

LGAF GEORGIA

2011

Executive Summary

Georgia is a small country of 4.4 million people with a climate as diverse as its landscape – mountainous and cool in the north and south, subtropical in west and continental in the east. Though it has a variety of natural resources, including significant reserves of manganese, iron ore, copper and gold as well as minor coal and oil deposits, Georgia remains a largely rural country with 40% of that land heavily forested. After independence in 1991 and like other former members of the Soviet Union, Georgia faced a difficult transition to democracy and a market economy – aggravated by a series of ethnic and civil conflicts. Between 1990 and 1994, the nation’s GDP declined by more than 70%. By 1996, as a result of a sharp fall in agricultural and industrial output, the Georgian economy had shrunk to about a third of its size just seven years before.

The late 1990s saw some signs of economic growth, but those gains were wiped out by the 1998-1999 financial crisis in Russia. And the situation continued to decline. “By 2003,” according to a World Bank report, “Georgia was nearly a failed state, political power was increasingly fragmented, corruption and crime were rampant, there were massive arrears in pension payments and teachers’ salaries, and infrastructure was in a state of near collapse, with most of the country without power and road network increasingly deteriorated.”

In the midst of these political and economic challenges, successive Georgian Governments tried to implement a series of liberal land reforms, beginning in 1992 with the distribution of a massive amount of State-owned agricultural lands into the private ownership of the nation’s farmers who had been working that land for generations under the Soviet regime. Subsequent efforts throughout the next decade to register, administer, manage and tax land/property were bureaucratic, overlapping, confusing to land owners and rife with corruption. In 2003, public anger over poverty, crime and corruption finally boiled over into the “Rose Revolution” that toppled the Government headed by the former Foreign Minister of the Soviet Union Eduard Shevardnadze, who had been part of a triumvirate leading Georgia after a military coup in 1992 and the subsequent civil war; he was elected President in 1995 and re-elected in 2000.

The post-revolutionary Government chaired by President Miheil Saakashvili, a former Justice Minister who had led the protests that forced Shevardnadze out of office and then proceeded to win election by a large majority. Trained as a lawyer in the US and having participated in a number of US and European legal reform projects in Georgia, Saakashvili promised his own program for widespread legal reform – including privatizing state property, stabilizing the economy, reducing regulations and wiping out corruption.

The Government has delivered impressively on those promises: sacking corrupt judges, rehabilitating infrastructure, administering taxes and cutting red tape for businesses. Georgia was soon one of the

fastest growing economies in Eastern Europe – with GDP growth in 2007 of 12%. Although the President has his critics at home, he was re-elected in 2008 and his reforms have received high grades from international agencies and markets. The World Bank/IFC's "Doing Business" report for 2012 ranked Georgia as 16 in "ease of doing business" – up from 112 in 2004. As a result, substantial levels of FDI have poured into its economy in recent years, accounting for 20% of GDP in 2007; cumulative FDI between 2004-2009 amounted to 59% of GDP.

Georgia has also received high marks for its success in land-related reforms, thanks to the efforts of a group of Georgian land experts who set out to turn a notoriously chaotic and corrupt land management system into a state of the art public registry with a mission to serve its customers efficiently and honestly. Just two years after the Rose Revolution, the 2006 edition of "Doing Business" series rated Georgia as a "top performer" in registering property; "Doing Business 2012" ranked Georgia's new property registry system number one out of the 183 countries measured. More impressive still, Georgia has received a seal of approval from the market: five years into the reforms, land prices had increased 100 fold.

As good as land sector governance in Georgia has become over the past seven years, it is still a work in progress. To find out what has worked and what has not – and to recommend improvements, a local team consulting for the World Bank applied its Land Governance Assessment Framework (LGAF) tool to the Georgian economic reality. Following LGAF guidelines, the Georgian team conducted nine meetings to share their findings with panels of three to five experts, including specialists in the legal and legislative issues regarding land use and property, land planning and development as well as managing public lands. A total of 37 such experts were involved: seven were from the public sector, selected on the basis of the relevance of their respective government bodies to the issues at hand; the remaining 30 were from the private sector, including lawyers, architects, academics and NGO representatives

Before discussions began, panel members were asked for their own assessments of the current land governance situation in Georgia according to 21 "Land Governance Indicators" covering 80 dimensions and 16 additional parameters, grading each LGAF dimension on a scale from A to D. In order to provoke lively discussion, the moderator displayed on a screen the four preliminary grades that each panel member had given; the group then spent the rest of the meeting discussing and debating their opinions with the aim of reaching a consensus in assessing each dimension. The panels also discussed recommendations for policies, research and reforms. For some of the dimensions, the consensus assessment differed so much from the opinions of the individual members that the final score had not appeared in their preliminary assessments.

