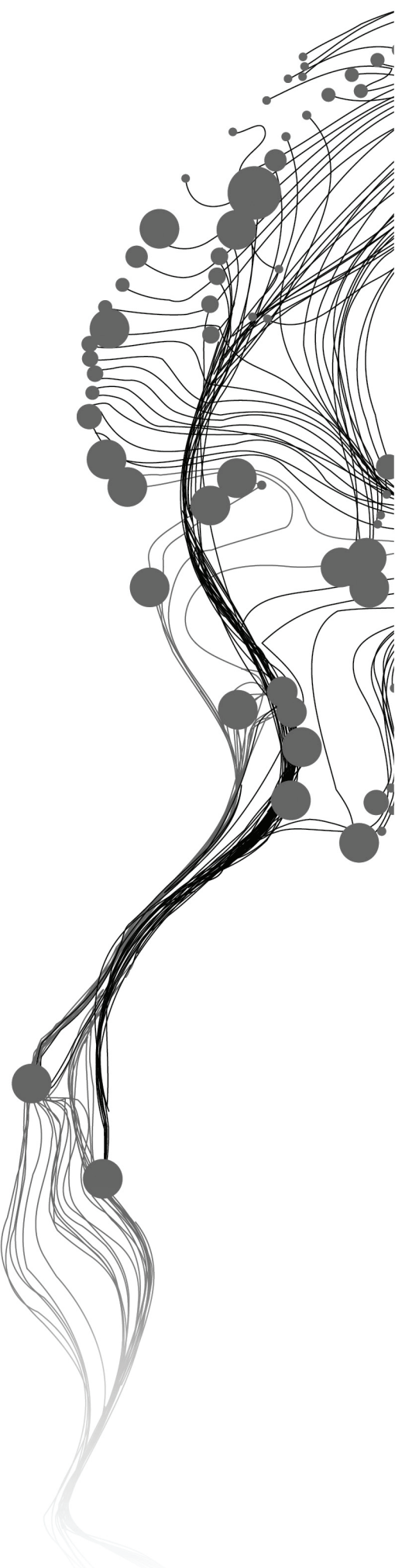


ASSESSMENT OF URBAN LAND MARKET FROM GOOD GOVERNANCE PERSPECTIVES

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March 2011

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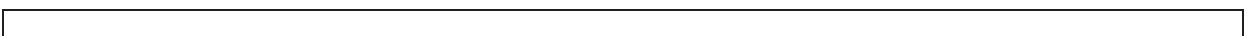
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DISCLAIMER

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ABSTRACT

The significance of assessing land market from good governance perspectives is quite imperative. This is because of the importance of good governance for economic development in general and well-functioning land market in particular. Land market, in most case, suffers from externalities and inefficiencies. One reason for the prevalence of those inefficiencies might be due to lack of system of good governance which improves efficiency, increase level of transparency and access to information and create equity. Good governance, generally understood, is one of the major factors which determine the outcome and growth of land market. Land transfer in the environment of bad governance leads to information asymmetry, lack of transparency, inefficiency and corruption. The process of smooth land transfer is usually curtailed by the presence of weak governance in the sector. This research finds out whether the process of land transfer, particularly where a state plays a major role in land transfer, complies with the basic principles of good governance. In order to assess the market, assessment framework is developed. For this particular purpose, China is taken as a case study. Critical analysis of secondary data from official and non-official sources is done. Major changes since late 1980s in institutional environment and subsequent results have been assessed. The result obtained in terms of equity, transparency, access to information from Chinese land market is assessed by taking “Best Practices” into account. Quantitative data analysis is conducted using statistical software and land transfer activities are drawn using UML language (Enterprise Architecture). ArcGIS software is also used for data display and visualization. The findings reveal that LURs transfer in China is gradually responding to improved governance system. Institutional reforms have led to steady improvement in transparency, efficiency, and access to information in land market. Nonetheless, the market has significant weaknesses in addressing equity issues, engaging stakeholders, tackling corruption and dealing with expropriations. Moreover, LURs transfer exhibits regional disparities related to efficiency, transparency, equity, and access to information. Land transfer in more economically developed regions and major cities is more in line with the principles of good governance whereas governance aspects of land transfer processes in the economically weaker areas are lagging behind. In general, the efficiency and effectiveness of land transfer/market largely depends not on the type of tenure regime per se rather on the system of governance in place. This necessitates the need for better governance system to have well-functioning land market. LURs transfer which fails to nurture good governance might severely undermine its effectiveness. This makes good governance an indispensable input for properly performing land market.

Key words: *Land market; Land transfer; Land Use Rights (LURs); Good Governance; Land Administration; Assessment; China.*

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1. INTRODUCTION

1.1 Background

Urban land market has to be efficient and effective in order to serve citizens. Urban land market which does not run efficiently and effectively might adversely affect development (Zevenbergen et al., 2007) of an economy. However, urban land market in many countries is inefficient & ineffective. It is overregulated and under enforced. Sometimes the ability of landowners or use rights holders to engage in land transaction is hugely curtailed by administrative bureaucracies. Farvacque et al.(1992) state that orderly development of land markets, for instance the commitment to efficiency, transparency and equity cannot be divorced from the wider issues of governance. Better approach to good governance makes the development of land market much easier and facilitates the operation of efficient and equitable land markets (Dowall et al., 1996). Good governance eliminates distortions and takes measures to reduce market imperfections (Deininger et al., 1998). According to Burns et al.(2008) good land governance in land market has some of the following features: land (market) policy is in line with principles of fairness and equity; zoning and development control plans are justified and undertaken in an efficient and transparent manner; land market organizations have clear mandate and operate transparently, cost effectively; procedures are clear and applied transparently; transparent property valuation system; and Judicial institutions resolve disputes associated with land transfer fairly.

In many countries weak governance, particularly failure to curtail corruption ,is one of the major issues challenging the progress of land market (Molen et al., 2006). There is general concern about fraud in the land market. Good governance is important not only to tackle corruption but also to eliminate market imperfections and failures, increase operating efficiencies, minimize or internalize externalities, redistribute a society's scarce resources so that disadvantaged groups can benefit (Dowall, et al., 1996). Similarly, in the absence of government intervention or good governance in urban land markets, low-income households may have difficulty getting access to land for housing.

