy for the migration and improvement of the records.

Privacy concerns will need to be addressed. The recording of rights creates public records but the ease with which such public records can now be seen on the Internet has raised privacy concerns in regard to the amount of information that is being collected and how many people can view it.

Measures are needed to ensure that the digital records are stored in a safe location offsite (such as by a national backup centre for all government records or by commercial contractors). There should also be measures to ensure that the system can be operational after a catastrophic event. For example, in the Netherlands, the registry operates under a two-location principle through an arrangement with a large insurance company, whereby the registry can use the company's ICT system and vice versa in the case of a disaster.

Institutional capacity: It is essential that the registry has the institutional capacity to develop, implement and maintain its ICT system. Although much of the work is often outsourced, there needs to be capacity within the registry to manage the contractors and assess the quality of their work. Investing in ICT staff is a key to the success of ICT in any organization. Capacity is also required to administer the system once it is in place.

ICT systems are notorious for their failure rate and many fail to reach their objectives. Those that succeed are often over budget and take longer to develop than originally planned. A main reason for failure is poor leadership and management. An ICT strategy document should describe the way in which to procure the solutions, and set the priorities and the sequence for the tasks. It should also address the re-engineering of processes, a migration strategy for the records, administration of the ICT system after completion of the project and change management (including training of users and new system administrators). The registry management should constantly monitor the progress of the project plan as proposed by the contractor, and take action when deliverables are late or of poor quality. A well-qualified and experienced ICT project manager should be assigned for the work and this cost will need to be included in the budget.

ICT systems will become outdated over time and periodic upgrades of hardware and software will need to be included in strategic and business plans and their budgets.

Specific risks that need to be addressed include:

- corrupt tendering practices;
- poor communications between stakeholders (including the registry, contractors and other government agencies) and inadequate ways to resolve disagreements;
- underestimating the complexity of the work and the resources needed;
- lack of quality control;
- lack of an appropriate change management plan;
- insufficient piloting and testing;
- sustainability of the technical solutions (for example, tablets can be used effectively for collecting information, but they can be lost, damaged, stolen or otherwise unusable, and backup solutions will be needed);
- inadequate documentation, help and training;
- inadequate power supplies and access to the Internet; and
- lack of funds for proper maintenance.

CONVERTING TO DIGITAL ARCHIVES

The registry archive contains information that is important for day-to-day operations, such as documents (deeds, titles, sale contracts, leases, mortgages, court orders, inheritance certificates) and plans and maps showing parcels. As part of the introduction of an ICT system, the archive of paper documents should be converted to digital records in order to obtain the greatest benefits.

Strategy for the conversion to digital archives

The functioning of a digital archive is different to operating a paper archive and the style of management will need to change. A strategy is needed for archiving and a programme for change management should be developed. Matters to be addressed include:

Centralized or decentralized archives: Where a registry has several offices, each office often has maintained its own paper archive. The creation of a centralized digital archive that can be accessed by all offices brings many benefits, such as enabling a back office to provide a service to many small front offices or mobile offices (see Improving access to offices in chapter 4). However, this may not be possible where the telecommunications are not yet reliable enough for networking.

An analysis of what should be converted should be carried out to assess the quantity, quality and type of documents to be converted. Not all documents are worth keeping: some documents can be difficult to use because they are faded or have parts missing; and others can have information that is not needed, such as old tax receipt payments. A common early approach was for specialists to identify the documents that did not need to be converted and to remove them from the workflow. Increasingly, all documents are being converted because storage capacity and speed of equipment are no longer major constraints, and it involves less work than sorting through the files and removing some of them.

Priorities should be established for converting documents. Index books and journals are usually converted first because they are commonly used. Then, as the most recent transaction documents tend to be the most frequently used, a priority is often given to documents lodged within the previous five years, with a lower priority for documents between five and ten years old, and so on. With deeds systems, the chain of title may need to be checked until the last recorded deed or for a period of twelve years or so, and these factors can be used to define the priority periods for which documents should be converted.

Standards: The conversion of documents and the management of digital archives should be in accordance with standards developed by the International Organization for Standardization (ISO), such as for records management, document storage, electronic document file formats and indexing. See www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_tc_browse.htm?commid=48856.

A decision should be made as to whether documents should be scanned in colour, or black and white. It is important to make this determination from the beginning to avoid needless duplication of work when decisions to scan in black and white are changed to colour at a later date.

Conversion of the archives

The conversion of records involves two distinct steps: image capture (such as through scanning) and indexing, which involves identifying and entering information from the document. Usually, between five and nine items of information are captured for each transaction document, such as the parcel number, address, date of the document, registration number and names of the parties.

Quality control is vital and the contractor or technical unit converting paper records to digital archives will need to have quality assurance procedures for the quality of the images and to ensure that no pages or documents are omitted. A good practice is for the registry to monitor the process to ensure that the work is done correctly and efficiently. It should assess the overall quality before the contractor is paid.

Image capture: Different approaches are needed for different types of documents:

- Existing documents and plans should be converted on a mass scale. Many documents are bound in books or contain deeds that are stapled together with plans of different sizes and materials. The work includes repairing documents, unbinding books, scanning them, capturing the relevant information from digital images, rebinding the books if required and returning the documents to the archive. Procedures are needed to ensure that the normal work of the registry goes on despite having documents and plans missing from the office. The work can be done by a registry unit, but it is often more efficient to employ a company with specialist skills.
- Incoming transaction documents and plans should be converted as soon as they are received or recorded. One option is for each registrar to have a scanner on his or her desk, and when the recording is complete, the documents are scanned and filed. Another option is to have a single workplace within the office, where dedicated staff do the scanning. A further option available in a fully digital environment is to allow professionals to submit documents in a standard digital format.

- New internal documents should be recorded in the ICT system as soon as it is introduced.

Indexing remains important for digital records and time can be saved using software that has automated capabilities for recognizing the names of the parties and witnesses, parcel identifiers, dates, parcel boundaries on plans, etc. These types of information will be included in the index. Bar codes or Quick Response (QR) codes should be used to identify the documents and link them to the indexed information and relevant metadata (information about the source materials, their condition, reliability, date or accuracy). Metadata must be recorded during the conversion.

