Education, Property Valuation, and Taxation Capacity in Developing Countries: The Example of Cambodia

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Key words: Property valuation, land taxation, property rights, curriculum and capacity development, Kingdom of Cambodia

SUMMARY

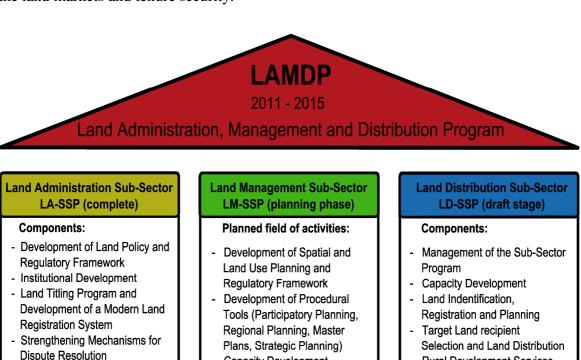
Capacity building for land valuation, land taxation, land economy, and legal education is of paramount importance for land administration in the Kingdom of Cambodia. Without this knowledge, any assessment and appraisal applications will loose public trust due to important errors. The Cambodian Ministry of Land Management, Urban Planning and Construction (MLMUPC), together with the Faculty of Land Management and Land Administration (FLMLA) at the Royal University of Agriculture (RUA), have set up a bachelor program through assistance from Germany (GIZ). The mission of the FLMLA is to provide an international accredited bilingual education with innovative teaching and educating methods and by a regularly updated curriculum that follows the Cambodian job market needs to deliver property market services including property valuation and taxation. According to the existing detailed curriculum and the course descriptions, FLMLA-students should obtain basic knowledge about the formalized land and real estate markets, their structure, components, and operating mechanisms. They should understand the importance of real estate valuation methodology and property taxation in Cambodia against the background of the settlement of land disputes. Students should also be aware of the necessary political, legal and institutional framework conditions. Moreover, it is essential to develop a specific training program and then apply it with written examinations (for university students of the FLMLA) or followed by certificate issuance (for ministry staff of the MLMUPC). A common core syllabus in developing countries integrating appraising and assessment is possible due to the fact that basic definitions, concepts, principles, forces influencing value and methods to value are the same. However, in many cases there is additional or permanent training necessary, particularly through "Summer Schools", workshops, and field trips.

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1. INTRODUCTION

After decades of civil war and the communist Khmer Rouge domination of "Democratic Kampuchea" (1975-1979), Cambodia followed a concept to transform a socialist system into a market oriented democracy. This process includes legal reform assistance aiming at subsidiary legislation related to adjudication, taxation, valuation, titling (land privatization and the creation of private property rights), and decollectivization. The introduction of formal property systems – for which Cambodia is anything else than well prepared – is still incomplete. Real estate markets are considered to be informally and transactionally inefficient. Via the Land Administration, Management and Distribution Program (LAMDP; see figure 1), the Royal Government of Cambodia (RGC) proclaimed to strengthen the land markets and tenure security.



 Rural Development Services and Investments

Figure 1: LAMDP in Cambodia (2011-2015)

LAMDP - formerly named as LA-SSP - is currently implemented by Germany through its

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Capacity Development

State Land Management

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Development

organization GIZ which is responsible for the "Land Policy Regulatory Framework", "Institution Building" and "Resolution of Land Conflicts". The project partners Finland (through the company Finnmap) and Canada (through CIDA/LMAP Canada) are engaged in the components "Land Registration and Award of Titles" respective "Land Parcel and Property Assessment".

2. CAPACITY BUILDING FOR LAND VALUATION AND LAND MARKETS IN CAMBODIA

The Cambodian Ministry of Land Management, Urban Planning and Construction (MLMUPC), in cooperation with the Faculty of Land Management and Land Administration (FLMLA) and the Royal University of Agriculture (RUA), have set up a bachelor program with technical assistance from Germany (German Federal Ministry for Economic Cooperation and Development – BMZ through the German International Cooperation – GIZ). The mission of the FLMLA is to provide an internationally accredited bilingual education with innovative education methods and a curriculum that follows the Cambodian job market needs in that specific sector (see table 1).