In addition, the LGAF Team invited 40 representatives from civil society, NGOs, the private sector and academia to a Technical Validation workshop. The guest list also included experts working on the project, panel members and representatives from World Bank headquarters in Washington DC who had traveled to Georgia to participate in the event.

The Country Coordinator opened the meeting with a brief review of the project implementation process, followed by presentations from panel members who described the land governance situation in Georgia

according to the LGAF's five thematic areas and presented the research findings along with the general and specific recommendations for improving land governance in Georgia. Active discussions took place after each presentation, generating more comments and ideas for improvements.

Government officials were then invited to the World Bank office in Tbilisi to join the Country Coordinator and World Bank representatives in a "policy dialogue" – a discussion about the LGAF's findings and final recommendations. A total of 13 people took part in the policy dialogue, which described Georgia's impressive progress in improving land governance, revealed the remaining bottlenecks in the current system and discussed how those weak points might be improved in the near future.

The Government officials agreed to policy recommendations and expressed their interest in using the LGAF as a tool for monitoring the performance of Georgia's land sector and to open up a broader dialogue on land issues with the Bank. The workshop's lively discussions demonstrated the benefits of combining an awareness of local conditions and a view from the perspective of the system's users with broader principles to provide the technical detail needed for useful policy recommendations.

The general conclusion of the expert panels, the technical workshop and the policy dialogues was that the praise for Government's advances in land governance has been well justified. The LGAF Team also concluded that the Georgian land governance reforms had produced at least two "best practices" – for how to establish an internationally acclaimed Public Registry and how to engage the private sector in land administration.

The LGAF also turned up a number of problems and snags in the existing system, and the Georgian team in collaboration with experts from the private sector, NGO's and academia have compiled a list of recommendations for resolving those issues and further improving the administration and management for land of all types in Georgia. We begin with a summary of the keys to Georgia's success, which provide a starter-guide for any Government serious about property reform. The second half of this Executive Summary highlights the LGAF team's findings – and general recommendation for improvements and additional reforms.

The Georgian Vision: Building a Public Registry "run like a business"

The primary factor in Georgia's success has been the political will and strong Government commitment to create an effective, transparent, corruption-free, user-friendly land governance system that is sustainable over time. Governments in most ex-Soviet nations have put land reform on their policy agendas – and left it there. Georgian President Saakashvili not only expressed the need for reform but also put his popular mandate and political will behind a reform vision– and then supported its implementation. A US-trained lawyer who had participated in American and international efforts for legal reform in Georgia, the president was well aware that improving his country's land governance system had to be at the center of his effort to wipe out corruption and restart Georgia's drive toward a market economy. Saakashvili also had the popular support to move forward. The Government engaged one of Georgia's most experienced land administration professionals to head a team of young specialists

in land issues – and gave them a clear mandate to accomplish two main tasks: “eliminate queues in registration offices and eliminate corruption.”

The reform team’s first step was developing a vision for institutional reform. Well-aware of the problems in Georgia’s land governance system, the team also visited a number of countries in the West as well as former Soviet Republics to examine their property systems and talk to as many international experts as possible to refine their vision for the Georgian reform strategy. The result was a set a clear goals:

- Separating land administration (registering property and cadastre) from land management (monitoring land use, urban/rural planning and land alienation).
- Centralizing land administration within a single, unified institution under the control of the central Government, with no influence regarding property rights from local governments;
- Delegating a number of functions to the private sector;
- Designing a public registry that would be 100% self-financing.

Their vision’s guiding principle was “running the registry like a business.” That slogan summarized everything that was wrong with the post-independence system for land management and use, which had become a typical Third World state bureaucracy: chaotic, burdensome for users and rife with corruption. In 2004, to register a property, for example, required 39 days and 8 steps – and too many temptations on the part of employees to smooth the way with “additional fees.” The reform team set out to build a new, user-friendly registry system whose mission was to provide efficient service, predictable outcomes and fees that were affordable but also sufficient for keeping the public registry’s budget in the black in order to meet the goal that the new agency would be 100% self-financing.

Establishing a Single, Independent Institution for Land Administration

From 1998-2004, two different agencies were responsible for registering property in Georgia, which caused great confusion among the public: the Bureau of Technical Inventory (BTI) was responsible for surveying and registering apartments and buildings; the State Department of Land Management (SDLM) handled land administration and management, including registering property rights and maintaining the cadaster, privatizing and leasing state owned land, categorizing and compiling land statistics, controlling the use of land and natural resources, and mediating land disputes. Some of these responsibilities were in conflict, which led to corruption, while others overlapped with the mandate of other government agencies. Moreover, the local SDLM offices were also accountable to local authorities, which gave them too much discretion in issues involving property rights. Procedures were vague and cumbersome; consumers were burdened with too many official (and unofficial) fees; documents flowed through unnecessary chains of control, wasting time and human resources; and SLDM suffered from a constant shortage of state funding.

