

Thinking and Working Politically in the Land Sector in Mekong Region

Tony BURNS, Australia, Micah INGALLS, Lao PDR, Kate RICKERSEY, Australia

Key words: thinking and working politically (TWP), land administration reform, project design

SUMMARY

In recent decades, the World Bank and many bilateral development partners have provided funding to support land administration reform. Traditional land administration reform projects focus on the economic and technical design of interventions based on a library of best practice, commonly avoiding the “messy politics” typically involved in land governance. Experience and lessons from land administration reform initiatives have been documented and a recurrent theme is that many projects fail to create effective, transformative change and gain the critical mass, and the community participation, necessary to ensure the sustainability of land administration reform. Over the last decade there have been concerted efforts to develop more politically informed ways of thinking and working using a range of methodologies referred to, variously, as Thinking and Working Politically¹ (TWP), Problem Driven Iterative Adaptation (PDIA) and Doing Development Differently (DDD). There is little evidence that these different approaches have been applied in the land sector.

Unlike traditional large-scale land reform projects that focus on institutional capacity building and systematic land rights registration, the Mekong Region Land Governance Project (MRLG) project was instead designed as a novel, politically informed intervention in the Mekong region to grapple with the complexities of land governance that go far beyond traditional technocratic approaches. MRLG is an innovative, collaboration-oriented land governance initiative that applies targeted strategies to influence policy and practices for the improvement of smallholder tenure security across four Mekong countries. These strategies include supporting smallholder tenure security-led policy reforms and government implementation processes, strengthening communities to know and defend their rights and developing their capacity to negotiate win-win arrangements with private investors, as well as establishing grievance mechanisms and channels for dialogue with decision-makers. This paper will review the lessons and experience from MRLG in implementing a land administration project by thinking and working politically.

Thinking and Working Politically in the Land Sector in Mekong Region

Tony BURNS, Australia, Micah INGALLS, Lao PDR, Kate RICKERSEY, Australia

1. INTRODUCTION

Land and real property was estimated in 2021 to make up 46 percent of global wealth and as much as 77 percent of national wealth in a number of countries (Credit Suisse 2021b).ⁱⁱ Land is a fundamental asset that needs to be managed efficiently and sustainably so that it best serves the social, economic, and environmental needs of the current and future population. There is increasing pressure on land due to factors such as increasing population, climate change and rapid urbanisation.

In recent decades, the World Bank and many bilateral development partners have provided funding to support land administration reform. The experience from key projects has been reviewed (World Bank 2016), (Törhönen 2016) and (English et al. 2019). A recurrent theme in these evaluations is that many projects fail to create effective, transformative change and gain the critical mass, and the community participation, necessary to ensure the sustainability of land administration reform.

There have been concerted efforts underway to develop more politically-informed ways of thinking and working in designing donor-funded interventions using a range of methodologies under a number of labels including ‘Thinking and Working Politically (TWP), Problem Driven Iterative Adaptation (PDIA) and Doing Development Differently (DDD). [(Laws and Marquette 2018), (McCulloch and Piron 2019)]. The World Bank has developed tools to assess political economy. Other Development Partners have developed various approaches and tools to explore political economy but there is little evidence that these new approaches have been applied to the design and implementation of land administration reform projects.

The Mekong Region Land Governance (MRLG)ⁱⁱⁱ is one of the few land sector projects that has been designed and implemented under a TWP approach. Land governance is at the centre of development challenges in the Mekong Region and supports activity in Cambodia, Lao PDR, Myanmar, and Vietnam (CLMV). Significant areas of family farmed lands have been handed over to investors, which is a major driver of poverty and food insecurity. Improving land governance and developing pro-poor land policies is crucial for sustainable economic and social development.

This paper explores the possibility of better addressing issues related to political economy in the design of land administration reform, drawing on the experience of the MRLG project. The paper is structured with seven sections. These sections cover the following topics: 1. Introduction; 2. Land administration reform; 3. Politically informed approaches to development assistance; and MRLG project sections on 4. Context; 5. Approach and Processes; 6. Lessons and Experience, and lastly 7. Conclusions and recommendations.

2. LAND ADMINISTRATION REFORM

There are no standards for the policies, legislation, institutional arrangements, systems, and procedures for the protection of property rights and the official recording of changes over time in these rights. The protection of property rights is typically part of a jurisdiction-specific complex set of policies, laws, systems, and procedures. There are also no standards for land administration systems and the provision of land administration services, although the principles that underpin “best practice” in land administration have been listed (Williamson 2001), a framework has been developed to evaluate land administration systems (Stuedler, Rajabifard, and Williamson 2004) and ten land administration principles elaborated (Williamson et al. 2010) although these principles only provide guidance. There are generally accepted benchmarks for some land administration activities such as the unit cost per property for first registration or the cost per hectare for base mapping of various specifications, but there are often valid contextual reasons for deviations from these benchmarks.

There has been and continues to be many land-sector projects being implemented globally by governments with support from development partners. The portal set-up by development partners supporting land projects^{iv} on 19 April 2022 listed a total of 853 past and present projects and 113 active projects. There is great variety in the scope, form and structure of these land sector projects. The projects are very context specific with a range of interventions that may include activities to support policy and legal reform, institutional reform and capacity building, systematic registration/titling, computerisation, valuation, improved service delivery, etc. that are deemed necessary to realize the agreed project objectives. Reform is typically a long-term process, and the requirements evolve over time.