Another constraint which arises in the formal land market due to weak governance is lack of equity. Urban poor do not have access to housing or cannot afford one because they are ignored and marginalized. Affordability is also an issue as the economic growth and speculation drew the price of land and housing very high. This fact has contributed towards ever increasing gap between the urban rich and the poor. When urban land market fails to cater for the poor, mainly as a result of its inherent inefficiencies, informal land market emerges and unless addressed on time. Existence of informal land market, beyond affecting the revenue the government would collect from land transfer, risks individual property rights and investment confidence.

The institutions governing the allocation of land rights and the functioning of land markets have implications for overall efficiency of the land market (Deininger, et al., 1998). The institutions affect transaction cost associated with land transfer, the magnitude and distribution of the benefits generated by the land market. Land market needs improved institutional and policy actions. Policy makers assume there is a direct relationship between the processes involved in land market (its administration and registration) and improvements in the local land market (J. Wallace et al., 2006). But governance issues can be affected by government policies, informal constraints and on other similar factors (Deininger, Holden et al., 2009). Successful markets have high administrative standards, quality regulatory and legal controls that ensure

transaction quality (J. Wallace, et al., 2006). According to Dale, et al. (2006) modern economy largely depends on the efficiency of land market and land market enhances the ability to generate wealth. Land market, if good governance issue is properly addressed, can operate efficiently and effectively. Efficient and improved land market eventually help the economy develop and the society prosper.

These all above touched challenges in the urban land markets are mainly attributed, in one or another way, to lack of good governance which is characterized by the lack of those good governance dimensions such as transparency (Deininger & Feder, 2009), participation in decision making, accountability, rule of law, access to land market information, equity, efficiency and effectiveness in the land market sector. Land market can show either strength or weakness in one or more of those dimensions. This research does not make an attempt to address all governance challenges; but deals with some of them. Here the main focus is to look at equity (the poor's ability to access/own property), access to information (accessibility and reliability of land market information), participation of the stakeholders in the matter of their concern, transparency of the land transfer processes and procedures, combating corruption and efficiency (procedures, time and cost involved to handle the process) in urban land market within the framework of good governance. These areas are the centre of focus for this research mainly because urban land market is largely facing challenges in these arenas. Therefore, as we discuss land market from good governance perspectives the emphasis is more on those dimensions.

1.2 Research problem

Land market in many countries is facing governance challenges (Deininger & Feder, 2009). Illegal land transfer, corruption and bribery are common. Service provision and land administration are inefficient. According to Transparency International (2008) property transfer i.e. land market is in the top five public sectors where elements of bad governance such as lack of transparency, inefficiency and lack of access to market information are evident. These clearly show how the sector is so vulnerable to malpractices and its governance is at stake. In order to have well-functioning urban land market, governance issue has to be addressed. Before embarking on any intervention measures it has to be rigorously assessed. Oliver Williamson ascertains the importance and role of governance by emphasising more on the need to make governance structure right in his model of four levels of social analysis (Burns, 2007). This helps to tackle complicated weak governance problems associated with urban land market: lack of process transparency, inefficiency, lack of access to information, corruption and informality (Enemark et al., 2009).

In Chinese land market there are many challenges which point at weaknesses in governance. Access to urban land is becoming increasingly difficult for urban poor and low income groups. Reports indicate that there insignificant level of participation in the process of expropriation by the victims. In recent years, many major corruption cases are associated with land transactions in China. State Land Supervision System (SLS) which has come to existence in 2007 in the country has claimed that lots of land are illegally occupied and as a result hundreds of local officials have been punished (Fubing, 2008). China reported 53 000 cases of land abuses in 2010 alone (China Daily, 2011). Ministry of Land and Resources (MLR) has found out that 113 million meter square of land which could provide housing for 1 million people remained idle after developers purchased Land Use Rights (LURs) from the State (People's Daily Online, 2010). Illegal buildings and illegal land use have been reported in Sichuan's Wusheng county, Guandxi and in Xinjiang (MLR, 2010). Hsing (2006) has found out that agencies that regulate urban land market, in some cases, themselves have their own real estate development deals. This kind of wide spread state land abuse directly or indirectly has something to do with the nature of the governance in place. If land in China both in urban and rural areas is owned fully by individuals we might experience lower level of land

abuses particularly by those who are in power. However, state ownership in the existence of weak governance could aggravate the level of land abuses and the prevalence of malpractices.

Most policymakers fail to consider how governmental programs adversely affect land market operations (Dowall, 1995). Urban land market, particularly where land use rights (LURs) are transferred, is highly dependent on the government policies and its influences (K.Ingram et al., 2009). Government has tremendous control over supply side and hence the outcome (Deininger & Feder, 2009). It is not yet clear whether all the above raised numerous problems and challenges, in China's case, can be directly or indirectly linked and attributed to lack of good governance in the sector. Dowall (1995) has made an attempt to assess urban land market from view point of demand, supply, and price of urban land but not its governance aspects. He has also developed tools, primarily, for the assessment of the above mentioned three points. However, as to the researcher's knowledge, there are no researches that have assessed circumstances surrounding urban land market (LURs transfer) and its governance. There are many researches on LURs transfer (Dowall, 1993a; Quang et al., 2002; Zhu, 2004). Nevertheless, there are no researches which have looked at it from governance angle: whether the process of LURs transfer can take the basics of good governance into account. Moreover, where governments play prominent role and directly engaged in the land market as a sole LURs conveyer (K.Ingram, et al., 2009), the way this kind of urban land market responds to issues such as equity, transparency, efficiency and access to information which are the foundations of land market is not well understood. This research assesses urban land market from good governance perspectives to find out whether LURs transfer adheres to it or not.