At the reform team’s recommendation, the Government scrapped both BTI and SDLM, shifting surveying services to the private sector; land management became the responsibility of the Ministry of Environment and Ministry of Agriculture, and to handle land administration, the Government established a new agency - the National Public Registry (NAPR), which operate within the Ministry of

Justice as the depository of all registered property in Georgia, urban and agricultural land, buildings, apartments, etc. Former regional SDLM offices were transformed into local NAPR registration offices, which, with the stroke of a pen, were suddenly freed from local governments meddling in the registration of property rights.

NAPR's management streamlined registration procedures significantly: documents once checked by several staff members are now reviewed by a registrar; land buyers can prepare a purchase contract without having to visit a notary, which saves a significant amount of time and money; applications can be made online directly to NAPR's website, where customers can also search for property information; property owners no longer need to renew titles or lien certificates, posting the information instead on the registry website. As a result of such efficiencies, NAPR gradually reduced days of registration from 39 to seven. In 2005, NAPR introduced its most customer-friendly innovation yet: A fast-track service that invited applicants to pay an extra fee to complete the registration process within a single day. The number of internal steps for registration has decreased five fold, from 20 to 4.

Building a Self-Financing Public Agency

One of the most impressive aspects of Georgia's success in land-related reforms is that the system has not rested on its laurels: from its first reforms in 2004, land governance continued to improve – and then improved on the improvements. Like the ambitious managers of any new enterprise turning a profit, NAPR's leaders searched for new ways to boost earnings. The kind of numbers the agency was racking up would have been the pride of any new business – and were rare for a governmental agency anywhere in the world. Before reform, for example, the annual budget for Georgia's land administration system was US\$ 370,000; two years into the reforms, NAPR had earnings of US\$ 6.4 million – and paid into State coffers US\$ 250,000 in income and other taxes.

More impressive still, the Public Registry had compiled those earnings without increasing registration fees – due mainly to added income from the agency's fast-track services. That innovation turned out not only to boost the Registry's bottom-line but helped it achieve the goal of wiping out corruption: employees no longer had an opportunity to speed up services for a payment that they would pocket. And to anyone who doubted that a State agency in Georgia could be run like a business, NAPR funneled profits back into its own budget, increasing salaries 12 times in a two-year period.

Partnering with the Private Sector

When the Government eliminated the Bureau of Technical Inventory in 2004, it transferred its responsibility of surveying land and buildings to the private sector, thus creating a competitive environment for surveyors who are now held liable for the quality and reliability of their work. In 2006, a new law turned the private sector into a useful partner for NAPR by allowing the Registry to authorize private sector entities, such as commercial banks, real estate agencies, notaries, legal consulting companies and land surveyors, to submit applications to NAPR on behalf of their clients – in three different ways: 1) accept a client's documentation, complete the initial application and compile the package for registry with NAPR; 2) assign the client a registration number, pay the fee online and submit

the documentation to the Registry's website; 3) certify a given contract and obtain the title on the property for the client. At this writing, NAPR is collaborating with 500 such "front office" operations.

Georgia's land governance reform has certainly satisfied the Presidential Mandate of "eliminating queues and eliminating corruption" – and more. The LGAF assessment confirmed that the reforms had largely met the goals set in 2004: Land management has been separated from land administration, which has been centralized into a one institution – the National Public Registry – no longer influenced by local governments; NAPR has been so innovative and well-managed – run so much like a business that it is 100% self-financed; and the private sector is now contributing to this public agency's success.

After assessing the current system, the LGAF Team had no reservations concluding that the Georgian land governance reforms had produced at least two "best practices": establishing an internationally acclaimed Public Registry and engaging the private sector in land administration. (See attached "Best Practice" notes.) The assessment, however, also revealed the need for improvements. A summary of the LGAF findings and recommendations follows.