The positive social and economic impact of major projects has been documented in many cases, including from titling in rural Thailand (Feder et al. 1988); from titling programs at the frontier of development in Brazil (Alston, Libecap, and Schneider 1996); and from the registration of informal urban settlements in Peru (Field 2003). A paper by Lawry et al (2017) documents detailed investigations of 20 quantitative and 9 qualitative studies and they concluded:

"We conducted a systematic review on the effects of land tenure recognition interventions on agricultural productivity, income, investment and other relevant outcomes. We synthesise findings from 20 quantitative studies and nine qualitative studies that passed a methodological screening. The results indicate substantial productivity and income gains from land tenure recognition, although gains differ markedly by region. We find that these effects may operate through gains in perceived tenure security and investment; we find no evidence for a credit mechanism. The qualitative synthesis highlights potential adverse effects. A conclusion emphasises the need for further research on interregional differences and on the role of customary tenure arrangements." (Lawry et al. 2017)

The lessons and experience from major land administration reform projects has been documented in three recent reports. In 2016 the Independent Evaluation Group (IEG) in the World Bank published a review of cross-cutting findings from fourteen IEG assessments of land administration projects that the World Bank has supported from 1998 to 2014 (World Bank 2016). In 2016 the World Bank also published a review of the lessons and experience from 42 Bank-funded land sector projects in 24 countries in Europe and Central Asia (Törhönen 2016). In 2019 UK Department for International Development (DFID, now part of

Thinking and Working Politically in the Land Sector in Mekong Region (11651)
Anthony Burns (Australia), Micah Ingalls (Laos, PDR) and Kate Rickersey (Australia)

the Foreign and Commonwealth Development Office (FCDO)) published a detailed assessment, drawing on relevant experience of programs funded by other development partners, of major land sector projects in six countries in Africa (English et al. 2019). These projects focussed on land tenure regularization (LTR) which is a process that has been different labels including, first registration, systematic registration, land titling and settlement surveys.

The following table summarizes the key finding from the three studies.

Table 1 - Key Lessons from Reviews of Recent Land Administration Reform Projects

IEG review of 14 World Bank land administration projects (World Bank 2016)	Review of 42 World Bank-funded land sector projects in ECA (Törhönen 2016)	DFID review of major land sector projects in six countries in Africa (English et al. 2019)
<ul style="list-style-type: none"> • there is no single best institutional model for carrying out registry and cadastre functions • successful interventions are context-specific • local human resources capacity is important • land reforms require medium- to long-term support • Improvements to land tenure alone will not be sufficient to generate broader development outcomes • It is important not to overload a single project • you cannot assume that all segments of the population will benefit. 	<ul style="list-style-type: none"> • clear tenure rights policies and/or regulatory frameworks, and clarified institutional responsibilities are pre-requisites • long term commitment required for Institutional development, reform, and capacity building • Early stages such focus on establishing functioning systems rather than fully covering records. • Public awareness and social inclusion are important • ICT improved efficiency in land administration but is not a cure all • The adoption of simple and efficient survey methodologies reduces costs • registration agencies need to be business and customer oriented 	<ul style="list-style-type: none"> • LTR is necessary but not sufficient to promote broad-based economic development • sustainable land administration must be a central part of LTR work from the start • LTR does not have to be the same in every context • LTR requires sustained political will and a politically smart approach • Social inclusiveness is crucial in LTR-related activities • Consider appropriate use of fit-for-purpose new technologies • governments and donors need long-term commitments to the land sector • LTR and land administration work needs appropriate implementation modalities.

The reviews found that many projects fail to create effective, transformative change and gain the critical mass, and the community participation, necessary to ensure the sustainability of land administration reform. The impact of political economy issues are evident in the project experience, including: unresolved competition for rents by the state and the customary authorities in Ghana; failure of policy makers to adopt recommendations for policy change and the unwillingness of agencies to share data in Indonesia; unwillingness of policy makers to adopt policy to improve the tenure security of the most poor and failure to foster the willingness to pay fees for registering subsequent land transactions in Lao PDR; and unwillingness of politicians in Thailand to legislate for improved property valuation.

The World Bank has changed the way projects are prepared and financed. In the late 1990s a Learning and Innovation Loan (LIL) limited to loan amounts of US\$5 million was introduced to support reform in circumstances where there was uncertainty in key aspects such as policy, the assignment of institutional roles and responsibilities, systems, and procedures. Land

administration reform projects were implemented in 2001 as LIL in the Philippines and Sri Lanka with limited success. More recently the World Bank has introduced a payment for results instrument that is more flexible and adaptive to the requirements of governments. These instruments have potential to support land administration reform, but there are challenges (Bain, Booth, and Wild 2016). Several challenges need to be addressed, including the limitations of the traditional 5-year project duration, the reliance of government on best practices and the challenge of following development policies while ensuring that the benefits of reform are broadly felt in society.