FLMLA, RUA/Phnom Penh – Department Structure				
Land Policy	Land Management and Land Administration	Geomatics, Surveying and Mapping		
 Land Law/Property Legislation Land Policy Legal Framework for LM & LA in Cambodia Natural Resource Rights Land Economics Social and Economic Land Issues Public Administration 	 Land Administration: Registration and Cadastral Systems Land and Real Estate Valuation Land Taxation Land and Real Estate Market Land Conflict Reconciliation Land Use Planning Urban Planning Regional Planning and Rural Development Land Development/Land Consolidation/Land Readjustment 	 GIS and Cadastral Mapping Surveying, Information and Communication Technique (ICT) Data Application Software Web-based Cartography Geodesy Photogrammetry and Remote Sensing GPS Aerial Photography 		

Table 1: Core curriculum of the faculty of land management and land administration, Royal University of Agriculture/Phnom Penh

According to the detailed **curriculum** and the **course descriptions**, the students obtain basic knowledge about the land and real estate market, their structure, components and operating mechanisms. They should understand the importance of real estate valuation and property taxation in Cambodia against the background of the settlement of land disputes. The students should also be aware of the necessary political, legal and institutional framework conditions. The contents of two real estate market and three land valuation courses are as follows:

Land and Real Estate Markets I

Students obtain basic knowledge about the land and real estate market, their structure, components, and operating mechanisms in general.

Land and Real Estate Markets II

Students get specific knowledge about the land and real estate market, their structure, components, and operating mechanisms in the Cambodian reality.

Land and Real Estate Valuation I

Students get basic information on the importance to Land and real estate valuation corresponding to the law to serve for conveyance, taxation, the settlement of land disputes and land and real estate markets (land and real estate sales and lease market) in general.

Land and Real Estate Valuation II

Students understand the importance to Land and real estate valuation in Cambodia and discuss real problems against the background of the settlement of land disputes, land and real estate markets (land and real estate sales and lease market).

Land and Real Estate Valuation III

Students know about the objective and forms of different land valuation methods and land taxation. They are also aware of the necessary political, legal and institutional framework conditions.

Before initiating assessment and appraising applications for the curriculum update, it is essential to develop a specific training program and then apply it with written examinations (for students of the FLMLA) or followed by certificate issuance (for ministry staff). A common core syllabus integrating appraising and assessment is possible due to the fact that basic definitions, concepts, principles, forces influencing value, and methods to value are the same. For these applications, there are distinctive processes for assessment. In addition, the curriculum could further be developed in view of the following **land valuation modules**:

- International historical overview on land valuation and property taxation
- Basic definitions of land valuation
 - Legal aspects (Land Law, Constitution, Condominium Law, sub-decrees etc.)
 - Principles and concepts
 - Forces affecting market value (economic, legal, geographic, social)
 - Methods of valuation

Assessment processes

- Global step by step processes
- Assessment office and staff organisation
- Assessors tasks and duties
- Property Record (PR) and its codification
- Data Bases (DB) supporting Land-Information-System (LIS)
- Land valuation mapping
- Units of neighbourhood
- Units of assessment

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- Data collection in view of unit-rates analysis
- Calculation of the assessed values
- Public information and communication
- Data actualization.