The LGAF Findings – and General Recommendations

To objectively assess Georgia's efforts at land governance, the LGAF tool divides the issue into five thematic areas; (i) Legal and Institutional Framework; (ii) Land Use Planning, Management and Taxation; (iii) Management of Public Land; (iv) Public Provision of Land Information; and (v) Dispute Resolution and Conflict Management. These areas include 21 Land Governance Indicators (LGI's) covering 80 dimensions and sixteen additional parameters evaluated by nine different panels of experts in property law, land management as well as planning and building issues. A summary of those results follows:

Thematic Area 1: Legal and Institutional Framework

During the country's seven decades as a member of the Soviet Union, Georgians lived in state-owned housing, worked in state factories or toiled on state farms. After independence, the new Government responded by smashing the cornerstone of Soviet ideology – the prohibition of private property. The first phase of privatization took place between 1992 and 1998 with the state distributing state-owned agricultural land in two stages. The first was to distribute land to households in private ownership free of charge. Each household got three to seven separate land parcels; the maximum allotment was 1.25 ha per household (5 ha in mountainous areas). The second stage was to lease out the rest of the state-owned land.

In 1992, the state transferred apartment buildings into private ownership free of charge – but initially maintained ownership of the land on which the buildings stood. Commercial/industrial buildings were privatized but not the land on which they were located, which undermined their integrity. The new Constitution in 1995 embraced a legal and institutional framework built on restoring the rights of Georgians to private property. The only restriction was that foreigners could not own agricultural land. But even that obstacle had a large (and liberal) hole in it: foreigners could set up a legal entity in Georgia that could purchase and own agricultural land.

Then, in 1998, the law recognized the land of enterprises as private, requiring them to pay a set price; it also required that state property be sold along with the attached land, thus solving the issue of the integrity of the buildings and the land on which they were located. The new owner was required to submit a receipt of payment for the land to the Registry and then register it – paying the annual land tax during the first year that the law was in force and double that amount thereafter. Land under apartment buildings was demarcated and transferred to the apartment owners in co-ownership – free of charge

During the second stage of privatization, which began in 2005 and continued to 2011, the state obliged leaseholders to buy the agricultural land that they had been occupying for a price that equaled ten times the land tax. The purchase price of the land could be paid in installments over a 10-year period; leaseholders that could cover the cost within a month received a 50% reduction in the price. In 2007, Parliament passed a law regulating the management of condominiums and recognizing the tenants' common ownership of the land under their building.

In 2004, as part of the Government's institutional reform strategy, the functions of land management (land use planning, monitoring, and alienation of land) and land administration (maintaining the cadastre and registration of rights) were separated. The National Agency of Public Registry (NAPR) was created to handle administration, and the management functions went to the Ministry of Environmental Protection and Ministry of Agriculture.

Findings (according to LGI's 1-6)

Current Georgian law clearly defines the responsibilities related to land administration, splitting them between a number of state agencies to avoid any overlap: the National Agency of Public Registry under the Ministry of Justice, Ministry of Economy and Sustainable Development, Ministry of Energy and Natural Resources, Ministry of Environmental Protection of Georgia and others. Privatization of state-owned land is done mostly in accordance with national policy requirements rather than in the interests of local governments and developers. The downside of this is that rights regarding the use of community owned land or that of village groups, especially pastures adjacent to villages, are not defined, thus leaving the rights of villagers to this land unprotected.

It is difficult – indeed practically impossible – to obtain statistical information about land ownership on property registered before 2006 from land/immovable property registration agencies. Organized information about land use is also scarce, which is a major obstacle to designing and implementing a sound agricultural and land policy. Also, costs related to implementing land policy do not take into account those costs associated with registration of land use and land use monitoring.

General recommendations

- It is important that local government bodies participate in the process of land alienation because they are tuned into the needs and requirements of the people in their villages and cities;

- The strategy for land management should be improved; in particular, the Government should ensure that its agricultural programs include projects aimed at consolidating land, which would help solve the Georgian economy's vexing problem of widespread land fragmentation;
- The lack of textual and spatial data on land use currently constrains policy formulation and monitoring. A land information system therefore should be established according to purpose and categories; also essential is defining the state body responsible for monitoring land use;
- The status of group/community land should be addressed, and such land, mainly village pastures, should be registered; State land policy in general should ensure effective use of land not through restrictions on land ownership (e.g. for foreign citizens) but through control of land use.

Thematic Area 2: Land Use Planning, Management and Taxation

During the first decade after independence from the Soviet Union, the main focus of land reform in Georgia was privatizing land, registering it and taxing it. In 2005, Parliament finally enacted the law entitled "Fundamentals of Spatial Planning and Construction Development," which regulates the process of spatial planning, specifies its goals and tasks, identifies the agencies authorized to consider issues related to planning, and spells out the types of planning covered by the law and the hierarchy of the planning process.

Master plans for the use and development of urban land exist for three of Georgia's largest cities (Tbilisi, Batumi, Zugdidi) and for a small mountain resort town (Bakuriani). Zoning maps have also been drawn up for the cities Batumi, Kobuleti, Poti, Kutaisi, Khashuri, Gori and Signagi. So far, however, development has occurred only in Batumi. The rest of the country's cities and towns still await plans, which is likely to undermine any efforts toward a rational and sustainable growth of Georgia's cities. And while there is a law in place regarding planning and development of rural land, there are no such development projects in the planning stages.