3. POLITICALLY INFORMED APPROACH TO DEVELOPMENT ASSISTANCE

The traditional approach for land administration reform projects has been to focus on the economic and technical design of interventions based on a library of best practice, commonly avoiding the “messy politics” typically involved in land governance. This is evident in this quote from a World Bank publication on the need to address political economy: “In the 1970s, donor agencies and other development practitioners sought to sidestep politics as much as possible and focus advice on technical questions and solutions, both because political incentives appeared so frequently incompatible with development in the public interest and because politics had become so deeply entangled with foreign policy considerations at the time.” (Fritz, Levy, and Ort 2014).

There have been concerted efforts underway to develop more politically-informed ways of thinking and working in designing donor-funded interventions using a range of methodologies under a number of labels including ‘Thinking and Working Politically (TWP), Problem Driven Iterative Adaptation (PDIA) and Doing Development Differently (DDD). (Laws and Marquette 2018), (McCulloch and Piron 2019). There are differences in these approaches, but the approaches have much in common (Teskey 2017).

While there is no agreed definition or framework for TWP the approach has three core principles (Laws and Marquette 2018):

- Strong political analysis, insight and understanding
- A detailed appreciation of, and response to the local context
- Flexibility and adaptability in program design and implementation.

The TWP approach is significantly different to the traditional approach to the design and implementation of development assistance projects (see Table 2 below) and these differences presents challenges to well-established systems and process in development assistance agencies and for governments.

Table 2 - Key Difference between the Traditional and TWP Approaches [from (Teskey 2022)]

	Traditional Approach	TWP Approach
Discipline	Economics, management	Political economy, institutional economics, entrepreneurial studies
Planning paradigm	Blueprint; end-state; linear; rational sequencing	Clear objectives but path undefined; disjointed incrementalism based on trial and error
Motif	Project framework	Systems theory, complexity
Philosophy	Idealist	Realist

	Traditional Approach	TWP Approach
Timing	Fixed	Open
Theory of Change	Prescriptive	Adaptive
Inputs	Programmed	Indicative
Success measures	SDGs, outputs	Processes, institutions, outcomes
Problem definition	Lack of resources or capacity constraints	Limited scope for collective action, reform resistant institutions
Changes sought	Transactional	Transformational
Change agents	Officials, technical advisers	Coalitions, networks, leaders
Way of working	Principal agent	Partnership
Key partners	Central government, Ministries, Departments and Agencies (MDAs)	Actors pressuring core MDAs for change

A TWP Community of Practice^v has been established and advocates for the TWP approach have document experience from projects that have adopted a TWP approach. (Laws and Marquette 2018) documents 44 projects were identified in a desk study that had adopted a TWP approach covering the sectors of: governance (9); justice and security (5); infrastructure (4); gender equality (2); reform coalitions (2); public finance management (2); investment (2); health (2); energy (2); economic development (2) and a range of other topics (12).

However, another detailed review of the experience found that “while there are certainly interesting and engaging case studies in the literature, these do not yet constitute a ‘strong enough’ evidence base that proves that TWP has significantly improved aid effectiveness” (Niheer et al. 2019). A recent review of TWP experience has identified that a key factor in the limited adoption of the TWP approach is the resistance of donor practices to change (Teskey 2022).

What is the potential of adopting a TWP approach in the design and implementation of land administration reform? Implementing land administration reform typically takes a long time and requires a large investment. Significant reform can be implemented in a short timeframe through policy decisions and strategic investments. Examples of this are evident in the annual reports that have been published by Doing Business. Reforms highlighted by Doing Business (World Bank 2020) that were undertaken by governments in 2018/19 include:

- to improve the registration of property transfers including streamlining procedures (Bahrain, Cabo Verde, Kuwait, Mauritius, Myanmar, Pakistan, Qatar, Togo, Tunisia).
- improving the quality of the land administration system (Bahrain, Brazil, Cabo Verde, Mauritius).
- publishing official statistics and information (Benin, Ecuador, Eswatini, Ethiopia, Kuwait, Oman, Pakistan, Qatar, Tunisia, Ukraine, Zimbabwe).
- committing to a specific timeframe (Benin, Chad, Croatia, Ecuador, Oman, Zimbabwe).
- introducing an on-line payment system (Brazil); and
- decreasing the cost of a transfer (Croatia, Jamaica, Togo, Turkey).

Some reforms simply require policy decisions, perhaps with some limited investment in implementing the policy changes, and these types of reform seem well aligned to a TWP approach. These reforms include decisions to streamline procedures, reduce costs, publish official statistics, and make information available and make clear promises on timeframes for service delivery.

There is very limited experience with adopting a TWP approach in reform in the land sector. One example of a land sector project that has not followed the traditional land administration reform approach of piloting and scaling up key land administration activities (first registration, digitization/computerisation, improved service delivery, etc.) is the Mekong Region Land Government (MRLG) Project.

4. MEKONG REGION LAND GOVERNANCE PROJECT: CONTEXT

The Mekong Region Land Governance (MRLG) Project is an initiative of the Government of Switzerland, through the Swiss Agency for Development and Cooperation (SDC), with co-financing from the Government of Germany and the Government of Luxembourg, implemented by Land Equity International and the French NGO Gret (Professionals for Fair Development). MRLG aims to improve the land tenure security of smallholder farmers in the Mekong Region countries of Cambodia, Laos, Myanmar and Vietnam (CLMV) since April 2014.