Maintenance of the records

At some point it is important to stop updating the paper records and to maintain only the digital version, although it is difficult to do so until the ICT system is fully operational. As a result, registries tend to keep both the paper and digital archives running in parallel for a period of time. There are two main options for dealing with existing paper records following the transition to a fully digital system.

Some paper records will need to be maintained as they have particular historical or cultural value and should be kept for the future. Maps, in particular, are often of historical importance and can be beautiful documents in their own right. Agencies such as the national archive authority can assist in identifying which documents have value.

There can be arguments for continuing to store all the paper records in the event that they are needed. This approach has its own cost because paper records need special climatic conditions, fire prevention and fighting equipment, and staff to manage the archive. Failure to pay for the upkeep of the paper records will result in their destruction over time as a result of fire, vermin and natural deterioration. In addition, there are costs of storage, such as rent or acquisition of the building and ongoing maintenance. As a result, after paper records have been converted to digital form, those without historic or cultural value are sometimes destroyed. This may require legal amendments (see the following section).

When creating digital archives, it is vital that they are protected. It is important to have a disaster recovery centre with duplicate equipment and records located in another location. If a state is subject to natural and other disasters, an option is to store the backup of the archive in another state.

Digital archives may need to be converted to new formats in order to conform to new international standards.

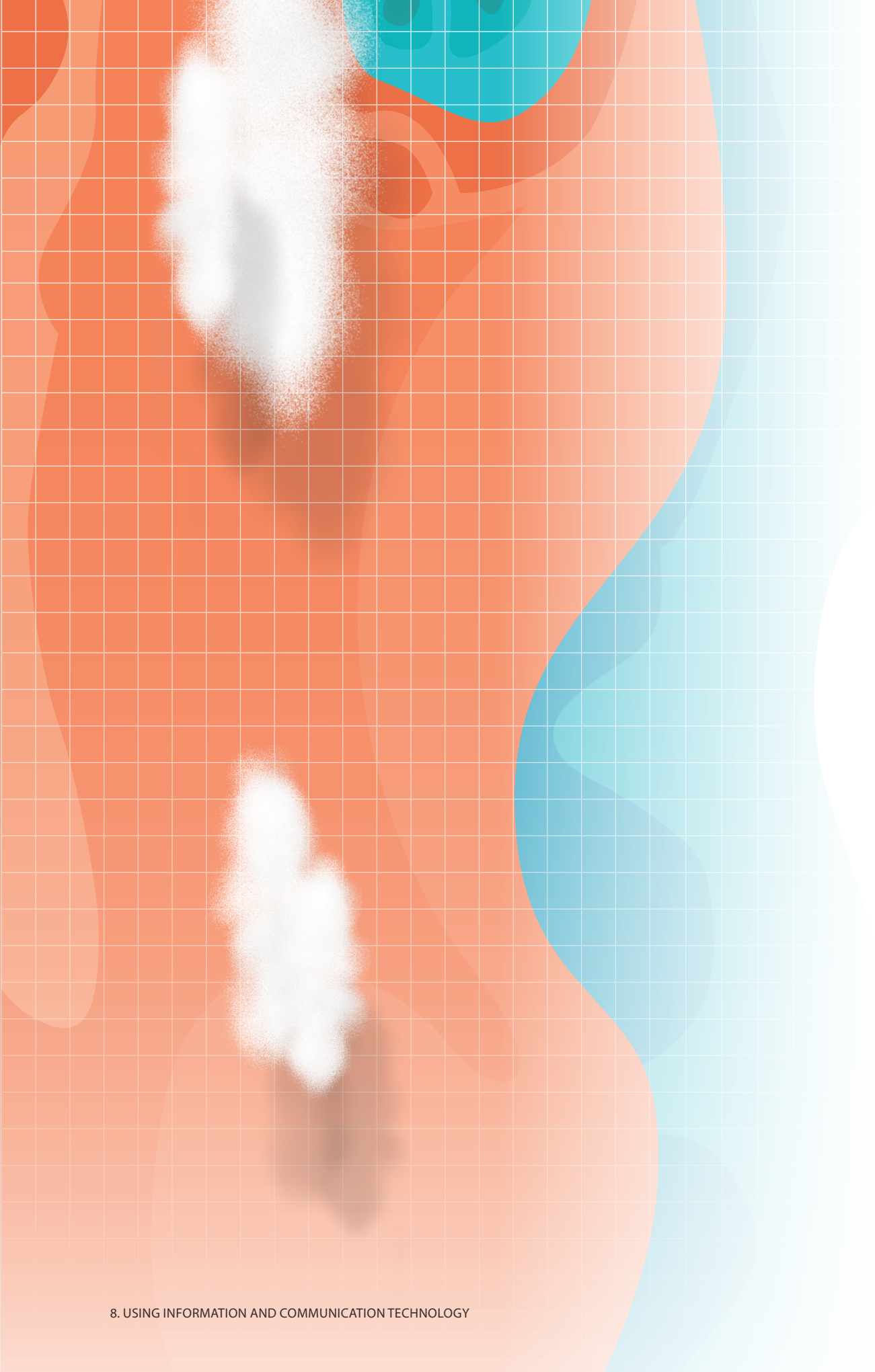
LEGAL CONSIDERATIONS

Introducing ICT is not just a technological change but it also requires changes to the legal framework. When considering the introduction of new forms of technology, it will be important to conduct a wide review of the legal framework. If a national ICT agency exists, it should be able to give advice.

The registry law should allow flexibility and not be too prescriptive, such as by referring to specific types of technology or media for keeping records. As technology develops, new options become available and if the law refers to specific technologies, it will have to be amended each time a new type of technology is adopted. The law should therefore use general terms (such as that the records can be kept in paper or digital/electronic format or a combination of the two) or say that the records can be kept in any medium or combination of media that the chief registrar decides.