3. CAMBODIAN POLICY ON LAND VALUATION: CAPACITY BUILDING

At 1st July 2009, Cambodian Prime Minister Hun Sen signed the "Declaration of the Royal Government on Land Policy". According to this document, emphasize is to be given to land valuation and taxation as indispensable parts of the future Land Administration System (LAS) in Cambodia (RGC 2009). The guidelines for valuation and taxation will be embedded within a **National Policy on Land Valuation** (NPLV) that specifies and defines the Land Policy Declaration. The NPLV, which is currently being drafted in Cambodia, will identify its various applications and repartition of responsibilities among involved bodies, namely the ministries, and the Council for Land Policy (CLP). At present, the NPLV is supposed to be edited by Decree, Sub-Decree, Circular or by other legal vehicles which should consist of a brochure justifying such a policy, presenting its goals, detailing the NPLV, and presenting the main components and actors with their responsibilities. Such a policy will be regularly updated. The goals aim at the establishment of institutions in charge of preparing instructions, monitoring and evaluation of the implementation process through agencies especially by:

- management structures, powers, rules, duties, and decentralization delegations that are arranged; the setting up of an independent national valuation association including professional and technical teams;
- human resources relating to specific skills for appraising and assessment which have to be defined as required (capacity building);
- the kinds of work, scope and clearly defined and required services;
- data management methodologies (e.g., for legal and fiscal cadastre) and data dissemination that have to be defined by law.

In order to strengthen and extent land valuation techniques, two steps of land valuation strategy must be established in Cambodia. The first step (0-5 years) should consist of land valuation procedures which are ideally defined in simple, easy understanding for the first implementation step. A land valuation methodology must be chosen and accepted for the first step by using all three main valuation approaches. The second step (5-15 years) comprises standardized land valuation procedures that must be prepared and established in scientific manner for the implementation with international acceptance through conducting examination, preparing code of conduct, licensing, supporting a land valuation association establishment and increasing skill capacity building. Institutional professional capacity building must be developed by promoting land valuation knowledge at university level and providing basic skills of land valuation towards the implementing official bodies. The future Land Valuation System in Cambodia will be constructed as a relationship among four components including legal framework, institutional, technical and financial sectors which have interaction to each other to determine the market value. However, the land valuation

system in present Cambodia has not been unified, available and transparent; it has not determined an appropriate land valuation methodology as a part of formalized property markets. At present, policies and rules do not clearly determine the process or procedures of land valuation. Though, there are numerous public and private institutions implementing land valuation, but they stay separately to each other and have their own land valuation performances. The land valuation methodologies used in Cambodia mostly depend upon land market data collection, price negotiation and bidding which have not been appropriately applied with concrete land valuation approaches (Fournier 2010; LMAP Canada 2010). In the future, the results of land valuation should be publicly displayed and reported. Appeal rights for result of land valuation must be provided. Access to data must be opened in view of clarity and transparency. Land value information via monitoring and revaluation must be updated; data delivery service must be transparent, effective and responsive through decentralization and deconcentration (see figure 2). Assessment ratio should be defined in order to attract participation from various intervening bodies such as landowners, real estate companies, notaries, banks, and the involved ministries, especially the Ministry of Land Management, Urban Planning and Construction (MLMUPC) for valuation, and the Ministry of Economy and Finance (MEF) which will be responsible for land/property tax collection.

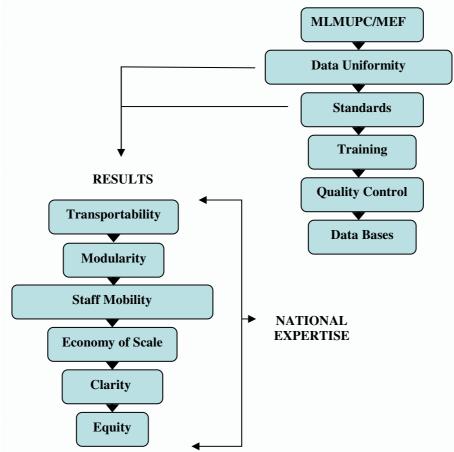


Figure 2: Model for the future property valuation infrastructure in Cambodia 4. LEGAL EDUCATION: PROPERTY RIGHTS FOR VALUATION