The tender document for MRLG was released by SDC in April 2013 based on an appraisal document finalised by the Royal Tropical Institute (RIT, Netherlands) in October 2012. In the tender document SDC noted that from 2000 onwards governments in the region had increasingly focussed on the tenure security of investors at the expense of the tenure security of smallholder farmers. Three factors were seen driving this change: (i) perceived declining usefulness of smallholder agriculture; (ii) the need for raw materials and availability of investment capital; and (iii) weakly guided, checked and concerned CLMV elites pursuing vested interests. The reform actors pushing against this change in tenure security arrangements were seen as significantly weaker than the forces pushing for land use by investors. The stated objective of the project was:

“To assist reform actors^{vi} in the CLMV countries to improve policy and practice for smallholder tenure security and land governance through building capacities, creating and sharing knowledge and expertise, facilitating learning and exchange, and supporting the emergence of legitimate regional spaces for reflection, innovation, and policy advocacy.”

The approaches set out in the RIT appraisal document were:

- Data information and research for open data, transparency and fact-based pilocly dialogue
- Connectivity, networking and alliances
- Capacity development
- Provision of funds for rapid response to policy entry points as they emerge.

The background documents for MRLG do not mention TWP and this is not surprising as the project predates the November 2013 meeting in New Delhi where the TWP community of

practice was formed (Teskey 2022). However, the project does embody the three core principles of TWP as set out above and include most of the characteristics of the TWP approach as set out above in Table 2, including: a problem definition based on limited scope for collective action, a planning paradigm that has a clear objective but an undefined path, an adaptive theory of change and with key partners who are actors pressuring core MDAs for change.

Now developing its third phase, the project will run to the end of 2025 with total funding around \$39 million. MRLG focuses on addressing land governance issues in the region by supporting strategic engagement of reform actors in policy making processes at regional, national, and sub-national levels. The project does so through pilot interventions, research and policy advocacy to address tenure insecurity in the Mekong region under two thematic areas — Customary Tenure and Responsible Agriculture Investments: (1) Customary Tenure (CT) concerns people’s long-standing relationships to land and natural resources, which they depend on for their livelihoods, cultures and wellbeing. Customary management and sharing of these resources is based on locally defined rules and norms that are not always recognised in national laws, making communities vulnerable to a range of external factors that may disrupt their legitimate rights and access to land. (2) Responsible Agricultural Investment (RAI) aims to address the widely documented negative and exclusionary impacts of large-scale agricultural investments in the Mekong countries, by promoting more inclusive and responsible practices that improve outcomes for farmers and investors, and in so doing protect smallholder land rights.

Since its inception, the project has sought to grapple with the complexities of land governance reform not only within the specific political contexts of each Mekong country, but also in the region as a whole. Policies, in the strict sense, operate more at the level of the nation state, but these are not developed in a vacuum, and the Mekong countries share several characteristics, and policy and development trajectories, and are closely inter-related through not only political relations but also trade and investment. The project thus differentiates between national-level actions that focus on changes in legal frameworks and the practices of land governance in each respective country and actions at the regional level that emphasize cross-learning, case-study development and supporting regional guidelines such as ASEAN’s Guidelines on Responsible Agricultural Investment (implementation) and the Guidelines on Recognition of Customary Tenure in Forest Landscapes (currently under development with support from the project).

The Mekong region is home to some of the fastest growing economies in the world, during a process of radical transformation and de-agrarianization. The region plays an outsized role in global production and exporting of several agricultural commodities such as sugarcane, rubber latex, rice and cassava.

Alongside this, the region has experienced substantial legal and political changes with respect to land. The region has been a major hotspot of large-scale concession-based investments historically, but in recent years indicating an important shift toward alternative forms of investment, especially contract farming. Each of the Mekong countries have also advanced conservation and forest protection policies, with important implications not only for climate change mitigation but also the rights of millions of forest-dependent households. Policy reforms in the administration of land resources and the promotion of tenure security in the region have moved forward in many positive ways, but in the main—and in particular with

respect to how policies are applied in practice—continue to benefit wealthier segments of society than smallholder farmers, with some important exceptions.

Efforts to improve land resource governance for the benefit of smallholder farmers, of course, originate long before the formation of MRLG. Numerous development agencies, NGOs and multi- and bilateral donors have supported legal reform process, capacity building and research. When MRLG was launched in 2014, it emerged within (and in part response to) a diverse, somewhat crowded, but weakly-coordinated social and institutional landscape. The project thus focused on supporting processes of coordination, opportunistic financing and gap-filling, and the promotion of pilot initiatives developing and testing innovations for tenure security reforms, whether through improved procedural approaches or changes in the legal framework.