A number of legal issues arise with the conversion of paper records to digital form. There should be clear legal authority, such as in the law on the registry, to convert paper records into digital form: otherwise, there could be doubts about the authority to do so. Important legal issues concern the status of digital records that have been created from paper records, particularly where they are to be used in court proceedings. The registry law should make it clear that the new digital records are legally recognized for purposes of transactions, court actions, etc., as otherwise many of the benefits of digital records will not be realized. Other laws will also be relevant, such as laws dealing with privacy and access to personal information, and with electronic documents, electronic signatures and electronic payments. The registry should make sure that it complies with these laws.

A further issue concerns what to do with the paper records after they have been converted to digital form (see the section above). Paper records of important historical or cultural value should be transferred to the national archive. Where the registry intends to destroy the records, it must be sure that it is legally permitted to do so. For example, if there is a law on safekeeping of government records, it would first need to be amended. Any changes to the law would need to be negotiated with the organization responsible for government records and archives, such as a national archive authority.



The policy and legal frameworks set the environment in which a registry operates, as well as the broader tenure environment. This chapter reviews the policy framework of the registry, how the ways to improve the system should be reflected in the registry law, and the role of by-laws and regulations, orders and decisions, and instructions.

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9. IMPROVING THE POLICY AND LEGAL FRAMEWORKS

Key points of this chapter

- Tenure rights and tenure security are relevant to a wide range of topics where good policies are important.
- Registries have a role to play in developing policies in their own areas of responsibility and in reflecting national policies in their operations. Registries also have a role in helping to develop other national policies related to tenure rights and tenure security.
- The registry law should be routinely revised and amended to reflect current good practice in customer service and registry operations, particularly in areas such as institutional structures, dealing with fraud and mistakes, and providing effective and efficient complaints mechanisms.
- Other laws might need to be amended to reflect current good practice in tenure security and registry operations.
- By-laws, regulations and instructions also need to be routinely revised and amended to reflect current good practice, particularly in the areas of customer service and current technology.

THE POLICY FRAMEWORK AND THE REGISTRY

The policy framework refers to the government's plans, objectives, positions and attitudes to various matters. It can result in decisions and programmes that the registry might need to implement.

Tenure rights and tenure security are relevant to a wide range of areas as shown by the topics included in the Guidelines, such as:

- the nature of rights (e.g. ownership and various types of use rights) and how to acquire the rights;
- recognition of all types of legitimate tenure rights;
- tenure reform, such as redistribution, restitution, consolidation or reallocation;
- building codes, building consent and permits, illegal developments and regularization or formalization, and housing policy;
- lending, access to finance and use of tenure rights as collateral for loans;
- privacy and protection of personal information;
- open access to data;
- ICT and e-services of government;
- gender equality;
- customers and their engagement with government agencies;
- environmental safeguards and protection;
- anti-corruption; and
- taxation and valuation.

The registry has the lead role in developing policies regarding its own area of responsibility. This role covers both the development of policies for itself, particularly where they do not exist for the whole government, and the development of policy details to help achieve the policy outcomes that the government has set (such as on open access to data and privacy). Also, because the registry is often responsible for the registry law, it has the potential and even the obligation to develop policies and establish them in the law on topics relevant to its operations, such as gender equality and engagement with customers. Sections 6 and 17 of the Guidelines and this guide cover numerous areas in which policy decisions affecting a registry need to be made or developed, and many of these can be reflected in either formal policy statements (such as an anti-corruption declaration) by the registry in its implementation policies or by provisions in the law on registry.

Where the registry is not directly responsible for the development of certain policies, it may have to play an important role, such as with tenure reform, open access to data, ICT and e-services, gender equality and anti-corruption. The registry should, therefore, have a voice in the development of such policies. In undertaking this activity, the Guidelines provide a solid basis for reaching good decisions. Each section of the Guidelines can serve as the foundation for a policy, which can be further developed to suit the individual needs of a state. The registry should use the Guidelines to inform its thinking and assist the government by reference to these internationally accepted standards.

The continuing development and revision of the policy framework will require the registry to work closely with other government bodies (such as those responsible for public administration and the administration of other aspects of tenure, and with tax authorities and local governments) to ensure that the connection between tenure rights, information on those rights and the users of that information are properly addressed. The responsibilities for recording tenure rights will need to be clearly identified and linkages (including unique parcel identifiers) will be required to allow users to take advantage of information on the tenure rights to parcels, and on the value and use of those parcels.

REVISING THE REGISTRY LAW

The legal framework is a cornerstone of the recording of rights because the documents and transactions have an important legal effect. The recording process itself legally recognizes that a particular person holds certain rights either by presumption or conclusively. Laws must, therefore, be a starting point in the recording of rights.

Laws for registries do not exist in a vacuum. They are created in the context of many other laws that need to be considered. In common law states, the registry law exists in a wider context of judge-made law, and in civil law states, the civil code, land or property code, and administrative code will have impacts on a registry law. As a registry law fits within the context of the constitution, codes and other laws of general application, if there is any inconsistency with what the registry law should say, then these codes and other laws might need to be amended to support and provide consistency with the registry law.

The registry law provides the legal base for a registry to operate and provide services to its customers. It should reflect the matters discussed in this guide on ways to improve the recording of rights and service to customers. For example:

- **The designation of the authority to administer the recording system:** Do the reforms introduce a new structure, such as with a board of management?

Is the registry to be self-financing (see Improving institutional aspects and "Improving financial management" in chapter 5)?

- **The basis of the recording system and the effect of the reforms:** Do the reforms convert the existing system to a new one and, if so, what is the new system's effect on the parties involved? Is there a guarantee with financial compensation for mistakes and fraud? Is the system to be based around parcels (see Considerations for the choice of improving an existing system or converting to a new one and Improving the organization of records in chapter 2, and How a compensation fund can be used in cases of fraud and mistakes in chapter 7)?
- **Conversion of the records to a new system:** In which areas will the work begin and how will it be done (see Improving the organization of records in chapter 2)?
- **Recording of transactions:** What are the powers and obligations of officials and right holders, and the main elements or aspects of the processes? Will the system be kept in paper or digital form (see chapters 3, 5 and 7 and Legal considerations in chapter 8)?
- **Provisions to protect people with disabilities, children and women who hold tenure rights:** Do the reforms improve services to these groups (see Improving services for women customers and Improving services for special groups and vulnerable and marginalized people in chapter 3)?
- **Appeal rights:** Do the reforms provide a fair and transparent way for customers to appeal against decisions of the registry (see Improving the management of disputes with the registry in chapter 7)?
- **Powers to correct mistakes and procedures for doing so:** Do the reforms provide simplified ways to ensure that the records reflect the reality (see Improving ways to deal with mistakes in chapter 7)?
- **Powers to make regulations and guidelines, and issue instructions and a procedures manual** (see Using a procedures manual to address fraud and mistake in chapter 7).