Building permits are relatively easy to obtain through a three-stage process regulated by Government decree: defining the terms for building on the land (15 working days); agreeing on design documents (20 working days); issuing the building permit (10 working days). The second and the third stages can be merged and completed in 20 working days. Since January 2012, the process has been simplified in the capital city of Tbilisi, where applicants can register at the website of the office of the municipality's architect (www.tas.ge), establish a personal online account and then upload the relevant documentation, including architectural designs. Within the same legal time periods, applicants receive the terms of construction and the building permit in their personal online account.

For transferring agricultural land to the category of "non-agricultural," all the owner has to do is submit a formal request for the change to NAPR, which, by law, must make it automatically – and free of charge. The only exceptions are six units in the administrative territories of Tbilisi and Batumi, where the fee for changing agricultural land to non-agricultural is 34,001 Gel per hectare; and in the four recreational zones of Bakhmaro, Ureki, Gudauri and Bakuriani, where the fee is 100,000 Gel per hectare.

The State has taxed agricultural land since December 1994. The Shevardnadze regime enacted a new Tax Code in 1997, introducing a tax for both non-agricultural as well as agricultural land and for other types of real estate property. In 2004, Parliament abolished the Tax Code of 1997 and introduced a new Tax Code, itself placed in 2010. Property owners can file electronic declarations regarding their property and automatically receive notice online of taxes owed based on the information that they filed.

According to the current Tax Code, land/property in Georgia is not valued for tax purposes: local governments are authorized to set property taxes according to specific zones or districts; the maximum increase in tax fees allowed by the Tax Code is 150%. Local self-governments, however, cannot exempt any owner from paying taxes. The Tax Code alone defines the list of entities eligible for a tax exemption, which are: agricultural land measured five hectares or more that has been owned by a physical person before March 1, 2004; land under dwellings and garages located in the territory of municipalities; and other land owners defined by the law. Households and apartment owners are exempt from property taxes if the family's cumulative annual income does not exceed 40,000 Gel (about \$24,000, according to current rates of exchange).

Findings (according to LGI's 7-11)

Still in its infancy, Georgia's spatial planning regime (including land use master plans and those regulating construction) has significant gaps. Creativity, to be sure, is an important part of the development and implementation of spatial planning projects. But creativity should be placed within strict legal boundaries. There are problems in plans that can cause misunderstandings. Legislation, for example, does not clearly define the legal status of internal roads passing through privately owned properties in areas under commercial development; and special planning documents should be updated regularly, according to specifications in new legislation.

Not all the cadastral data necessary for normal development of the planning process is registered. For example, we have noted in land parcels alienated by the state a lack of cadastral information regarding the presence of public utilities or externalities (e.g. an underground sewage system, telecommunications lines, gas conduits, etc.). The implementation of spatial plans is very slow, especially in small settlements; one of the main reasons is that legislation related to special planning continues to be improved. With that in mind, implementation efforts could be speeded up by new regulations that would allow authorities to implement parts of the master plans independently (e.g. zoning plan, transport plan etc.) and set minimum requirements for them.

One of the main obstacles to the development of construction is the absence of a plan regulating settlements. Even though there are requirements for studying/surveying the territory adjacent to the land parcel for construction development, it is a temporary solution – and, unfortunately, not up to the task of providing full development.

Two more problems: frequent changes in tax legislation and lack of professionalism among the tax collection personnel. The Tax Code has been amended 137 times, which has made it difficult for

taxpayers to stay up to date on their tax obligations and has undermined the professionalism of tax collectors. It should be mentioned that there are 8 zones for determining the property tax fee for non-agricultural land in Tbilisi. Other cities and districts of Georgia have their own zones, also defined by the municipality. In 2011, the property tax on agricultural land was increased significantly. The total amount of the tax fees that the Revenue Service collected exceeded the personnel costs of collecting them – by almost five times.

The Tax Department holds the available information – transferred from NAPR – regarding those paying land taxes, which is updated annually. It remains difficult for the Tax Department to define its costs related to collecting property taxes, because the agency does not have an administrative unit dedicated solely to tax collection. Declaring taxable property – both urban and agricultural – is done mainly through the Tax Department’s website; the department responds with a bill for the appropriate amount to be paid by a set deadline. Georgian tax authorities are not authorized to exempt anyone from paying a land/property tax; the exemption process is entirely regulated by the Tax Code.