1.3 Justification of the Research

Without good governance effective land market might not exist (Burns, 2007). In order to understand current condition of the land market and its future prospects, it is imperative to assess the circumstances surrounding governance issues in the urban land market (Dowall, 1995). Understanding transparency, efficiency and effectiveness of the process of land transaction; procedures and steps, availability of reliable and accessible information help to understand the weaknesses surrounding the market and identify areas of future intervention and come up with possible remedies (Dowall, 1995).

According to Deininger et al. (2009), for best result in land market governance environment needs assessment and should be given due attention. This research is quite significant in the sense that once the assessment of good governance has been done, it is relatively easy to make necessary interventions (formulate policies and in act laws, implement them and reinvigorate the level of efficiency, transparency etc) which address the shortcomings created in the land market due to lack of good governance. Once, we have clearly established the level and role good governance plays in the land market, we know and understand better how to handle land market and improve its performance. It is also easier to improve and strengthen governance systems which help land market grow, expand and flourish. This means, we are indirectly creating an environment that contributes towards the growth of the economy and create equity among the society. In sum, land market assessment is an essential first step towards improving the function of the land market (Dowall, 1995).

In general, despite general understanding regarding the impact of good governance on the land market, there are no significant volumes of researches that demonstrate the interaction between the two. The study contributes in terms of finding the link between land market and good governance. In addition, it also plays a role in filling the gap and adding to the existing knowledge base in the area of land market and good governance.

1.4 Research Objectives and Questions

1.4.1 Main research objective

It is very evident that governance system affects the performance of financial market, agricultural productivity, and economic and social progress of citizens. This indicates how imperative governance system is for the functioning of different sectors; in public or private arena. General consensus is developing around the importance of good governance to have fair, vibrant, transparent, efficient and mature urban land market as well.

The ultimate objective of this research is to assess urban land market from good governance perspectives i.e. to find out whether land transfer can satisfy basic principles of good governance such as equity, access to information, efficiency, transparency, and combating corruption.

1.4.2 Research question

How much does urban land market, in the case of LURs transfer, comply with the basic principles of good governance?

1.4.3 Research sub-objectives and sub-questions

Sub-objectives and sub-questions generated from research objective and research question subsequently, are presented in the table below.

Sub objectives	Sub questions
To find out how urban land market operates within the context of LURs.	What are the main components of urban land market?
	What are the driving forces behind urban land market?
	Who are the actors in urban land market and how they do interact?
To assess issues of equity, access to information, participation, efficiency and effectiveness, transparency and combating corruption.	How equitable LURs transfer is?
	How accessible land market information is?
	How efficient and effective the process of LURs transfer is?
	How transparent the process of LURs transfer is?
	Is there any initiative to combat corruption?
To develop good governance indicators that help to assess urban land market.	How assessment framework is developed?
	What are the validation mechanisms of the framework?

Table 1-1 Research sub-objectives and sub-questions

1.5 Scope of the Research

This research's main area of focus is the assessment of urban land market; specifically urban LURs transfer and the processes surrounding its transfer. The researcher believes that dealing with both urban and rural land markets might not be handled with in the given maximum time limit. To treat both markets like one may not be ideal approach because of the differences that exist between the two. Even the nature of urban land markets can vary from region to region depending on local land market laws, policies and planning regulations, available resources for implementations and the quality of local governance.

Depending on the available secondary data, the research draws general picture of the country's urban land market performance by assessing from good governance perspective, despite inevitable regional and municipal differences. The choice for generic approach is mainly based on the fact that it is easier to get bulk of secondary data (literatures) at a national level than local/municipal level. Detailed municipal level urban land market assessment perhaps need empirical data.

The idea of this research is to look at urban land market from good governance context. Yet good governance varies in definition and approach. This particular research employs some basic dimensions of good governance. Those elements are equity, access to land market information, participation, efficiency and effectiveness, transparency and combating corruption. Those dimensions have been picked up believing that they are very crucial for the well-functioning of land market than the rest good governance dimensions.

1.6 Conceptual Framework

In this research we have two pillars: urban land market and good governance. We bring the two together and find out how land governance can positively impact the performance of land market. To make the assessment we depend on the assessment framework. Assessment takes China as a case and checks against “best practices” in all possible cases and good governance dimensions. After the assessment we have key findings. We discuss the findings and draw conclusion at the end.

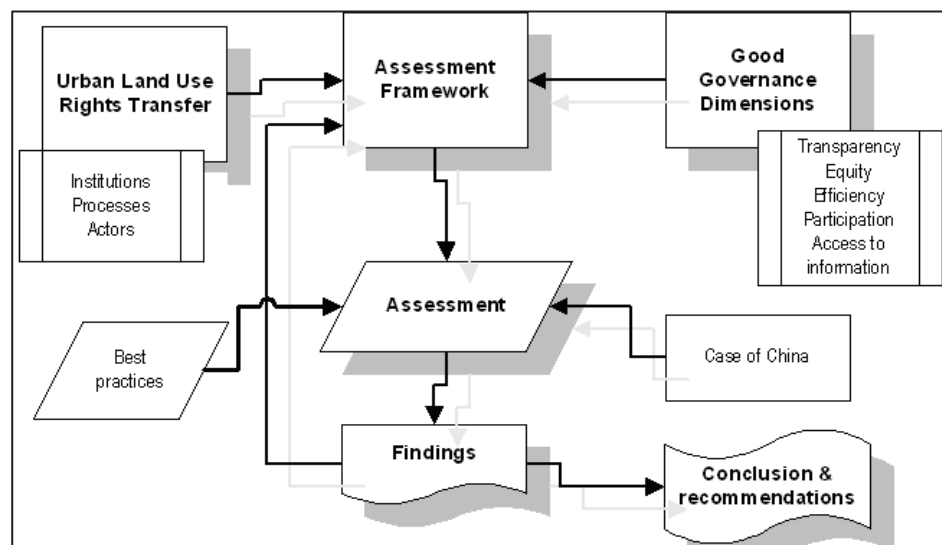


Figure 1-1 Research conceptual frameworks

1.7 Research Methodology

This research assesses land market taking China as a case. Land market and its governance aspect is very broad topic which needs closer attention. Therefore, to understand how land market transfer is handled (governed) necessary level of detail is needed. Detailed study helps to make comprehensive study. China is taken as case because of its different tenure regime and associated land governance and also because of its land tenure system which allows the State to transfer the State owned land through Land Use Rights (LURs) to developers. In the country urban land is state owned where the state has a monopolistic power over primary market in formal transfer/land market.