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Cambodia has adopted a market economy system (Article 56 Cambodian Constitution) including the rights for all Cambodians to own any amount and kind of land (Article 44 Cambodian Constitution). The **legal framework** for individual private property rights – the cornerstone of Cambodia's land reform under the "tenure security"-approach – includes the Constitution from 1993, the Land Law from 2001, and diverse Sub-decrees. Private property is protected by the Constitution and the Land Law. Systematic or sporadic land registrations transform use rights (e.g., possession rights) and ownership into private property rights (Thiel 2010). However, the implementation of a property market faces problems like unclear plot boundaries, a weak rule of law and the unfinished issuing of documents for mapping, property registries, valuation, and taxation. A future land valuation and taxation system in Cambodia will define the contents of a "fair market value" according to the International Accounting Standard (IAS) (Fournier 2010). This will be particularly important for **expropriation measures** (causing compensation) and for the valuation of immovable State assets (**State Land Management**).

The framework for land valuation in Cambodia bases legally on the concept of "immovable property" (Article 2 Land Law 2001). This legislation, influenced by France, is equivalent to the existing ones in many countries. Article 2 Land Law defines the sense of immovable properties by nature, by purpose, and by law. Immovable property, which "land" ideally represents, includes in Cambodia:

Land + Buildings/Improvements + Property Rights + Servitudes

The term "land" has to be interpreted as land including constructions/buildings/improvements (assets) and property rights which are appraisable for mortgages and hypothecs to determine co-ownership value and results from investments. Land valuation in Cambodia will be constructed as a sub-layer of the multipurpose cadastral system for public and private land (Williamson et al. 2010). Given such multi-purpose land valuation system, which is provided by most of the Western States, the cadastral system shows the overwhelming importance of property on land as collateral and "cemented security". Land valuation mapping is complementary to the cadastral system. In fact, it supports the GIS and fiscal cadastral system (see figure 3). In future, land valuation mapping in Cambodia will consist of the integration of maps as a copy of the cadastral map and of satellite images.

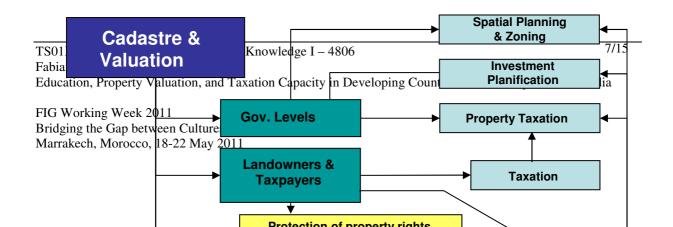


Figure 3: Benefits and interconnections of a future land valuation and taxation system for Cambodia

5. APPRAISING AND ASSESSMENT: CAPACITY BUILDING

Land valuation applications in Cambodia will consist of two general families of activities: **Single Appraising and Assessment**. Both techniques are based on the same foundations and are thus subject to the same methods of valuation. Appraising means detailed single expertise, while assessment is a mass-application for taxation purposes through coded structures. Appraising aims at private expertise while assessment is ordered by governmental authority in view of territorial inventory and ad-valorem-taxation on immovable properties. (Mass) appraising should generally be under a national professional order ruling its members and submitting them to the code of ethics and professional inspections. Assessment is normally covered by law and submitted to a specific national policy; such a policy is limited to assessment practices. The Cambodians once acting as assessors will come from public and private sectors and will be submitted to rules of conducts, trainings, conditional contracts or to their specific mandates (UBC 2003; Krumbholz 2007; LMAP Canada 2008; Fournier 2010). Appraisal and assessment require market monitoring and data storage in a timely and updated manner for the purchase of prices, rent prices, and for statistics regarding to construction materials. The **Land-Information-System** (LIS) will once serve both as data storage and land valuation mapping in order to combine property and site related data (e.g., size, location, condition). In Cambodia, this theme on actualization, revision or evolution should be fixed within a legal framework as an obligation to the assessor. This should happen to secure the updating of data bases and to ensure the integrity of the tax base on immovable properties to distinguish between data assessed values. It is essential to actualize the existing Data Bases (DB); this is considered as a permanent task for the assessor. To consider these modifications, the assessor must revise the property record and recalculate the value by using the same unitrates of valuation which already exist, and amends the DB. This is essential to avoid distortions and unfair tax burden displacement. The Cambodian property owners and tax payers must be notified to support their right of opposition in case of errors. Once the assessment roll is completed for the first time, the assessed values will gradually change as a result of market/economical evolution. The data actualization should be done in Cambodia every five years (UBC 2003; Fournier 2010).