5. MEKONG REGION LAND GOVERNANCE PROJECT: APPROACH AND METHODOLOGY

In Phase 2 of the project, which began in 2018, MRLG initiated a more formal process of creating strategic alliances around a common programme of work, organized broadly around the project's selected emphases on customary tenure recognition and responsible agricultural investments. The institutional landscape of reform actors and supporting projects and initiatives remained diverse, multi-directional and still loosely aligned and coordinated. Project- and institution-specific initiatives, while demonstrating positive impacts, were also limited. Advocacy and messaging to decision-makers was often fragmented, and at times conflicting. However, some efforts to coordinate development partners, particularly in Laos—such as the Land Law Advisory Group and the Government-sanctioned Roundtable Process—had been undertaken and showed some success (we return to this point later). To help foster coherence among development partners, strengthen collective actions, and promote a transparent and inclusive project formation, MRLG launched a series of workshops at national and regional levels. These workshops provided a space wherein (potential) alliance members could assess the current state of play in the land sector, identify potential opportunities, and elaborate a Theory of Change by which alliance actions could lead to land governance reforms. Background to this process, MRLG commissioned Political Economy Stakeholder Analyses (PESAs) at national and regional levels to assess the institutional and partner landscape, identify reform (and regressive) actors, and inform strategic approaches. These PESAs were shared (normally confidentially) with alliance members and informed the ToC process. Building on the ToCs developed through this process, MRLG's Project Implementation Unit (PIU) supported alliance members to formalize a strategic programme through which to operationalize actions along the ToC. This Strategic Work Plan (SWP) served as the basis for funding and technical support packages to alliance institutions under MRLG.

Central to the SWP process was the need to identify specific actions and targets, rooted in the ToC. Given the diverse nature of the alliances (including, variously, government agencies, international NGOs and local civil society organizations) identifying shared priorities presents a challenge. Mainly, MRLG worked with partners to identify existing areas of shared priority, particularly where these overlapped with government priorities that were consistent with the ToC. MRLG also focused on ongoing actions among partner institutions wherein additional, complementary support and the formation of 'critical mass' efforts could enable more substantive gains consistent with the ToC. Areas wherein the alliance saw an uphill struggle (such as particularly challenging initiatives, or topics with substantial political resistance) were

not abandoned, but were more critically considered. This was a purposive choice on the part of the project. While there is a logic to focusing on ‘quick wins’ and political tractable issues, particularly given the politically-restrictive environment of the Mekong countries, ‘reach goals’ that were considered crucial to smallholder tenure security and well-being were nevertheless adopted. For these issues, proposed actions focused on generating a basis of information through research and piloting, as a first step of evidence-generation toward reform advocacy.

While many project targets and anticipated outcomes were defined during the ToC and workstream development process during the first year of the project phase, the project—in keeping with the TWP approach—in-built mechanisms for ongoing revisions and adaptation. In particular, semi-annual ‘Reflection Workshops’ were held with all alliance members and strategic partners to review and assess progress toward targets, emerging issues and opportunities, and adaptive actions. These reflection workshops served as benchmarking moments in which partners could critically reflect, capture lessons learned, and reformulate the approaches undertaken. These reflection workshops were also complemented by a system of continuous monitoring as well as target (internal and external) evaluations.

6. MEKONG REGION LAND GOVERNANCE PROJECT: EXPERIENCE AND LESSONS

Now in the second year of implementation, these programmes of action (at regional and national levels) provide a basis of experience and learning. The process through which to develop the ToC and the SWP took longer than anticipated in the project’s timeline. The need for broad consultation, reflection, and negotiation required substantial time investment not only on the part of the PIU but also alliance members, the latter of whom contributed time on the basis of good faith, sometimes without assurance that funding would be provided in the end. Nevertheless, the structured ToC process did provide space for discussion and co-production otherwise lacking in the day-to-day interaction among stakeholders. Based on the experiences of the project this process could be handled more efficiently, possibly through a more careful (and limited) selection of potential partner organizations. This would, however, come at the cost of broader inclusivity.

The PESAs provided a robust basis of information and background for these discussions and were generally found to be useful. However, the fluid nature of change in the political economy, as well as emergence insights that only come through the practice of land reform, suggest that a more nimble, adaptive and ‘living’ process of political economic study and analysis may prove more beneficial. Moreover, a shift from seeing the PESA as a one-off event to an analytic lens employed on a day-to-day basis in project decision-making may be a solution. The project is revising its approach to complement the more formalized PESA studies with ongoing training for the PIU and partner organizations in political economic analysis and decision-making as a lens through which all decisions in the project are taken.

The alliance-based approach demonstrates promise. Non-alignment and competitive behaviours between reform actors are common and have been partly mitigated through this process. Collective actions and joint messaging to decision-makers has lent strength to reform efforts, while also providing a platform for up-voicing the perspectives of grassroots actors supported and legitimated by stronger alliance members. Central to the idea of alliance-based

approaches is that we are ‘better together’ and will be more effective as a group than as individuals. This requires a degree of humility and a willingness to forgo individual credit or visibility. This remains a challenge, as many actors continue to feel the need to distinguish themselves, and sometimes compete with other members for funding. Despite these challenges, project alliances have nevertheless provided unprecedented opportunities for joint messaging to decision-makers and have lent credibility overall to each member. In Vietnam, the project supports the ongoing assessment of the 2013 Land Law, in preparation for its revision in 2023. Foundational to the revision of the Law is the issuance of the Party Central Committee’s resolution on the land policy. Pursuant to this, the World Bank was tasked with supporting the Central Economic Commission of the Party to input to the development of the Party’s resolution. Recognizing the technical expertise of the complement of partners under the MRLG alliance, the World Bank requested MRLG to provide direct policy inputs on forest land reallocation, land concentration and accumulation, and other topics of central concern for land administration.