Other important aspects that should be addressed in the registry law are covered in a companion guide on *Creating a system to record tenure rights and first registration*:

- Recording rights and parcels for the first time (first registration): the powers and obligations of officials, right holders and others, and the main elements of the process.
- Balance of access to information for the public against privacy concerns.

These matters can all be addressed in the registry law or, as is more common, addressed mainly in that law and then supported by provisions in other laws. For example, the civil code might set out the basic aspects and effects of recording: a law on state fees might regulate payments for services and information; a law on surveying might regulate how surveyors subdivide parcels; and a law on appeals or complaints might regulate how customers who are dissatisfied with decisions can apply for them to be reconsidered. Other relevant laws include those on freedom of information and privacy. Regulations are also important (see By-laws and regulations, orders and decisions, and instructions in this chapter).

Other related laws, which are not normally reflected in the registry law but which are important to operations concern gender equity and non-discrimination, workplace health and safety, taxation, accounting and its standards, and the status and conditions of government employees. Laws of more general application include laws on divorce, inheritance, companies, bankruptcy, expropriation, housing, leasing, redistributive reforms such as land reforms, valuation and e-signature. There are often laws dealing with the rights and capacity of children and people with disabilities.

An assessment of the registry law and others laws should be carried out to see how they match up with the standards specified in the Guidelines and covered in this guide. In this way, gaps and inconsistencies can be identified, and amendments or even new laws can be prepared to improve the legal framework.

BY-LAWS AND REGULATIONS, ORDERS AND DECISIONS, AND INSTRUCTIONS

One or more regulations under the law on the registry will usually be issued to regulate more detailed matters of the processes for recording rights. Such regulations could provide information on the requirements for preparing documents, the fees to be charged for information and services, standard forms to be used, requirements for documents in foreign languages, how documents are to be presented (in paper and/or electronic form, and ensuring space for recording the names of spouses, etc.), how claims for compensation can be made, and other matters that are important but not addressed in the main law. These, too, need to be regularly reviewed and updated to make sure they comply with good customer services and current technology.

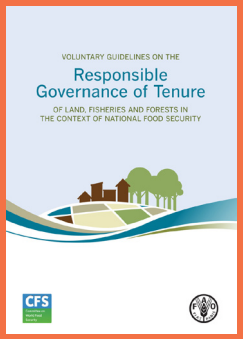
Orders and decisions usually cover day-to-day matters that cannot be addressed in the registry law, such as appointments of senior officials and other administrative matters. Depending on how the registry law is drafted, orders and decisions can be issued by the government, the minister responsible for the registry or the chief registrar.

Another aspect of the legal framework in some states is the instructions issued by the chief registrar. These are usually technical instructions on how documents need to be prepared, what supporting documents need to be provided (if any), additional information required, the size, weight and quality of paper, security features, etc. They cover the detailed requirements for running the registry and are issued as the need arises. Often the law provides that the orders and instructions must be followed and that a failure to comply with the requirements will result in rejection. Importantly, there should also be a power for the registry to waive its own technical requirements in exceptional circumstances.

ADDITIONAL INFORMATION

FAO. 2013. *Responsible governance of tenure and the law: a technical guide for lawyers and other legal service providers.* (available at http://www.fao.org/3/a-i5449e.pdf).

Voluntary Guidelines on Responsible Governance of Tenure



The purpose of these Voluntary Guidelines is to serve as a reference and to provide guidance to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all and to support the progressive realization of the right to adequate food in the context of national food security.

These Guidelines are intended to contribute to the global and national efforts towards the eradication of hunger and poverty, based on the principles of sustainable development and with the recognition of the centrality of land to development by promoting secure tenure rights and equitable access to land, fisheries and forests.

The eradication of hunger and poverty, and the sustainable use of the environment, depend in large measure on how people, communities and others gain access to land, fisheries and forests. The livelihoods of many, particularly the rural poor, are based on secure and equitable access to and control over these resources. They are the source of food and shelter; the basis for social, cultural and religious practices; and a central factor in economic growth.

These Guidelines were endorsed by the CFS at its Thirty-eighth (Special) Session on 11 May 2012.

This publication is available in **many languages**.

Rome, 2012
ISBN 978-92-5-107277-6
40 pp, 180 x 250 mm

The preceding chapters have presented well-established practices for improving the recording of rights. An important shift in the administration of tenure has been towards improved management: treating users as valued customers who are paying for services, managing registries in line with strategic plans and business plans, a move to self-financing status, and the wider use of the information in recording systems across government and by the private sector. Good practices, such as a focus on customers, offices, management, staff, operations, and policy and legal frameworks, have been implemented in many states around the world for decades and it can be expected that these practices will continue to be relevant in the future.

Other shifts in the administration of tenure have been influenced by technological developments: personal computers, the Internet, optical recognition of documents, data storage, satellite positioning and satellite imagery among others have been combined to revolutionize how registries function.

This concluding chapter considers some developments that are either already underway or are just beginning to be implemented, but which will have an impact on the recording of rights in the near future. What will the next ten years bring? The details are difficult to predict but some general expectations are set out.