1.7.1 Research approaches and methods

This research is a desk research which is dependent on secondary data. According to UNDP (2007) desk research can be used to find out hard facts. This could be the analysis of journal articles, books, legal and policy papers, official reports and other relevant documents so as to analyse the market, discuss and draw some sort of conclusion about the point under consideration. The quality of this kind of research, UNDP warns, depends on the availability of good quality published materials. It is not easy for desk research to stay up to date and incorporate the feeling or perception of the stakeholders.

There are different types of research methods employed by various researchers. The most widely applied ones are qualitative and quantitative (Taylor et al., 2001). However, both can be used in combination as they do support each other. Each method can support each other at different levels of research stages: during design, data collection and analysis (Taylor, et al., 2001). A quantitative method (data) is to support our arguments and strengthen our case by providing statistical data from various sources. Qualitative method, in fact, is used for conceptual development at early stages and for interpretation, clarification and illustration of the findings. This method helps us to understand how land market functions. It is extremely helpful to know how the nature of the institutions that govern land market and the behaviour of actors which play indispensable role in the transaction processes. In general, this research explores both qualitative (extensively) and quantitative approaches.

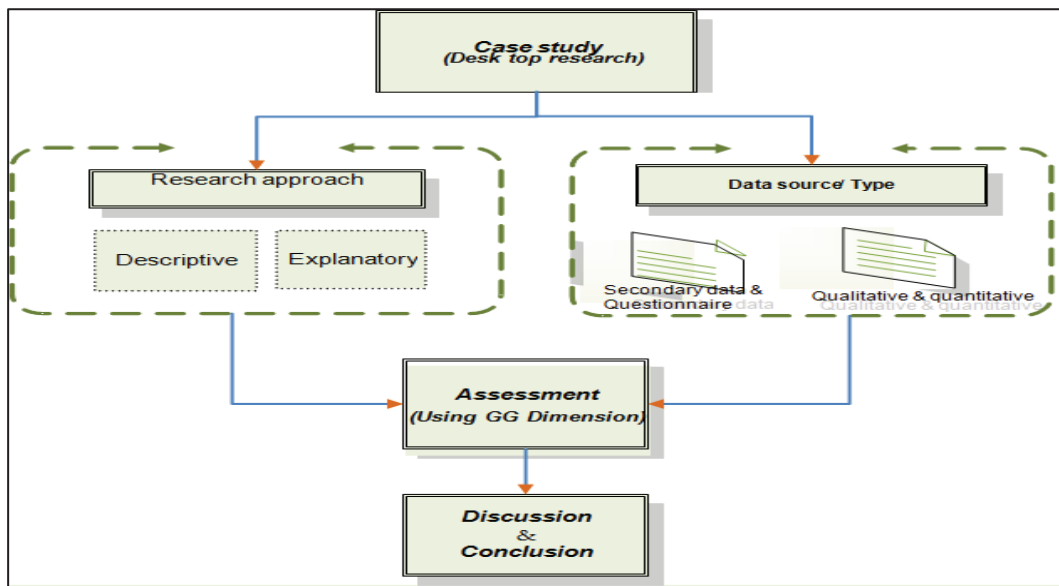


Figure 1-2 Research methodology

Various approaches can be applied to research a point under consideration. Due to the methods used here (predominantly qualitative), the most preferred approaches that suit it is explanatory and descriptive approaches. These two approaches are used in combination (Kumar, 1996) to make better analysis, discussion and finally draw research conclusion. Whatever approaches are used, the quality of the research depends to larger extent on the skill and knowledge of the researcher.

1.7.2 Data sources

There are two principal data sources: primary and secondary. Primary sources of data entirely depend on interviews, focus group discussions, questionnaire, participant observation and observation. Data generated through these means can be coded, triangulated and analysed. The strength of using primary data lies in its nature that takes the researcher to the source in order to gather empirical data. It provides the researcher to have first-hand information and observation of the issue and area of study. Some of the weaknesses can be cost of data collection and time. Secondary data entirely comes from a range of documents and archives. These can be researches done by other scholars (books, journal article); newspapers and magazines, websites; data collected by other governmental and non-governmental organizations; reports, laws, decrees and policy documents; and organizational structures and workflow charts. This research does not involve any field work. Therefore, the research totally depends on secondary data. UNDP (2007) has treated the following data as primary data sources. These are standards, codes and treaties; events-based data; narrative reports; and surveys. However, this particular research treats all data not collected by the researcher himself as secondary data and uses them in this way.

This research exhaustively utilizes qualitative and quantitative secondary data from various sources. Though, data from official sources and scholarly articles have been given due attention because of their quality and reliability. Besides, data from renowned organizations such as UN agencies and prominent international organizations are explored. In some cases, for more updates, news media reports are used.

The usefulness of secondary data might be limited and the findings which depend on them might be flawed. In order to avoid these situations, in all cases maximum possible effort has been made to compare data from one source with similar or related data from other sources. Rigorous checks for the reliability of the sources are made. Furthermore, quality of the data used is analysed based on the following criteria (Boon, 2003):

- i. Consistency- the same definition of the data is used throughout the process of collection.
- ii. Reliability- its accuracy and validity should be assessed. For this reason data from official sources and from organization with high reputation is employed.
- iii. Adequacy- the data is checked whether it's enough or not to answer questions raised (research conducted) and
- iv. Timeliness- the data must be relevant with the time under consideration. Land market is very dynamic topic. This makes timely data very important for better result. Governance situation, as well, constantly changes over time. It can show signs of improvement or deterioration. Therefore, data of land market and governance which is 5 years old may not reflect the current reality. Effort has been made to use the most recent data in all cases whenever possible.