The formation and maintenance of an alliance-focused programme depends on the convening power of the coordinating institution. MRLG focused on the development of its rapport with stakeholders, through the technical capacities (thus credibility) of its PIU, its ability to function as an interlocutor and good-faith partner and establishing trust not only with government agencies and individuals but also risk-averse development partners and marginalized civil society actors. From a practical standpoint, this softer side of TWP requires appreciation and appropriate resourcing. There are few shortcuts to establishing trust, but without it politically informed advocacy, especially on sensitive issues, is impossible. This takes time and soft skills. This also has implications for the complement of staff at the PIU. MRLG thus sought to recruit and retain a mix of foreign and local technical experts and actors with established credibility, representing diverse stakeholder groups. Additional challenges were faced with respect not only to the complement of stakeholders included as alliance members, but also the way in which the project handles dialogue and engagement with external actors. In particular, project engagement with private sector entities while necessary is fraught with challenges. Ongoing efforts to reach across disparate and sometimes conflict actor groups have proved effective, with these actor sets using the MRLG dialogue process as a mechanism for negotiation. Among others, MRLG was asked to facilitate the resolution of conflict between the Socfin Group and communities impacted by their investments in Cambodia, a long-standing and well-publicized conflict stemming from a spate of semi- and illegal Economic Land Concessions during the early 2000s. MRLG’s alliance members, supported by a trained conflict mediator funded by the project, supported a tenuous process of mediation, finally culminating in an agreement between the company and impacted communities in early 2022. The success of this case attracted the attention of Cambodia’s Ministry of Justice, with whom the project is now exploring options for the development of more robust grievance redress mechanisms and policies.

One key enabling condition for TWP in Lao PDR that allowed for the most effective work of MRLG was the existence of the government-supported Roundtable Process. The Roundtable Process (RTP) was established with the support of UNDP to serve as a coordination and interface mechanism between Development Partners and the Government of Lao PDR (GoL). The RTP is organized around thematic Sector Working Groups (SWGs), co-chaired by

representatives from the GoL and a respective DP. With each Sector Working Group there are Sub-Sector Working Groups with a structure that mirrors that of the SWGs. Land Governance largely falls within the mandate of the Land Sub-Sector Working Group (LSSWG) under the Natural Resources and Environment Sector Working Group. The LSSWG is co-chaired by the Director General of the Department of Land (DoL) under the Ministry of Natural Resources and Environment (MONRE) and the representative of GiZ. Meeting semi-annually, the LSSWG supports the coordination of donor actions, a platform for discussing key decisions and strategies, and to update sector actors on each other's respective programmes. The LSSWG thus provides a government-mandated platform for coordination and interfacing. However, the LSSWG is also limited by its general nature and long time intervals between meeting. Thus, under the LSSWG, MRLG and alliance members and partners support topical Focal Groups (FGs) on, for instance, Sub-Legislation (supporting legal reforms under the 2019 Land Law), Tenure Security in Forest Areas, Responsible Agricultural Investment, etc. These FGs provide an opportunity for technical coordination they were found not to be sufficient for necessary discussion and interaction on sensitive issues. Thus, MRLG supports the coordination of what has come to be called the Advisory Group on Land (AG), comprising of non-government experts from MRLG's PIU, national and international CSOs and development partners; and while, implicitly sanctioned by its relationship to the LSSWG; it remains informal in nature. This approach allows both for a more organic, open consultation process wherein development partners can collaborate while also feeding into the more formal LSSWG.

While the LSSWG overall has greatly improved coordination and unprecedented access to government decision-making, it has further limitations. Especially, and like the other Sector and Sub-Sector Working Groups it is organized to mirror the GoL's institutional set up, with Sector consistent in make-up and mandate to the respective government ministry, sub-sectors to Departments under the Ministry. This has limited the ability of this mechanism to address cross- or multi-sectoral issues, such as Responsible Agricultural Investments. In part, MRLG has sought to address this issue through the formation of the Responsible Agricultural Investment Task Force. In the experience of MRLG, these kinds of structures are necessary to allow both for donor coordination and for mandated interface between these and government. A key lesson learned from this process is that both formal and informal mechanisms are needed for consultation, managed in a complementary fashion. The informal AG provided the mechanism through which several specific recommendations on the land law were formulated and communicated to decision-makers collectively and bilaterally. These recommendations formed the primary inputs from civil society into the Land Law, which was formally adopted in 2019.

MRLG also supports a range of pilot actions on the ground. These pilots allow for 'test-driving' potential solutions, support the identification of novel options or unanticipated issues, and an opportunity for government (and other) actors to gain first-hand observations and experiences in the issues. This latter function has proven critical, as many government agents mandated with policy development do not themselves have substantial experience or understanding, especially from the local perspective. Pilots have thus created political will where textual recommendations would not. This was particularly the case in the CT piloting work of MRLG in Lao PDR. The 2019 revised Land and Forestry Laws did not provide clear mechanisms for ensuring the tenure security of nearly 30% of Lao PDR's villages, which reside in Laos's

expansive national forest estate. Most problematically, the Law prohibited the issuance of land titles (the highest form of protection and recognition of tenure rights) inside state forest areas. In partnership with MAF and MONRE, MRLG supported piloting of innovative approaches to document, formalize and protect tenure security in these areas. Joint development of these pilots with government agencies uncovered a range of insights into the implications of the existing legal framework culminating in a massive about-face on the part of the government. In a watershed summit between MAF and MONRE in July 2021, wherein the government revised its previous direction including, among other things, to excise permanent land uses from the state forest areas such that these could be eligible for titling.