The single appraisal gives a range of benefits on the economic enhancing, investment capital developing, and as the legal evidence for all stakeholders who intend to obtain the value of property or real estate. Also, Cambodia has been working with the single appraisal conducted by the private sector and the pilot project of LMAP. However, the work processing and outcome seems to be unreliable, and causes insufficient single appraisal awareness. Conducting research (Bachelor Thesis; Tin 2010) at the FLMLA at the RUA/Phnom Penh by Sela Tin highlights three main major objectives for understanding the existing single appraisal statement in Cambodia and also for understanding the single appraisal conducting in other countries for obtaining the good experience for fulfilling and be able to obtain the chance to be the member of international single appraisal institution. The result shows that Cambodia applies the single appraisal insufficiently, but at least single appraisal application seems to be better than the previous approaches. Cambodia holds the National Valuer Association (NVAC) as the expected institutional body responsible for the standards of national single appraisal in order to obtain the member status of the Asian valuation board. However, inadequate single appraisal performance is resulting from the lacking valuation education. The number of real estate companies is merely static due to the effect of the current economic crisis and its impacts on land markets. Even amongst appraisal suppliers, only one or two valuation agents hold the valuation certificate, and other agents received training programs from foreign experts. Cambodia should manage property data and record it on updated and feasable Data Bases (DB). Appraisers should have professional skills and must receive formal education (Tin 2010).

The calculation on the tax of property is entirely based on the market value of the immovable property. Land valuation, especially **mass appraisal**, plays a crucial role as the basis to levy the property taxation. Because of its significant contribution to taxation, the research study by Sokuntheavy Hong (Hong 2010) on mass appraisal processes in Cambodia is indeed worthwhile being conducted. This research aims at observing the process of mass appraisal being practiced in Cambodia, taking other countries' processes in doing mass appraisal into account as models, comparing the process of mass appraisal in Cambodia, and producing a land value map in Village 3, Sangkat Toek Laork, Khan Tuol Kork, Phnom Penh. The methods used were interviews and compilations of related documents. The interviews were

conducted with 44 people (officials of relevant institutions), while the other 15 were residents of Village 3, Sangkat Toek Laork, Khan Tuol Kork, Phnom Penh, and selected via the snowball sampling method. The **results** show that mass appraisal has never been conducted in Cambodia. Conducting a mass appraisal in Cambodia is a difficult task due to several reasons such as an incomplete land registration and cadastral system, lack of assessors, inadequate and/or false market value data, needed technologies (e.g., GPS), and supportive technical materials. Moreover, principles of responsible bodies and complaint procedures for mass appraisal in Cambodia are not yet appropriately set. However, mass appraisal is possibly conducted in the future because of several strengths such as a complete willingness of people to participate in the process of mass appraisal, the existence of the pre-emption law, an effort to create other supportive laws to mass appraisal, to provide the training of mass appraisal to government officials, and to complete the multi-purpose cadastre.

In **conclusion**, to get mass appraisal possibly done in Cambodia, property data – especially property value data – need to be collected systematically. Some measures should be implemented to serve this purpose. Land registration processes need to be speeded up to get a complete land registration system and cadastre. Monitoring the ability of appraisers of the private sector is necessary to make sure that property data collected from private sector companies are accurate for mass appraisal. Since nothing is free, to get property data from private sectors, a law that requires them to offer property data is to be created and implemented. Landowners are the main source of property value data, meaning the accuracy of the data told by the owners is indispensable. To make mass appraisal achievable, the preemption law is appropriate to force the owners to offer true information about their property values. Cambodia should also take up innovative models from foreign countries in setting up the principles, responsible bodies, and complaint procedures for mass appraisal (Hong 2010).