General recommendations

To improve the system of spatial planning and construction activity, it is necessary to:

- Bring the legislative process in line with the goal of implementing plans legally, speedily and as problem-free as possible;
- Improve training and establishing qualifications for “specialists” working for agencies responsible for land use planning, management and taxation;
- Improve issues related to creating implementing and updating spatial development plans.

To improve the land/immovable property assessment system, it is necessary to:

- Develop further the institute of private assessors and promote the formation of self-regulating organizations for supporting their work;
- Exclude the state from the assessment market, which will encourage a more competitive environment;
- Provide free consultations to tax payers to help them submit their tax declarations via the Internet.

Thematic Area 3. Management of Public Land

Land ownership in Georgia takes three forms: state, municipal and private. State land is now sold or leased without any restrictions – except those put on certain categories of land: pastures, livestock trails, historical monuments, protected area, etc. And although foreign investors have an equal right to buy land, the law restricts them from directly buying agricultural land. Privatization of land is managed by the Ministry of Economy and Sustainable Development in the following different ways: a) by auction (most of the cases); b) by direct sale; and c) by direct sale through a competitive process.

In the context of its commitment to property as an absolute right, the Georgian Constitution prohibits expropriation – except if there is an “Urgent Public Need” (Article 21). Legislation clearly defines the rules of expropriation – giving the court the final say when a dispute arises. The court’s decision must contain a detailed description of the property to be expropriated and precise instructions about how the owner will be fairly compensated.

In the past, the State Department of Forestry was no match for corruption and illegal deforestation. Factories processing illegal timber were also commonplace. Today, villagers are free to enter and move around forests without having to pay a bribe, enjoying the scenic surroundings for recreation, camping and tourism; indiscriminate cutting of trees is prohibited, but locals are allowed to collect fallen wood for personal use.

Findings (according to LGI’s 12-15)

No statistical information is available specifying how much land is under state ownership. Registration of ownership of state land in the National Public Registry typically occurs only when either the state or a private investor expresses interest in buying or selling it. Public involvement in implementation of land policy is not guaranteed. Typically, public discussions tend to be held only after an aggrieved party expresses dissatisfaction.

The good news is that Georgia’s land management has embraced transparency: alienation of state land, for example, takes place through an online auction. Authorities must now remedy the obstacles to Internet accessibility faced by many customers, especially the local/village population. Another plus is that land expropriation can take place only for “urgent public needs” and now occurs in a timely manner. Some NGOs, however, have pointed to cases of illegal expropriation, mainly in tourist zones.

In 2010, the State increased both the initial selling price and tax for non-agricultural land, which should discourage land speculation, while encouraging owners to engage in the land market.

On the minus side, the majority of state-owned land has not been registered – or even surveyed, including large-scale plots (50 plus hectares). Nor has this land been assigned a category (“agricultural” or “non-agricultural”) or use (“arable,” “perennial,” “pasture”). Registration tends to occur only when either the state or a private investor expresses interest in privatizing a piece of land. This lack of easily accessible public information about state-owned land is a major obstacle to creating a vibrant land market in Georgia.

The over-riding problem in public land management is that “the public” plays virtually no role in the creation or implementation of policies to deal with land issues. In fact, anyone interested in the status of a large piece of agricultural land – its size, quality or category – will be hard-pressed to find any information about that land.

Georgia’s national forestry policy also remains weak, as is its strategy for operating and developing forest areas. As a result of structural and staff changes carried out at the Government level in the area

of forest management, progress in designing reforms and new policies has been postponed several times – or the direction of forestry operations was radically changed. For example, forest area and forest management functions of the Ministry of Natural Resources and Environment were transferred to the Ministry of Energy and Natural Resources. The Ministry of Environment has maintained only the management functions of National Parks and Protected areas. The state has initiated privatization of local forests (formerly owned by collective farms) with the starting price of 200 Gel per ha. Public participation in the decision-making process, particularly among the local population, remains weak.

The expert consensus is that registration and administration of forests should be conducted once every ten years; yet most of the territory in the State Forest Fund has not been attended to since 1990. As a result, the state does not have information about the overall condition of the Forest Fund, which represents more than 40% of the country's territory.