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10. FUTURE CONSIDERATIONS

Key points of this chapter

- The practices for improving the recording of rights described in this guide have been used in many states around the world and it can be expected that these practices will continue to be relevant in the future.
- Technological developments have also influenced the administration of registries and future developments will affect the expectations and concerns of citizens and customers regarding the recording of rights. Registries will need to respond to those new expectations and concerns.
- Customer demands: Customers will, increasingly, want immediate access to services, particularly through the Internet and mobile devices, and demands will rise for related information (such as on local services, environment and social issues).
- Risks to privacy: Greater concerns about privacy arise because of the amount of information available and its accessibility.
- Integrated solutions: Registries will play a central role in bringing together diverse sources of information to better serve the community.
- Open data: Registry records, particularly maps, will be made available free of charge for the private sector to use in their businesses.
- Partnership with the private sector: More tools and services to improve registry operations and records will be developed by the private sector, which will partner with the registry to improve accuracy, efficiency and coverage of the system.
- Fully digital records: Paper records will disappear, with digital records and scanned images of old paper records replacing them.
- Improved quality of records: Software, satellite and aerial images, satellite positioning and crowdsourcing will contribute to a rapid improvement in the quality of records.
- Faster transactions: Improved technology means that recording will occur more efficiently, with a reduction in costs for making transactions; in turn, this will expand the number of customers who use the registry, such as short-term borrowers.
- Additional information in the records: Registries will be able to record other types of tenure rights, such as water rights, and the information can be presented in three-dimensional form.
- Additional e-services: Professionals will be able to deliver services traditionally provided by the registry by connecting to the registry's system.
- Office locations: With greater connectivity, registry services can be provided from any location and recording of transactions can take place in dedicated "back office" centres.

INCREASED EXPECTATIONS AND CONCERNS OF CITIZENS AND CUSTOMERS

Some expectations and concerns that could receive more attention in the future are described below.

Immediate access: Across the world, people are now used to having increasing amounts of information available at their fingertips through smart phones and other mobile devices. While many people still do not have access to the Internet, several large technology companies have developed visions of affordable basic Internet services to be made available around the world through the use of technologies such as satellites and Remotely Piloted Aircraft Systems (or drones), and the use of unused broadcasting frequencies allocated for television transmission. Any rapid advances in connecting people to the Internet, particularly in remote rural areas, will revolutionize how registries operate, including with regard to recording tenure rights of indigenous peoples and other communities with customary tenure systems and in informal settlements (see also the companion guide on *Creating a system to record tenure rights and first registration*).

Customized information: People want information from the registry on rights and parcels, but also related information for making investment decisions about buying or leasing, such as the vicinity of local schools and health services, malls, the nearest gym, the likelihood of flooding and new constructions, planning restrictions and tax levels. Information about employment opportunities, public safety and crime levels, etc., could also be linked. People will expect to see the information they require in a readily understandable format in three dimensions with graphic effects that allow a person to "fly over" or "fly through" a neighbourhood or a parcel and any buildings within it.

Balancing access with privacy: With easier and quicker access to information using electronic means, the risks to privacy become greater. With paper-based systems, the physical requirements of going through books or files using the human eye to search for information meant that a person could investigate only a small number of records in a day. With computers, complete sets of digital records can be interrogated in a matter of minutes. The inherent conflict between the principles of privacy and free access to tenure information is not easy to resolve, but all states will need to come up with solutions if they have not already done so.

RESPONSES BY REGISTRIES

Possible responses by registries to expectations and concerns are presented below.

Integrated solutions. The information maintained by registries is key for many shared solutions, and registry officials have played central roles in coordinating the sharing of information and developing national spatial data infrastructures. However, if registries are to provide the level of service that may be expected, they will need to be far more integrated with other public agencies and have a much wider understanding of the economy, society and politics than is currently common. There is a need for a greater level of understanding about how other agencies and disciplines work, and for building tenure records into the work in other disciplines, such as climate change science, and integration with civil registries and biometric records.

Open data: Many states (including those within the European Union) now have a policy of "open data", under which the data are free to be re-used, largely so that the private sector and citizens can add value to it. Registries will be called on to support these policies.

Partnerships with the private sector: The private sector is likely to play a greater role as intermediaries, providing multiple services to the public. Thirty years ago it was thought that mapping was such an expensive exercise that governments would always have to subsidize the service by providing the funds for it. Since then entrepreneurs have changed the way in which mapping is perceived and the private sector and global crowdsourcing initiatives have driven the growth in publicly available mapping.

Fully digital records: Immediate access to customized information will require automated systems that have complete information and are linked with other key registers. Registries that have not yet modernized will be under pressure to do so. Records will need to be scanned, indexed and made available in digital form. This work entails massive programmes to scan and index records, applying software of growing sophistication for automated recognition of the information needed for the indexes (such as names, addresses, dates, closed polygons on maps).

Improved quality of the records: Records are sometimes poorly maintained and maps showing parcels and buildings often lack positional accuracy. There is a need for software to match the current situation on the ground with those records, along with the necessary legal authority to update the records in such a way. Satellite and aerial imagery and satellite positioning are likely to become standard means to improve positional accuracy. Crowdsourcing has already been used to check and correct the records, such as in Croatia and Ukraine.

Faster transactions: Quicker and easier access to information means that the overall costs are being reduced, giving more people the benefits of the system. Reduced costs include financial costs and the time taken to investigate, enter into a transaction and record it. Such efficiencies will facilitate lending, particularly short-term micro-lending, to help the poor and vulnerable. In turn, this efficiency should improve productivity and food security. In Kyrgyzstan, for example, efficient processes enabled farmers to borrow money at a low cost for a few months to buy seed and fertilizer. Once the harvest was in, they repaid the funds. Without the loan facility, the land would have been left uncultivated.

Additional information in the records: The most common types of recording systems deal with land tenure rights and emphasize ownership rights, related rights and responsibilities. More types of tenure rights are likely to be recorded in the future. Legal recognition of customary tenure should result in the increased recording of customary rights, and the recording of fishery tenure rights, forest tenure rights and water tenure rights should receive more attention. Multidimensional information on rights can be expected to become more important as information on height is added to the tenure records. The addition of extra dimensions such as height, is sometimes referred to as the 3D cadastre.