6. PROPERTY TAXATION

At present, **taxation of real estate** is done in Cambodia by land transfer taxation, impersonal property taxation, and taxation for unused land. A proper land taxation system is crucial for a successful land use policy, not only for Cambodia. In the past, the development on land markets partially counteracted the intentions of the land reform: to allocate land to peasants and to safeguard their livelihood. Land speculation, "land grabbing", land concentration, disputes and evictions have been aberrations that were caused by the described price hikes (Löhr 2010). In theory, currently land transfers are taxed in Cambodia by using a Property Transfer Tax at a rate of 4%. Unused land is subject to 2% Unused Land Tax. The stated prices as part of the selling contracts are mostly understated by to lower the Transfer Tax by 40% - 80% - or are simply not registered at all - for tax saving and/or evasion purposes (Krumbholz 2007). Moreover, the Cambodian government has decided in 2010 through the Finance Act to assess and tax the immovable properties in the country having a value from 25,000 USD and up with a rate of 0.1% (Property Tax). The value of the property is the market value to be determined by the Real Estate Valuation Commission established by the Ministry of Economy and Finance (MEF) (Vanderbruggen/Sim 2010). For this taxation, neither didactical materials nor training courses are available for the staff of the MEF which is responsible for the tax collection. Assessors may be assigned by the MEF without basic knowledge about property taxation. Moreover, taxing the properties above the level of 25,000 USD eventually opens a corruptive mechanism since the taxpayer may pay a "kickback" – as secret USD – in order to gain valuations below that 25,000 USD limit.

The 2%-tax on unused land seems to be insufficient as well, since there are disputes whether land can clearly be defined as "unused" or not. Instead, Cambodia could consider different strategies dealing with the phenomenon of land speculation, e.g., by selling the State land to private investors under the condition that the desired development of the land has to be granted by the buyer within a certain period of time. If the investor fails to fulfil this condition, the land may fall back to the government; the buyer would receive the investment he paid for the land back, but without compensation for the unearned "windfall profit". In order to avoid such problems, land should be taxed without regarding the actual use and improvements – **it should be a tax on imputed proceeds**. For these and other reasons, the site value tax could be accompanied by a land value increment tax (LVIT), based on the value of a site and not of the building. The rate for the LVIT should be fixed without being changed according to the actual use of the site. A fixed tax rate always results in the same tax burden for the owner. The owner of the land cannot avoid the tax, if it has the character of a fixed price. The only way to lower the effective burden of the tax is to use the site efficiently (Löhr 2010).

However, to implement LVIT in Cambodia, the national, regional and local State authorities responsible for land valuation and taxation would face the difficulties of partly skimming-off the potential rent-seeking gains of the landowners to achieve an even distribution of wealth between Cambodians. Windfalls are caused by increased land values and demand for land by outside investors especially in Phnom Penh. The assessment of the tax base could be carried out by committees according to the blueprint of the German land assessment boards ("Gutachterausschüsse", § 192 BauGB) (Löhr 2010; Kertscher 2009). Like in the past, price bubbles in rural areas are expected to take place mainly at locations with a moderate price level (for buying, renting, and leasing), good quality land and development expectations, particularly regarding (eco-)tourism. Besides Phnom Penh (I), real estate advisors expect future prices to rise mainly in the regions of Krong Preah Sihanoukville/Kampot (III), Battambang/Siem Reap (II), and Ratanakkiri/Mondulkiri (IV), as shown in figure 4 below. Although decelerating forces are also at work, aberrations of the land market continue to be possible in the future. In the long run negative impacts on food security, due to soil degradation, capture of the distribution channels by foreign actors, lack of access for landpoor and landless people to agricultural land are also possible if no counteractive measures (e.g., through land use control mechanisms and taxation tools) are legally enforced (Löhr 2010). Table 2 and figure 4 show urban and rural regions with the highest price development, additionally the reasons for these price increases and rent-seeking tendencies due to construction and infrastructure activities (Tep/Klork 2008).