General recommendations

- Clear policies for State-owned land management are required, along with clear laws and regulations to implement them. It is also important that investors are aware of the conditions and responsibilities during alienation of any piece of large-scale land;
- Information about State-owned land should support the analysis and monitoring of policies, answering such questions as: What is a general situation regarding land use in the country? What undesired changes can be expected? What measures will block them?
- It is important that legislation protects both state and privately owned agricultural lands from further fragmentation;
- Ways should be explored to encourage more cooperation between local government bodies and state agencies in charge of land management;
- Surveying all state land and registering it the Public Registry is essential;
- Management of state-owned agricultural land must include a concerted effort to inform local village populations about the process, and acquaint them with the benefits of modern land management strategies;
- In addition to announcements made in the mass media regarding land alienation, local government and self-government offices should also mount publicity campaigns;
- Forest inventory and functional zoning should be carried out – to provide a basis for developing plans for managing forestland;
- A privatization strategy for Georgia's vast forestland needs to be developed. The law should introduce different forms of ownership over forest resources. Special attention must also be paid to separating local (community) forests from state forests.

Thematic Area 4: Public Provision of Land Information

Georgia's indisputable success in reforming its registration system was due to the political will of the post-revolutionary Saakashvili Government to "eliminate queues in registration offices and eliminate corruption." To that end, the Government embraced the vision proposed by its land governance reform

team aimed at: separating land administration from land management, centralizing the administration of land issue into a single, unified institution under the control of the central Government, with no influence from local governments; delegating a number of functions to the private sector; designing a public registry that would be 100% self-financing. The guiding principle was to “run the property registry like a business.”

By replacing the Bureau of Technical Inventory (BTI) and State Department of Land Management (SDLM) with the National Agency of Public Registry (NAPR) – as a legal entity of public law under the Ministry of Justice – the Government had removed public confusion about registration, eliminated the problem of functions that overlapped with other agencies and resolved the conflicts of interest that led to corrupt practices: Surveying was transferred to the private sector and SDLM’s land management authority was handed to the Ministry of Environment and Ministry of Agriculture. NAPR was thus a unified and independent agency responsible for registering all types of property – apartments and buildings as well as agricultural and non-agricultural land. Transforming SDLM’s regional offices into NAPR registration offices freed them from the influence of the local governments.

NAPR is now not only an independent one-stop shop for registering and gaining access to information about property, the Public Registry is also currently 100% self-financed. Before the reforms that began in 2004, the annual budget of the registration institution was US\$ 370,000, which came out of the state budget; two years later, NAPR had earned more than US\$ 6.4 million and was paying the state more than \$250,000 a year in income and other taxes. And without raising fees. The increase in NAPR’s income was due mainly to the income from an innovative program offering fast-track service – for an extra fee. Innovations such as on-line access and the role of “authorized users” in the private sector replicating NAPR’s services have also increased NAPR’s overall efficiency, enabling the agency to reduce its number of employees three times during 2004-2006; salaries have been increased 12 times in the same period.

Findings (according to LGI’s 16-19)

Access to property rights registered in Tbilisi before 2006 – and in some other districts before 2009 – is still a problem, which, in turn causes a number of difficulties and snags in the system. Only a fraction of privatized agricultural land, for example, has been registered; and owners of an already registered parcel eager for a mortgage or to alienate their land are required to have additional surveys in a new coordinate system.

Another difficulty is that NAPR does not produce the kind of statistical information that would be useful either for developing a vibrant market or for elaborating a comprehensive land policy.

On the plus side, NAPR has in place standards for publicizing the information it does have, and the registry ensures that these standards are fulfilled. Restrictions and obligations are properly and reliably listed and easily available to any interested person.

General recommendations

- Land parcels registered before 2006 should be entered into the NAPR database in a new system of coordinates; it would, however, be unfair to charge owners for doing this, since they paid to register their ownership before 2006;
- Legislation should be improved to make registration procedures as clear as possible so that they can act as an every-present guide for the registration staff and thus help NAPR achieve uniform service throughout the country;
- Proper manuals should also be developed for NAPR staff; and a serious effort should be made to raise the qualifications for registry employees.
- A registry of addresses should be organized. It is sometimes difficult to enforce contracts and execute collateral due to the lack of apartment numbers.

Thematic Area 5: Dispute Resolution and Conflict Management

During the Soviet era, judges were appointed by the state, and the notion of “equal justice before the law” took a back seat to the needs and preferences of the government in power: Georgian judiciary was notoriously corrupt. And while independence in 1991 may have relegated Georgia’s Soviet system into the dustbin of history, the same judiciary system remained – with the same incompetent, underpaid and corrupt judges running it.

Since 2005, Georgia has been implementing, step by step, a wide-ranging reform of the judiciary system, which is still underway. As a lawyer who had been involved in US and European projects to reform Georgia’s legal system and as a former Minister of Justice, President Saakashvili was well aware of what had to be fixed in his country’s judicial system: He dismissed all judges and appointed replacements based on an examination process overseen by the Supreme Council of Justice, a presidential body that offers him advice on judicial issues. The Supreme Council also raised the salaries of judges – as much as 400% for Supreme Court justices and 300% for judges of the lower courts – and increased the budget significantly for court administration and renovating buildings and offices. Internet and IT systems are now in place for tracking and researching cases. His reforms have not been implemented without criticism: Dismissed judges have complained that their successors are too politically beholden to the President, giving him too much influence over the court system; and human rights activists have complained about the large backlog of cases.