Data transparency also plays a crucial role in the TWP approach of MRLG. While it is often assumed that restrictive governments prefer data transparency, the experience of the project is that it depends on the topic and, more importantly, on the question of who has access to data. Government agencies themselves often operate under data-poor condition and are limited in their effectiveness. While government agencies may be opposed to making data publicly available, there is often less resistance, or even active support for, the production and sharing of data internal to government. While this may be considered suboptimal, it may nevertheless be effective, and supports internal efforts toward regulation and reform.

Another pathway through which the project has sought to promote reforms through a TWP approach in restrictive contexts relates to leveraging the unique advantages of different stakeholders. In particular, the project has sought to capitalize on the differential advantages and roles of bi- and multi-lateral donors and civil society organizations. Donors in general have greater political leeway (unless self-limited) and freedom to speak to sensitive issues than do many civil society organizations in the Mekong countries. Thus, strategically soliciting their support for key issues has proven effective. This requires the project to invest resources in messaging to donors which may seem to run counter to the assumption that strategic messaging should be directed to decision-makers. The reason for this is the donors, and even large development agencies, have only a partial view of the issues and need to be informed as well. Using the project as a mechanism for up-voicing the concerns of local stakeholders to donors and other development agencies is strategic. During the revision of the Forestry Law in 2018, alliance members utilized SDC as a channel to convince the government to re-open discussions on the handling of shifting cultivation in the law. While the government had initially signalled resistance to further consultation with the civil society on this issue, the demand from one of Lao's key donors brought about a reconsideration. In direct response to SDC, the government authorized a technical meeting which resulted in the revision of a prohibition on shifting cultivation to a negotiated agreement to allow 'organized' shifting cultivation, leaving elaboration of this distinction to subsequent technical legislation.

Regardless of the approach used, much decision-making in the Mekong occurs in informal channels and, to a large degree, is driven by a range of shadow-actors (wealthy or otherwise powerful families, corporation, or military, etc.). This means that garnering the trust and understanding of government officials formally mandated for decisions will provide insufficient where the strings are being pulled from elsewhere. There is no easy solution to this.

It is also important to remember that in any government system, even one with the most outwardly consistent messaging and unity, there are always contestations and negotiated

behind closed doors. Reform actors are limited by regressive elements within their own agencies. Thus, it is important to approach the government not as a monolith but as a set of differentiated actors. It is also important to note, almost paradoxically, that the project has more freedoms in some ways than government officials where they are limited by internal mandates and positions. Thus, there are times when the project can serve as the mouthpiece of reform actors to their own government, which can be effective.

7. CONCLUSIONS AND RECOMMENDATIONS

The current approach to land administration reform needs reform itself. The sector needs to seriously consider the political economy issues (the “messy politics”) that impact on the provision of efficient and effective land administration services that broadly benefits society. There is potential to increase the consideration of political economy in the design of large land administration reform projects. The TWP process may not be the full answer, but TWP processes could be used to explore requirements for policy and legal reform, make the necessary reforms and built and test capacity in an initial phase learning and innovation phase that may be built into a first phase of a large program as suggested by (Bain, Booth, and Wild 2016) or in a program that complements large projects being prepared to scale up reform programs, a process that seems to be evolving for the third phase of MRLG.

The following key lessons are drawn from the literature review and the experience on MRLG:

1. **TWP need not be seen as a full alternative to conventional approaches.** Rather, and to be practical, it could function as a lens and an approach used to inform actions within existing structures and processes. Links between TWP-oriented actors and agitators and large development projects a practical approach. TWP actors need to develop rapport and credibility with the traditional development actors and donors so they are able to leverage them.
2. **The long arc of policy reforms.** Time is needed for the TWP approach. It cannot simply run on 3-year project cycles. MRLG’s effectiveness depends in large part on the long-term funding commitment of the donors (10 years). This is crucial for TWP operation.
3. **Alliance-based approaches are needed for TWP, for critical mass and legitimacy.** The complement of actors and institutions that make up these alliances requires careful consideration. They should be credible and representative of the stakeholder groups needed.
4. **Alliances need leadership.** Much depends on the credibility and vision of the alliance leadership. Trust thus needs to be built not only with decision makers but also alliance members and strategic partners. This means that the complement of individuals that make up the leadership mechanism matters a great deal, and time spent on establishing credibility and trust needs to be properly resourced. Leaders need to have a high degree of integrity and accountability to alliances.
5. **In alliance-based approaches, the issue of credit and visibility will always be a practical challenge.** The alliance leadership, in particular, needs to be willing to forgo credit, be willing to take blame, and the alliances overall need to agree on how they will

handle credit and visibility. Joint branding and inclusive communication (including outward to donors and the public) is needed.

6. **Evidence is more effective than positional negotiation.** Evidence generation and communication needs to be properly resourced.
7. **Donors need to be flexible.** Projects and funded institutions cannot be flexible to achieve TWP-based outcomes if the donors are restrictive
8. **Land governance reform through TWP is a systems-approach.** But systems don't have true (ontological) boundaries. MRLG operates in the Mekong, but much of what happens in the Mekong is decided in China. Some ideas and examples we have about this could be added.
9. **Some aspects are simply out of project control.** TWP cannot account for everything. The obvious example of the force majeure event in Myanmar, the February 2022 coup d'état.