Region	Phnom Penh (I)	Siem Reap (II)	Sihanoukville/	Mondulkiri/
		-	Kampot (III)	Ratanakkiri (IV)

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Cause	No limits and building	No limits on the	Development	Development
	codes yet on the height	height of	projects for	projects for (eco-)
	of real estates, hence	buildings and	(eco-)tourism,	tourism and Foreign
	high "intensity rent"	intensity of use,	airport,	Direct Investments
		but land scarcity	seaport,	(FDI) in agriculture
		caused by zoning	golf resorts	(e.g., rubber,
			-	cassava)

Table 2: "Hot spot" urban and rural areas for future real estate development



Figure 4: Map of "hot spot" urban and rural areas for future development in Cambodia

CONCLUDING REMARKS 7.

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By improving prior assessment tools for mass valuation and for a property tax based on the assessed value of the property, Cambodia could serve as an example for the developing of taxation in circumstances when rent-seeking, informal land markets and an unequal land distribution occur. Capacity building for land valuation, taxation, economy, and legal education is essential. Without these preconditions, the assessment applications will loose the public trust due to important errors. There is a fundamental difference between appraising and assessment – as it is between valuation and taxation which never should be mixed up. In many cases there is additional/permanent training available and needed, particularly through annual "Summer Schools" at the Faculty of Land Management and Land Administration of the Royal University of Agriculture/Phnom Penh and other land-related institutions.

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APPENDIX: APPRAISAL AND ASSESSMENT

Definition	A formal opinion of value prepared as a result of a retainer, intended for reliance by identified parties, and for which the appraiser assumes responsibility.
Characteristics	Appraisal involves selective research into appropriate market areas, the use of appropriate analytical techniques, and the application of knowledge, experience, and professional judgement to develop an appropriate solution to a specific appraisal problem. The appraiser provides the client with an opinion of value on an immovable property that reflects market evidence.
Examples	An opinion of market value for an immovable property, leasehold estate, preservation easement, or other estate (to assist in mortgage lending decisions, to assist in purchase or sale decisions); an opinion of investment value or some other properly defined value of an identified interest in real estate at a specific date for specific objectives (for insurance and relocation purposes, or property tax appeals).

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Definition	The act of valuating the totality of the properties within a global territory by using mass appraising applications and processes.
Characteristics	Assessment is mainly done as a base for ad valorem property taxation. It should be regularly actualized. Data actualization is permanently done; value actualization done on fixed cyclical base varying from yearly to once every three or five years. The quality of the results is inferior to the appraisal data, but the assessment has the advantage of producing permanent inventories and statistical data covering the entire country. Furthermore, assessment produces a neutral base for annual property taxation.
Examples	Assessment is mainly done to finance municipalities, to support the cadastral actualization or specific types of infrastructure. The better the municipal services are, the higher might be the property value and thus the tax rendering.

BIOGRAPHICAL NOTES

Dr. Fabian Thiel, born on October 3, 1968, studied geography at the University of Hamburg and law at the University of Regensburg. From 2001 to 2008, he worked as academic staff for the Hochschul-Informations-System (HIS, Hannover), for the Environmental Research Centre (UFZ, Leipzig-Halle) and as a freelance land policy advisor. Since September 2008, he serves as a faculty advisor and lecturer for the Faculty of Land Management and Land Administration at the Royal University of Agriculture (Phnom Penh, Cambodia). Dr. Fabian Thiel focuses on teaching and researching fields like land law, planning law, constitutional law, land policy, and land valuation. He is the author of several monographs, articles, research reports and papers about international land management, land policy, and property policy.

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