Additional e-services: The process of moving from paper to electronic transactions will occur more quickly and the range of e-services will expand. In The former Yugoslav Republic of Macedonia, for example, in the space of four years, the land registry moved from a paper-based system to one in which over 50 percent of transactions are lodged electronically. The transformation was assisted by the close relationships between the registry and professionals (who recognized that electronic and online services provided much improved results for their clients).

Office locations: As registries become fully electronic and information will be available online to anyone, physical access to registry services can be provided by local government officials, multiple service centres, professionals and banks that have secure, online access to the registry. The registry office that maintains the records and processes applications can be located anywhere in the state.

ADDITIONAL INFORMATION

FIG (International Federation of Surveyors)/World Bank. 2014. *Fit-for-purpose land administration.* FIG publication No. 60 (available at www.fig.net/resources/publications/figpub/pub60/Figpub60.pdf).

This guide is based on the specific and general provisions of the Guidelines on recording systems for rights and parcels. This annex highlights relevant areas of the Guidelines. It is intended to assist in reading the Guidelines and is not a substitute for them.

ANNEX: WHAT DO THE GUIDELINES SAY ABOUT THE RECORDING OF RIGHTS?

The main text of the Guidelines on recording rights and parcels is in section 17, which is in Part 5 on the administration of tenure. Section 17 should be read with other parts of the Guidelines, outlined as follows.

Section 1 of the Guidelines gives their objectives.

Paragraph 1.1	◆ The Guidelines seek to improve governance of tenure of land, fisheries and forests. ◆ They seek to improve the governance of tenure for the benefit of all, with an emphasis on vulnerable and marginalized people. ◆ They seek to improve the governance of tenure with the goals of: ➢ food security and progressive realization of the right to adequate food; ➢ poverty eradication; ➢ sustainable livelihoods; ➢ social stability; ➢ housing security; ➢ rural development; ➢ environmental protection; ➢ sustainable social and economic development. ◆ All programmes, policies and technical assistance to improve governance of tenure should be consistent with existing obligations under international law, including the Universal Declaration of Human Rights and other international human rights instruments.

With regard to improving governance of tenure through recording rights and parcels, section 17 has five paragraphs, key points of which are shown in the following table:

Paragraph 17.1	◆ States should provide recording systems to improve tenure security and the functioning of local societies and markets. ◆ The recording systems should be able to record individual and collective tenure rights that are held by the state and public sector, private sector, and indigenous peoples and other communities with customary tenure. ◆ The systems should record, maintain and publicize tenure rights and duties, the people who hold them, and the parcels or holdings to which the tenure rights relate.
Paragraph 17.2	◆ The systems should be appropriate for the particular circumstances, including the human and financial resources available. ◆ Tenure rights of indigenous peoples and other communities with customary tenure should be recorded in a socio-culturally appropriate way.

Paragraph 17.2	◆ To ensure transparency and compatibility with other sources of information, recording systems should be included with other spatial information systems in an integrated framework. ◆ The system should allow for the integration of records of all tenure rights, whether they are held by the state and public sector, private sector, and indigenous peoples and other communities with customary tenure. ◆ Where it is not possible to record tenure rights of indigenous peoples and other communities with customary tenure, or occupations in informal settlements, care should be taken to prevent the recording of competing rights in those areas.
Paragraph 17.3	◆ Everyone should be able to record their tenure rights without discrimination. ◆ Where appropriate, agencies should provide service centres or mobile offices to improve access, especially with regard to vulnerable groups. ◆ Locally-based professionals, such as lawyers, notaries, surveyors and social scientists, should be considered to help deliver information on tenure rights to the public.
Paragraph 17.4	◆ Procedures should be simplified and locally-suitable technology should be used to reduce the time and costs for delivering services. ◆ The spatial accuracy for parcels and other spatial units should be sufficient to meet local needs and, if required, could be improved over time. ◆ Information on the tenure rights, the holder of the rights and the spatial units should be linked. ◆ Records should be indexed by spatial units, as well as by holders, to allow competing rights to be identified. ◆ Records of tenure rights should be shared to allow state agencies and local governments to improve their services. ◆ Information should be shared in accordance with national standards and should include disaggregated data on tenure rights.
Paragraph 17.5	◆ Information on tenure rights should be easily available to all. ◆ The sharing of information on tenure rights should be subject to privacy restrictions, but these restrictions should not unnecessarily prevent public scrutiny to identify corrupt and illegal transactions. ◆ Corruption should be prevented by publicizing the processes, requirements, fees and any exemptions, and deadlines for responses to requests for services.

Section 7 is on safeguards that should be applied where tenure rights are being allocated or recognized for the first time. It addresses the creation of records, i.e. first registration:

Paragraph 7.1	◆ When states recognize or allocate tenure rights, they should establish safeguards to avoid infringing or extinguishing tenure rights of others, including legitimate tenure rights that are not currently protected by law. ◆ Safeguards should protect women and the vulnerable who hold subsidiary tenure rights, such as gathering rights.
Paragraph 7.3	◆ Where states intend to recognize or allocate tenure rights, they should first identify all existing tenure rights and right holders, whether recorded or not. ◆ Indigenous peoples and other communities with customary tenure, smallholders and anyone else who could be affected should be included in the consultation process (consistent with paragraph 9.9 for indigenous peoples and principle 3B.6 for other communities). ◆ States should provide access to justice if people believe their tenure rights are not recognized.
Paragraph 7.4	◆ States should ensure that women and men enjoy the same rights in the newly recognized tenure rights, and that those rights are reflected in the records. ◆ Where possible, legal recognition and allocation of tenure rights should be done systematically, progressing area by area, in order to provide the poor and vulnerable with full opportunities to acquire legal recognition of their tenure rights. ◆ Legal support should be provided, particularly to the poor and vulnerable. ◆ Locally appropriate approaches should be used to increase transparency when records of tenure rights are initially created, including in the mapping of tenure rights.

Section 9 includes some aspects with regard to indigenous peoples and other communities with customary tenure systems.