1.7.3 Software used

Software is now days extensively used to collect data, analyse and interpret it. They help the researcher understand, speed up the processes, visualize the result and present the work in a better way. This research has used the application of some software for the above mentioned purposes. Lists of this software are:

- UML - This language is used to model land transfer registration activities. Use of UML (Enterprise Architecture) makes the activities involved appear simple and clear which otherwise may look quite complex if written expression is used.
- ArcGIS- To produce maps for visualization and interpretation.
- Microsoft Visio- This software is applied for concept visualization and display.
- Excel-It is used to make analysis of quantitative data and its visualization.

1.7.4 Data analysis methodologies

The process of data analysis has adopted the model Seidel (1998) has developed. His model has three main and interconnected entities. These are notice interesting things in the data, collect those interesting things and think about those things. They are interlinked and influence or affect one another. The basic processes of qualitative data analysis can be summarized as follows:

- Collect Data.
- Notice interesting things in the data.
- Collect sets of those interesting things.
- Think about those interesting things.
- Write a report about those things.

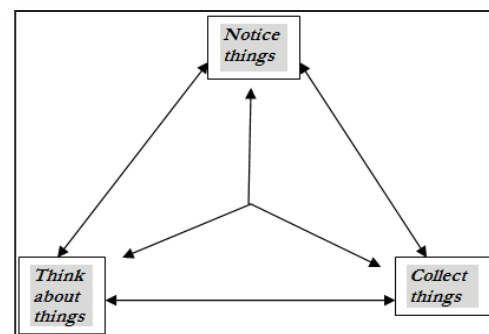


Figure 1-3 Model of Qualitative data analysis- Source: (Seidel, 1998))

The method of data coding has been applied. This is a process of combining data from various sources, themes and ideas. Coding enables the researcher to put all related data under one or the same category.

When it deemed very essential, the result of the data is compared with the result from another countries for the sake of detail illustration. This approach is also supported by Seidel (1998).

1.8 Research Design

The research design shows brief passage of the research. The research starts with defining research problem, research objectives and questions. Literature review puts solid foundation for the subsequent chapters. Development of assessment framework and data collection follows. Market analysis and assessment is done based on data collection and concepts from the literature review by using assessment frame work. At the end, based on discussion, conclusion and recommendations are made.

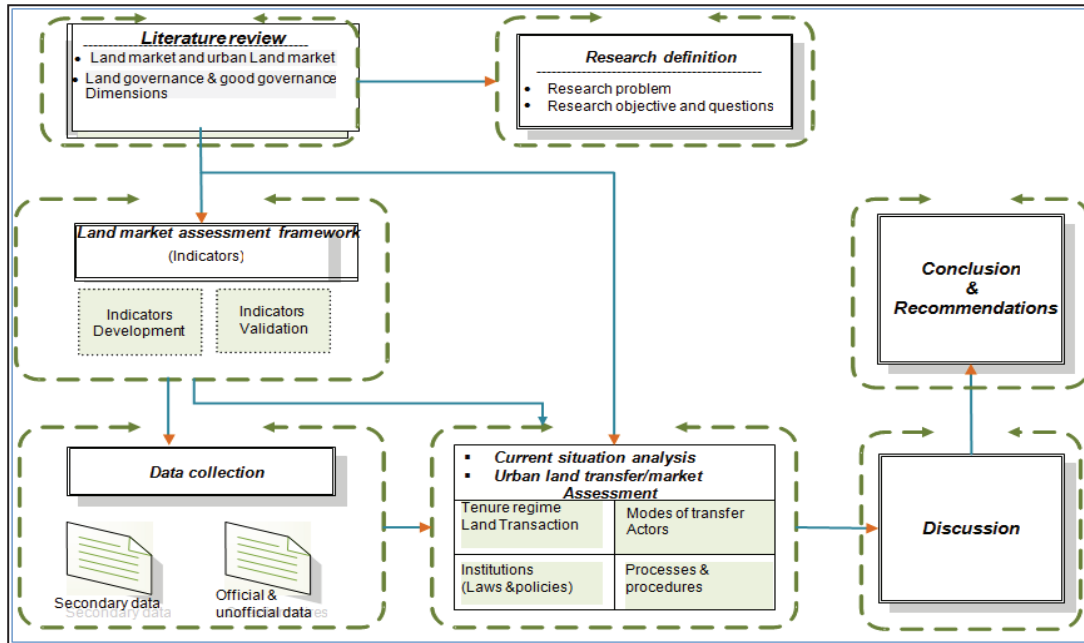


Figure 1-4 Research design

1.9 Structure of the Thesis

This thesis has seven chapters which constitute introduction, literature review, developing framework, current situation analysis, assessment, discussion and conclusion. Brief insights are provided below.

Chapter One- Introduction: In this chapter general introduction into the research is given. Background into the real problem is provided. Research problem is explained and justification for the research is presented. Research objectives and questions are also given under this chapter. The scope of the research is defined and conceptual framework is developed. This chapter introduces research methodology and research design as well.

Chapter Two- Urban land markets and good governance: Here land market in general and urban land market in particular is dealt with. The discussion depends completely on what other scholars have said and written regarding land market. These could be about different types of land market, theory and models behind land market, its nature and feature, and main governance shortcomings inhibiting the development of land market. In addition, this chapter discusses theories, definitions and dimensions of good governance developed and adopted over years by various researchers and organizations. It tries to find theoretical link between land market and good governance. It establishes the role good governance might play in terms of improving land market and associated activities.

Chapter Three- Developing assessment frameworks: In order to assess the performance of land market, to see whether it is well-functioning or not, the need for the assessment framework is imperative. This chapter deals with the process of developing the framework, in particular performance indicators. Before embarking on the assessment itself we need indicators. It starts with theories behind the use of indicators and ways of developing indicators. It also addresses means of validating those indicators.

Chapter Four- Current situation analysis of Chinese urban land market: This chapter deals, broadly, with analysis of secondary data of urban land market in China. It starts with looking into circumstances surrounding tenure security and property rights in the country. In the rest sections urban land market, its driving forces, land transaction and actors who are involved are analysed in sufficient level of details.