The LGAF team’s research into the current status of resolving disputes and managing conflicts over land issues in Georgia offers one window into the kinds of challenges that Georgia’s justice system still faces: Dispute resolution remains an area that requires much more improvement. The massive titling efforts carried out between 1992 and 1998 led to the unintended consequences of disputes and conflict over land. The state, for example, distributed agricultural land for free –based on documentation and drawings issued by village committees. Unfortunately, those committees were typically staffed by unqualified personnel who drew up equally unqualified maps and other titling documents, which unleashed corrupt practices and property disputes. Registration of land was left up to SDLM offices at the district level. And after the introduction of new UTM geographic coordinate system, the number of disputes increased due to overlapping borders of many land parcels.

Currently, there are only two ways to settle disputes over land in Georgia, legally – through the court system or through private arbitration. Both have their drawbacks, and neither serve the Government's ultimate goal that all Georgians have access to equal justice.

Findings (according to LGI's 20-21)

Any citizen of Georgia who believes that his/her rights have been violated has an unrestricted right to apply to the court for restoration of those rights. Georgian legislation does not envision any barriers to this recourse to the courts – except for the requirement that in cases of disputes over any administrative decision involving concrete physical persons/individual, the aggrieved parties must first take their appeals to the higher administrative body before turning to the court. The law envisions courts solving most cases within two months.

The hierarchy of the Georgian judicial system begins at the local area in the form of the “first stage district common court,” which is where complaints are first filed. The decision of the first stage court can be appealed to Court of Appeal whose decision, in turn, can be appealed to Court of Cassation (Supreme Court). In recent years, the average time it takes to resolve a case is three months; but some take years. In the period of 2008 to 2011, 10% of all disputes filed in lower courts ended up in the Supreme Court. Worse still, the courts are not easily accessible for most ordinary people, particularly for villagers in remote areas who, in addition to paying court fees, have to travel to the court at considerable personal expense.

Speedier resolution is available through private arbitration where the decision is final and not subject to appeal. But arbitration can take place only with the written consent of all parties to the dispute.

Apart from private arbitration and the public court system, there is not alternative way for resolving land disputes. In the country's remote mountainous areas, villagers still resort to traditional methods for settling land disputes, such as bringing the case before a committee of village elders or swearing an oath on a religious icon to confirm the veracity of a complaint. As acceptable as such solutions might be locally, they are not legally recognized by the state and could be subject to further disputes.

The justice system is theoretically accessible to all citizens at the district level. In practice, however, districts in Georgia unite tens of villages, which are quite far from the district center where the courts are located. The result is additional costs for the village population to get to court; not surprisingly, villagers who believe their rights have been violated are thus less likely to take their cases to courts, preferring to try to resolve their disputes locally. Such cases often drag on for years and too often yield no results. And thus the legal provision that courts will be able to solve simple cases within two months does not happen in practice.

General recommendations

- For quick and effective resolutions of land disputes at the local level, it would be expedient to concede authority to a village trustee for certifying agreements between village residents over

boundaries. Such locally certified agreements could also become the basis for registration of land parcels in the respective territorial registration branches of the Public Registry.

- Lowering the court fee for settling neighborhood disputes so that villagers who believe that their rights have been violated will be less likely to try to resolve the problem through other options not backed up by the force of the law.
- To ensure effective and quick consideration of disputes in the court system, the judicial system must increase the number of judges.
- There is still much skepticism in Georgia about the Government's efforts to ensure that justice is equal for all citizens. As a result of the LGAF, it is clear that one area where Georgia could prove its commitment to equal justice is to make it easier for ordinary people at the village level to resolve their land disputes quickly – without going to court.

In Conclusion

LGAF Georgia has demonstrated that the World Bank's Land Governance Assessment Framework is an effective and useful tool for helping government identify areas of policy reform. In Georgia, for example, LGAF has underlined the importance of improving land management strategy and focusing on land consolidation initiatives to solve Georgia's significant land fragmentation problem. Furthermore, the policy dialogue held after the LGAF study brought together different policy players and key stakeholders who supported the LGAF recommendation that an agriculture development strategy should include land issues and the development of textual and spatial data on land use. Finally, in order to institutionalize LGAF and keep assessing the progress of land governance in Georgia and recommending further improvements, it is important to update the LGAF study on an annual basis according to the measurable indicators.