Paragraph 9.4	◆ Legitimate tenure rights of indigenous peoples and other communities should be provided by states. ◆ The recognition should take into account the land, fisheries and forests that are: ➤ used exclusively by a community; ➤ shared by different communities.
Paragraph 9.5	◆ States should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of indigenous peoples and other communities with customary tenure systems. ◆ Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems.
Paragraph 9.8	◆ States should protect indigenous peoples and other communities with customary tenure systems against the unauthorized use of their land, fisheries and forests by others. ◆ Where a community does not object, States should assist to formally document and publicize information on the nature and location of land, fisheries and forests used and controlled by the community. ◆ Where tenure rights of indigenous peoples and other communities with customary tenure systems are formally documented, they should be recorded with other public, private and communal tenure rights to prevent competing claims.
Paragraph 9.11	◆ States should respect and promote customary approaches used by indigenous peoples and other communities with customary tenure systems to resolve tenure conflicts within communities. This support should be provided in a way that is consistent with the existing obligations of states under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments. ◆ For land, fisheries and forests that are used by more than one community, means of resolving conflict between communities should be strengthened or developed.

Section 8 on public land, fisheries and forests also has some relevant paragraphs:

Paragraph 8.3	◆ There are publicly-owned land, fisheries and forests that are collectively used and managed (sometimes referred to as commons). ◆ States should 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.
Paragraph 8.4	◆ 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. ◆ Such inventories should record the agencies responsible for administration as well as any legitimate tenure rights held by indigenous peoples and other communities with customary tenure systems and the private sector. ◆ Where possible, States should ensure that the publicly-held tenure rights are recorded together with tenure rights of indigenous peoples and other communities with customary tenure systems and the private sector in a single recording system, or are linked to them by a common framework.
Paragraph 8.5	◆ States should determine which of the land, fisheries and forests they own or control will be retained and used by the public sector, and which of these will be allocated for use by others and under what conditions.
Paragraph 8.9	◆ 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. ◆ Where possible, States should ensure that newly allocated tenure rights are recorded with other tenure rights in a single recording system or are linked by a common framework. ◆ States and non-state actors should endeavour to prevent corruption in the allocation of tenure rights.

Section 10 addresses informal rights.

Paragraph 10.1	◆ Where informal tenure exists, states should acknowledge it in a manner that respects existing formal rights under national law and in ways that recognize the reality of the situation and promote social, economic and environmental well-being. ◆ States should promote policies and laws to provide recognition to such informal tenure. ◆ The process of establishing these policies and laws should be participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals. ◆ States should acknowledge the emergence of informal tenure arising from large-scale migrations.
Paragraph 10.3	◆ Whenever states provide legal recognition to informal tenure, this should be done through participatory, gender-sensitive processes, having particular regard to tenants. ◆ These processes should facilitate access to legalization services and minimize costs. ◆ States should strive to provide technical and legal support to communities and participants.
Paragraph 10.4	◆ States should take measures to limit the informal tenure that results from overly complex legal and administrative requirements for land use change and development on land. ◆ Development requirements and processes should be clear, simple and affordable to reduce the burden of compliance.
Paragraph 10.6	◆ Where it is not possible to provide legal recognition to informal tenure, states should prevent forced evictions that violate existing obligations under national and international law.

Section 21 also has some relevant material on the resolution of disputes over rights and parcels.

Paragraph 21.1	◆ States should provide access through impartial and competent judicial and administrative bodies to timely, affordable and effective means of resolving disputes over tenure rights. ◆ Access should also be provided to alternative means of resolving disputes. ◆ States should provide effective remedies for disputes and a right to appeal, and the remedies should be promptly enforced. ◆ Mechanisms should be available to all to avoid or resolve potential disputes at the preliminary stage, either within the implementing agency or externally. ◆ Dispute-resolution services should be accessible to all women and men in terms of location, language and procedures.
Paragraph 21.2	◆ States may consider: ➢ introducing specialized tribunals or bodies that deal solely with disputes over tenure rights; ➢ creating expert positions within the judicial authorities to deal with technical matters; ➢ having special tribunals to deal with disputes over regulated spatial planning, surveys and valuation.
Paragraph 21.3	◆ States should strengthen and develop alternative forms of dispute resolution, especially at the local level. ◆ Where customary or other established forms of dispute settlement exist they should provide for fair, reliable, accessible and non-discriminatory ways of promptly resolving disputes over tenure rights.
Paragraph 21.4	◆ States may consider using implementing agencies to resolve disputes within their technical expertise, such as those responsible for surveying to resolve boundary disputes between individual parcels within national contexts. ◆ Decisions should be delivered in writing and based on objective reasoning, and there should be a right to appeal to the judicial authorities.
Paragraph 21.5	◆ States should endeavour to prevent corruption in dispute-resolution processes.
Paragraph 21.6	◆ In providing dispute-resolution mechanisms, States should strive to provide legal assistance to vulnerable and marginalized people to ensure safe access for all to justice without discrimination. ◆ Judicial authorities and other bodies should ensure that their staff have the necessary skills and competencies to provide such services.

In particular, section 17 (and other sections) should be read with section 6, which is concerned with the delivery of services.