Chapter Five- Assessment of land market from governance perspective: The assessment is done by employing the framework. What is assessed here is land transfer and associated processes from governance dimension: equity aspect, access to land market information, transparency, efficiency, and combating corruption.

Chapter Six- Discussion of the results: This part discusses the findings of the earlier chapter in lengthy fashion. The discussion is done by comparing the result obtained from the data analysis with what has been said in the area by other researchers.

Chapter Seven- Conclusion and recommendations: Here the conclusion of the whole research is provided and recommendations are given for the possible interventions and for potential future research areas.

2. URBAN LAND MARKET AND GOOD GOVERNANCE: A LITERATURE REVIEW

2.1 Introduction

Currently, demand for urban land for housing, commercial use and for industrial expansion is high. Over 2 billion people will be in dire need of housing in urban centres within the coming 25 years. The demand for urban land is everywhere; however, it is more serious in the developing countries. India alone needs 40 million housing units (Deininger et al., 2010). This kind of huge demand for urban land can be met by redeveloping, by efficiency using urban open spaces or by converting rural land to urban land. Once the land is made available, people can access it through various means such as land reform (state redistribution), land market and inheritance. In urban areas where people are so dynamic, distinctly, land market plays very crucial role (more than reform and inheritance) in terms of making land accessible for residential, commercial, industrial purposes and for expansion of urban infrastructure and social amenities.

This chapter discusses and reviews work done by other scholars in the areas of urban land market to be specific urban land use rights transfer, good governance and related issues such as pro-poor land policies primarily based on theoretical perspective. The first section deals with definition of land market, complex commodity, access to land and the importance of tenure security for land market. Urban land market is discussed in detail under the second section. This section, as well, gives insight into issues such as land policies, demand and supply in urban land market, land sale and lease, and informal and formal urban land markets. The third section elaborates issues which are so indispensable for the success and effectiveness of any urban land market. Here land law, spatial planning, land registration and cadastre, financial institutions, and the importance of organizational and institutional strengths are touched upon with sufficient level of details for this particular work. The final section concentrates on looking into the intricate links between urban land market and good governance with main emphasis on the dimensions of good governance such as equity, access to information, participation, transparency, efficiency and effectiveness. Combating corruption is also touched upon.

2.2 Land Market -Definitions

Palmer et al. (2009) define land market as *“Mechanisms by which rights in land and housing, either separately or together, are voluntarily traded through transactions such as sales and leases.”* As Dale, et al. (2006) put it *“Land markets exist when and wherever it is possible to exchange rights in land for agreed amounts of money or services rendered.”* According to both definitions land market is basically the transfer of land rights than the land object itself. What can be transferred is land and/or building attached to it. Land is an important input for housing. Therefore, it is not possible to separate access to land and access to housing (Sivam, 2002) particularly in urban areas. Land unlike other commodities is immovable (Dale, et al., 2006). Buildings upon land can be dismantled and moved elsewhere but the land remains intact and the physical feature too cannot be easily changed. When land transaction is done, from a legal perspective, only the rights can be moved from a seller to a buyer. This makes the need for special arrangement in order to have functioning land market. According to Zevenbergen (2002) for land market to exist, certain circumstances have to be met and institutional arrangements should be in place. In this and in the following chapters we use Palmer, et al. definition as a working definition.

Land markets perform the following basic (Lall et al., 2009) functions: bring buyers and sellers together; set prices for land; allocate land; and play an important role in ensuring that land is efficiently used.

According to Wallace et al. (2006) for the land market to function well three basic ingredients have to be fulfilled: land itself, land rights and complex commodities. They argue that not only land records, more importantly, but also the ability to work with abstractions and marketing complex commodities which allow developed countries create wealth. This is mainly due to the fact that land cannot be moved. What, in practice, are exchanged are the rights which are so abstract and defined by the institutions that govern the market. Wallace et al. (2009) have also identified five evolutionary stages in the process of land market development. These stages are land, land rights, land trading, land market and complex property market. These stages are related and linked. As the market moves from land to the next stages, the level of complexity increases. Gradual land market development takes the market from land (which is the basic) to the complex property market such as real estate market. According to them understanding of the evolution improves our understanding of the market and helps us manage land market in a better way. And also, when we talk about land market its local nature should be understood. This limits the chance to transfer the land beyond some areas or to some people. In fact land transaction, in the past, was done mainly among family members and relatives. However, the importance to transfer use or ownership rights to land increases with economic development, specialization, and better development of other markets (Deininger, et al., 1998). With urbanization and globalization, new trend has been emerging. As a result land, land rights to be specific, is being transferred to locals and to foreigners (investors and real estate companies) in different parts of the world (Cotula et al., 2009).