REFERENCES

- Alston, Lee J., Gary D. Libecap, and Robert Schneider. 1996. 'The Determinants and Impact of Property Rights: Land Titles on the Brazilian Frontier', *Journal of Law, Economics, & Organization*, 12: 25-61.
- Bain, Katherine A., David Booth, and Leni Wild. 2016. "Doing Development Differently at the World Bank: Updating the plumbing to fit the architecture." In, 57. London: ODI.
- Credit Suisse. 2021a. "Global Wealth Databook 2021." In. Zurich.
- . 2021b. "Global Wealth Report 2021." In, 60. Zurich.
- English, Clive, Anna Locke, Julian Quan, and Joseph Feyertag. 2019. "Securing land rights at scale: Lessons and guiding principles from DFID land tenure regularisation and land sector support programmes." In, 42.
- Feder, Gershon, Tongroj Onchan, Yongyuth Chalamwong, and Chira Hongladarom. 1988. *Land policies and farm productivity in Thailand* (Johns Hopkins University Press).
- Field, Erica. 2003. 'Property Rights, Community Public Goods, and Household Time Allocation in Urban Squatter Communities: Evidence from Peru', *William and Mary Law Review*, 45: 837-88.
- Fritz, Verena, Brian Levy, and Rachel Ort (ed.)^(eds.). 2014. *Problem-Driven Political Economy Analysis: The World Bank Experience* (World Bank,: Washington DC, 20433).
- Lawry, Steven, Cyrus Samii, Ruth Hall, Aaron Leopold, Donna Hornby, and Farai Mtero. 2017. "The impact of land property rights interventions on investment and agricultural productivity in developing countries: a systematic review." In, 61. Taylor & Francis.
- Laws, Ed, and Heatger Marquette. 2018. "Thinking and working politically: Reviewing the evidence on the integration of politics into development practice over the past decade." In.: TWP Community of Practice.

- McCulloch, Neil, and Laure-Hélène Piron. 2019. 'Thinking and Working Politically: Learning from Practice.', *Development Policy Review*, 37: O1-O15.
- Niheer, Dasandi, Laws Ed, Marquette Heather, and Robinson Mark. 2019. 'What Does the Evidence Tell Us about 'Thinking and Working Politically' in Development Assistance?', *Politics and Governance*, 7: 155-68.
- Stuedler, Daniel, Abbas Rajabifard, and Ian P. Williamson. 2004. 'Evaluation of land administration systems', *LAND USE POLICY*, 21: 371-80.
- Teskey, Graham. 2017. "Thinking and Working Politically: Are we seeing the emergence of a second orthodoxy?" In *Governance Working Paper Series*, 14. Abt Associates.
- . 2022. "Thinking and working politically: What have we learned since 2013?" In, 24. TWP Community of Practice.
- Törhönen, Mika-Petteri. 2016. "Keys to Successful Land Administration: Lessons Learned in 20 Years of ECA Land Projects." In. Washington, DC: World Bank.
- Williamson, Ian, Stig Enemark, Jude Wallace, and Abbas Rajabifard. 2010. *Land administration for sustainable development* (ESRI Press Academic).
- Williamson, Ian P. 2001. 'Land administration "best practice" providing the infrastructure for land policy implementation', *LAND USE POLICY*, 18: 297-307.
- World Bank. 2016. "Lessons from Land Administration Projects: A Review of Project Performance Assessments." In. Washington DC: World Bank.
- . 2020. "Doing Business 2020." In, 149. Washington DC: World Bank.

CONTACTS

Mr Tony BURNS, Dr Kate Rickersey
Land Equity International
Suite 10, 74 Kembla St, Wollongong
AUSTRALIA
+612 4227 6680
tburns@landequity.com.au
www.landequity.com.au

Dr Micah Ingalls
Mekong Region Land Governance Project
Land Equity International
House No. 262, Ban Saphanthong Kang,
Sisattanak District,
Vientiane Capital, LAO PDR
+856 21 454 807
micah.ingalls@landequity.com.au
www.mrlg.org

ⁱ 2019 N. McCulloch, L-H Piron. *Development Policy Review*, 37:O1–O15. Published by John Wiley & Sons Ltd on behalf of Overseas Development Institute

ⁱⁱ This information is drawn from the Credit Suisse Global Wealth Report 2021 (Credit Suisse 2021b) in which global wealth is broken down into financial assets, non-financial assets and debts. The non-financial assets mostly comprise land and housing. The global breakdown in 2021 was 54% financial assets and 46% non-financial assets, offset by 11.5% in debts. This information and the composition of national wealth in selected countries is set out in Table 4.4 on page 135 in the Global Wealth Databook 2021 (Credit Suisse 2021a). The countries listed with high non-financial assets include India, Kazakhstan, Romania, and Turkey.

ⁱⁱⁱ <https://www.mrlg.org/>

^{iv} <https://landgov.donorplatform.org/>

^v <https://twpcommunity.org/>

^{vi} With no restriction applied per se what kind of actors as long as they pursue reform towards increased smallholder tenure security.