Paragraph 6.1	◆ To the extent that resources permit, agencies and judicial authorities should have the human, physical, financial and other forms of capacity to implement policies and laws in a timely, effective and gender-sensitive manner. ◆ Staff at all levels should receive continuous training. ◆ Staff should be recruited with due regard to ensuring gender and social equality.
Paragraph 6.2	◆ The delivery of services should be consistent with a state's existing obligations under national and international law, and its voluntary commitments under regional and international instruments.
Paragraph 6.3	◆ Services should be prompt, accessible and non-discriminatory. ◆ Unnecessary legal and procedural requirements should be eliminated. ◆ The services of agencies and judicial authorities should be reviewed and improved, as required, by the state.
Paragraph 6.4	◆ Agencies and judicial authorities should serve the entire population, delivering services to all, including those in remote locations. ◆ Services should be prompt and efficient, using locally suitable technology to increase efficiency and accessibility. ◆ Internal guidelines should be developed so that staff can implement policies and laws in a reliable and consistent manner. ◆ Procedures should be simplified without threatening tenure security or quality of justice. ◆ Explanatory materials should be widely publicized in applicable languages to inform people of their rights and responsibilities.
Paragraph 6.5	◆ Policies and laws should promote the appropriate sharing of information on tenure rights, for the effective use by all. ◆ National standard should be developed for the shared use of information, taking into account regional and international standards.
Paragraph 6.6	◆ Additional measures should be considered to support vulnerable or marginalized groups who could not otherwise access the services. ◆ These measures should include legal support, such as legal aid, and may also include the provision of services by paralegals or parasurveyors, and mobile services for remote communities and mobile, indigenous peoples.
Paragraph 6.7	◆ Agencies and judicial authorities should foster a culture based on service and ethical behaviour. ◆ They should seek regular feedback, such as through surveys and focus groups, to raise standards and improve delivery of services to meet expectations and to satisfy new needs. ◆ They should publish performance standards and report regularly on results. ◆ Users should be able to have their complaints addressed within the agency (e.g. by administrative review) or externally (e.g. by an independent review or an ombudsman).
Paragraph 6.8	◆ Relevant professional associations should develop, publicize and monitor the implementation of high levels of ethical behaviour. ◆ Those in the public and private sectors should adhere to applicable ethical standards and be subject to disciplinary action in case of violations. ◆ Where such associations do not exist, the state should provide an environment conducive to their establishment.
Paragraph 6.9	◆ All should endeavour to prevent corruption. ◆ Anti-corruption measures should be adopted and enforced, including applying checks and balances, limiting the arbitrary use of power, addressing conflicts of interest and adopting clear rules and regulations. ◆ There should be provision for the administrative and/or judicial review of decisions of agencies. ◆ Staff working in agencies should be held accountable for their actions. ◆ At the same time, the staff should be provided with the means of conducting their duties effectively. ◆ And staff should be protected against interference in their duties and from retaliation for reporting acts of corruption.

As is the case elsewhere in the Guidelines, the principles of section 3 are mainstreamed in these sections.

General principles are provided in 3A:

General principles of the Guidelines

Paragraph 3.1 identifies actions to be taken by the state:

1. Recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights.
2. Safeguard legitimate tenure rights against threats and infringements. They should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law.
3. Promote and facilitate the enjoyment of legitimate tenure rights. They should take active measures to promote and facilitate the full realization of tenure rights or the making of transactions with the rights, such as ensuring that services are accessible to all.
4. Provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes.
5. Prevent tenure disputes, violent conflicts and corruption. They should take active measures to prevent tenure disputes from arising and from escalating into violent conflicts. They should endeavour to prevent corruption in all forms, at all levels and in all settings.

Paragraph 3.2 identifies a series of actions to be taken by non-state actors in the general context of the responsibility to respect human rights and legitimate tenure rights.

Principles of implementation are provided in 3B:

Principles of implementation of the Guidelines

1. Human dignity: recognizing the inherent dignity and the equal and inalienable human rights of all individuals.
2. Non-discrimination: recognizing that no one should be subject to discrimination under law and policies as well as in practice.
3. Equity and justice: recognizing that equality between individuals may require acknowledging differences between individuals, and taking positive action, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests for all women and men, youth, and vulnerable and traditionally marginalized people within the national context.
4. Gender equality: ensuring the equal right of women and men to the enjoyment of all human rights, while acknowledging differences between women and men and taking specific measures aimed at accelerating de facto equality when necessary. States should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status.
5. Holistic and sustainable approach: recognizing that natural resources and their uses are interconnected, and adopting an integrated and sustainable approach to their administration.
6. Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.
7. Rule of law: adopting a rules-based approach through laws that are widely publicized in applicable languages, are applicable to all, equally enforced and independently adjudicated, and that are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments.
8. Transparency: clearly defining and widely publicizing policies, laws and procedures in applicable languages, and as well as any decisions in formats accessible to all.
9. Accountability: holding individuals, public agencies and non-state actors responsible for their actions and decisions according to the principles of the rule of law.
10. Continuous improvement: improving mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and to secure ongoing improvements.

Governance of tenure **technical guides**

FAO. 2013. *Governing land for women and men: a technical guide to support the achievement of responsible gender-equitable governance of land tenure.* Governance of tenure technical guide No. 1. Rome.

FAO. 2013. *Improving governance of forest tenure: a practical guide.* Governance of tenure technical guide No. 2. Rome.

FAO. 2014. *Respecting free, prior and informed consent: practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition.* Governance of tenure technical guide No. 3. Rome.

FAO. 2015. *Safeguarding land tenure rights in the context of agricultural investment: a technical guide on safeguarding land tenure rights in line with the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, for government authorities involved in the promotion, approval and monitoring of agricultural investments.* Governance of tenure technical guide No. 4. Rome.

FAO. 2016. *Responsible governance of tenure and the law: a guide for lawyers and other legal service providers.* Governance of tenure technical guide No. 5. Rome.

FAO. 2016. *Improving governance of pastoral lands: implementing the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.* Governance of tenure technical guide No. 6. Rome.

FAO. 2016. *Responsible governance of tenure: a technical guide for investors.* Governance of tenure technical guide No. 7. Rome.

FAO. 2016. *Governing Tenure Rights to Commons: A guide to support the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.* Governance of tenure technical guide No. 8. Rome.

FAO. 2017. *Creating a system to record tenure rights and first registration.* Governance of tenure technical guide No. 9. Rome.

FAO. 2017. *Improving ways to record tenure rights.* Governance of tenure technical guide No. 10. Rome.

There are many recording systems around the world that help to bring tenure security and other benefits to people who hold tenure rights, but there are also many systems that do not function well, and barriers can be placed unintentionally or deliberately to prevent people from using the systems. This guide provides practical advice on how to improve the existing ways to record rights so that the benefits and protections offered by recording systems can be available to all without discrimination. It gives guidance on how to apply the principles and practices of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. This guide is accompanied by Governance of Tenure Technical Guide 9, which focuses on creating a new system to record tenure rights and first registration.

ISBN 978-92-5-109839-4

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I7568EN/1/07.17