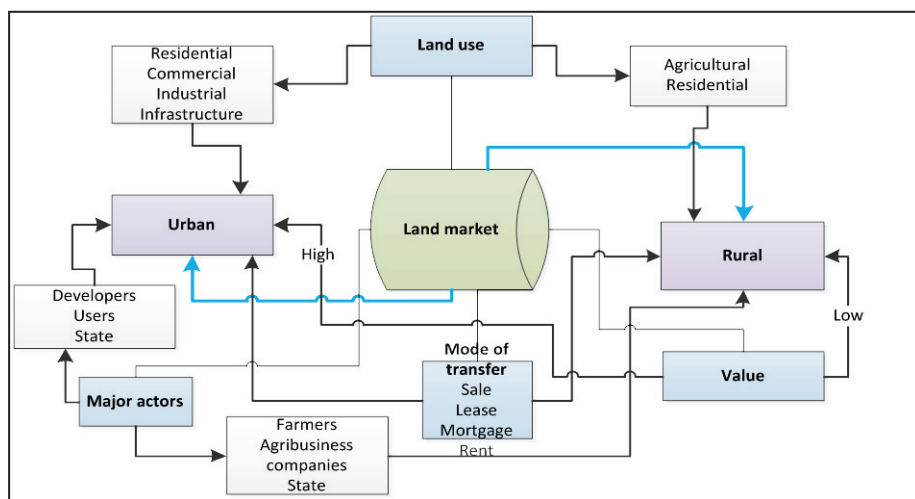


Figure 2-1 Components of land market

Land markets are one of the ways through which many people gain access to land (Palmer, et al., 2009). It has many forms. It can exist in the form of land sale and lease where people can transfer ownership/use rights in land or housing. Land transaction can take place in a formal land market (registered and titled rights in land transfer) or may happen through informal and unstructured channels (without official recognition) (UNECE, 2005). In another way, land market can be urban or rural. Urban land market is a market where land transaction such as sale, lease, or mortgage takes place and it basically deals with land in urban centres and sometimes land in peri-urban areas. It mainly involves transfer of land for residential, commercial industrial and office uses. As we can see from figure 2.1 at this level, major actors are real estate developers and individual users. Rural land market principally deals with land for agricultural use in rural areas. Farmers or agribusiness companies can play prominent role in this market. Mode of access to land in this market, like urban land market, can be through one of the following: sale, lease, mortgage, rent or share cropping. In general, market for both urban and rural land principally depends on supply and demand theory and land in urban areas has more value than land in rural areas due to its use (figure 2.1). Demand side, of both market sectors, is shaped by population growth, the rate of household formation, purchasing power and access to credit (particularly in urban areas) and location factors.

2.3 Tenure Security and Urban Land Market

UN Habitat (2003b) defines tenure security as the “[...] *the possibility of selling and transferring rights through inheritance, the possibility of having a mortgage and access to credit under certain conditions.*” Security of tenure refers to the degree of certainty that one’s land rights is recognized by others (primarily by a state) and protected (Palmer, et al., 2009) by law in case of challenges. Some components of tenure security are thus effective protection against arbitrary expropriations, eviction and provision of effective compensation for the damage caused. Tenure security can also be linked to duration of tenure. Long duration for land right holders might increase confidence and security of tenure than short time span. It enhances the possibility to dispose land through lease or use for collateral. But by itself it does guarantee tenure security.

According to Durand-Lasserve (2006) in most developing cities property titles are regarded as the best way to ensure security of tenure; but by no means the only way to provide security of tenure. Some articles suggest that titling is not equal to higher tenure security (Deininger, 2003). Because there are other issues which make people feel insecure despite having the title. In some countries people still lose their property to the rich in the market (systematically forced to sale or distress sale) or through eminent domain with little compensation though they have title certificate (Palomar, 2002).

Secure tenure is not only to avoid eviction or expropriations. It is imperative for well-functioning land market as well. Dale et al. (1999) argue that for land market to develop, legal security of ownership is quite important component. Land cannot be transacted (sale, transfer or collateral) if there is no satisfactory level of security of tenure (UNECE, 2005). Land market must operate on a solid legal basis so that all dealings are safe and secure for stakeholders (sellers, buyers and lenders). To guarantee security of tenure and provide confidence for those who take part in land market, it needs strong institutions and organizational capacity that can protect rights of holders and enforce contracts. As Deininger et al. (1999) put it, absence of clear tenure security leads to increased transaction cost and might drive informal transactions up. Furthermore, the importance of tenure security is not only limited to stimulating land market growth. It is a foundation rock on which land market stands (Palomar, 2002) and economy grows.

2.4 Land Tenure and its Role in Land Market

Land market requires well defined land tenure and titles (J. Wallace, et al., 2006). Farvacque et al. (1992) have identified that the way land market functions also depends to a larger extent on the property rights and tenure systems. Some tenure regimes do not allow free transfer and transaction of land. Even if it allows, it is for a limited period of time which might discourage potential investors. Payne (2001) argues the type of tenure has effect on the value of a property; private ownership is much expensive than lease.

Land tenure can be defined as the mode through which land is held or owned, or the set of relationships among people concerning land or its resources (Durand-Lasserve, 2006; Palmer, et al., 2009; Payne, 2001). According to FAO (2002) “*Land tenure is the relationship, whether it is statutory or customary, among people, as individuals or groups, with respect to land.*” Rules of tenure define how property rights in land are to be distributed within societies, along with associated responsibilities and restrictions. In simple terms, land tenure regime determines who can use what resources, for how long, and under what conditions. For Maxwell, et al. (1998) land tenure consists of the social relations and institutions governing access to and ownership of land and natural resources. Land tenure emanates from both statutory and customary laws regarding property rights and ownership. It also takes institutions of marriage, of power and control and inheritance into account (Maxwell, et al., 1998). It is like institutionalized social fabric regarding land.

Some of the major challenges surrounding tenure regime (Payne, 2001) are that there are often different systems of legislation relating to land, and different forms of tenure such as state, private, communal,

religious and collective. These tenure regimes may co-exist in the same country and, sometimes, even within the same region or city, or between urban areas and its surroundings which might affect land transaction. The most common types of tenure are the following (Payne, 2001):

State: In this case a state retains sole ownership of land in a country or some parts of it (FAO, 2002). Land rights are assigned to some authorities in the public sector, at central or local level, for management purposes. In the former socialist countries land belongs to the State whereas in the Western world the State controls forest lands that fall under the mandate of the State. Usually, under state land ownership, citizens are awarded land use rights (LURs) with the right to sale or to engage in any kind of land transfer or transaction under the condition of lease agreement which is usually up to maximum of 99 years in many countries. Public ownership is in a better position, in essence, to create equitable resource distribution though its management is prone to inefficiency and abuse. The goal of achieving equity through state land ownership and its transfer can only be met with existence of good governance environment in place.

Private: This is the case when land rights are assignment to a private party. The private party can be a natural person or non-natural person. This type of land tenure can be regarded as freehold land rights with some restrictions and responsibilities attached to it. Dale et al. (1999) states *“Private land ownership includes the right to dispose of it, to use it as collateral for mortgages, to buy and sell, and use it subject to certain private and public encumbrances.”* This tenure type is the one that gives most possible freedom for owners to transfer the land in market. Payne (2001) argues that *“The system permits almost unrestricted use and exchange of land and is intended to ensure its most intense and efficient use.”* Although it provides high level of tenure security, this does not mean it is good in all aspects. For instance, this tenure type is very costly (UN-HABITAT, 2003b) which cannot be easily accessed by urban poor or low income groups through market (less equitable).

Communal: A right of commons may exist within a community where each member has a right to use the land that belongs to the community (FAO, 2002). For example, members of a community may have the right to graze cattle on a common pasture together and land for crops may be independently. This tenure excludes the non-members from using and accessing the land for any purposes: farming and housing. In the past under this tenure arrangement land market was virtually non-existent. However, due to high rate of urbanization in Africa and Asia, where this tenure system still exists, land transfer is becoming increasingly important part of the customary tenure. Especially, in some parts of Africa land under customary tenure regime has been under urban land market pressure. As a result large tracts of customary land in peri-urban areas have been sold and converted to urban land (Arko-Adjei et al., 2010).

For Payne (2001) the most challenging part, not the type of tenure arrangements per se, is to identify and formulate the policies which encourage efficient land use and improve accessibility to it, by creating efficient land market. Effective and efficient land market can make land under all tenure arrangements, as long as it is legally possible, available in the market to meet demand for various purposes.

2.5 Land Market and Access to Urban Land

There are different ways of getting access to urban land. Unlike rural land (in many countries it is accessed through state allocation, community and inheritance) most of urban land (for range of uses) is accessed through land market. This does not mean there is no state allocation or inheritance in urban areas. The most common means of accessing urban land in many countries are: state allocation (largely for infrastructural development), community land allocation, land market and inheritance (Agarwal, 2003; Molen et al., 2008). Here we look at state land allocation and market way of accessing land.

State land allocation: By establishing state control over land and concession procedures, in many developing nations, governments give themselves power to allocate land to users (Delville, 1999). The State distributes land in various ways: as part of traditional land reform measures, typically taking land away from those owning more than specified ceiling and then endowing the landless; in resettlement

schemes as compensation for land lost due to displacement caused by natural hazards or development projects (Agarwal, 2003). Implementation of land allocation is basically within the power of the local authorities. The problem associated with state land allocation (specifically in urban areas) is rent seeking, elite state capture and favouritism which affect land market. In short, state land allocation lacks transparency, efficiency and effectiveness, though sometimes it provides access to land to landless people.

Market-based land allocation: Freire, et al. (2007) have found out that land market increases access to land for those people who have difficulty acquiring land through customary mechanisms, inheritance and state allocation. Land market allows households who had inherited little or no land (Dale, et al., 1999; Deininger, 2003; Lastarria-Cornhiel et al., 2003). Access to land through land market becomes reality when a seller is ready to transfer his/her land or land rights to a buyer who can afford to pay market value. An alternative way of accessing land through land market is by acquiring lease right. This kind of market based allocation creates opportunity for those who want to access land. This brings allocation equity for those who can afford to buy land. As UNDP (1997) put it market based land allocation can also help to avoid administrative hurdles that inhibit other forms of land allocation.

Land market does not always work well for all groups of society. First, it is not easy for poor people to access land through land market. This is, principally, land market suffers from market imperfections such as lack of access to financial resources, inefficiency of the processes and lack of equity among a society. There is also problem of information asymmetry which does not allow the poor get timely land market information (UNDP, 1997). Second, in the land market land goes to the highest valued use (Thorsnes et al., 1999). Under such circumstances, land is most probably acquired by the highest bidder. Molen, et al.(2008) argues land market due to its inherent imperfections is less likely to allocate land for the poor. The poor lacks resources to afford land of a high value. This is basically due to financial constraints. Thus, landless, the poor and low income households continue to have either less land or no land at all (Lastarria-Cornhiel, et al., 2003). Alternatively, through pooling resources, as group and in an organized fashion, the poor/low income groups can create better way of accessing land through land market. Financial assistance (subsidy) and credit either from the government or from financial institutions can enhance the chance of the poor/low income groups of society to buy or lease land (Amanor, 2004).

Jenkins (2001) also clearly points out that formal land market in many developing countries will not act in the foreseeable future on the way it can be beneficial especially for the urban poor. He also recognizes attempts made to redistribute land through state land allocation policies. Yet he argues that this initiative has also severe limitations due to institutional and political constraints. He calls for better way of land allocation mechanism that addresses the need of larger segment of urban society. He proposes socially organized way of land allocation which might enhance access to land if combined with both state and market allocation. As we have seen it all the above mentioned approaches have their own limitations. Nonetheless, land allocation through land market might be better option if issues related to market imperfections are addressed by putting functional land governance in place.

2.6 Urban Land Market Operations and the Role of Good Governance

Urban land market can be affected by demand and supply, land sale and lease, spatial planning, speculation that affects land price, and formality and informality of urban land market. Insights into some of these characteristics which predominantly shape the operation of land market are given below.

2.6.1 Demand and Supply in Urban Land Market

Basically, demand for urban land is shaped greatly by urban population growth (rate of urbanization), household formation (household size), purchasing power (income), access to credit and location factors

(Palmer, et al., 2009). Public policies such as zoning, property taxes and construction of infrastructure have effect on demand and supply of urban land as well (Waddell et al., 2008). High property transfer taxes and other land related taxes can effectively weaken demand for urban land.

Demand for a land affects the meaning attached to the land and the institutions that manage it. As Cruzeiro do Sul (2004) indicates when land is abundant its value is provided by its symbolic meaning and management is carried out by local institutions. When demand further increases, the tendency is to see the land as a commodity which can be bought and sold, in principle by transferring property rights. As demand grows more and more, access to land through market becomes the predominant means (Cruzeiro, 2004). Market can respond to demand positively by supplying land that matches the demand. High demand for land is an incentive for people to sell their property or the government to make land available on market. High demand for urban land leads to conversion of agricultural land around peri-urban areas to residential or industrial uses. It exerts pressure on supply, yet it is not easy to make land (developed land) available in the market within short period of time (Dowall, 1995). This is because it takes time to supply developed land. Failure to balance land supply with demand results in speculation that would push land price very high; at least temporarily. These all create land and housing shortages in urban centres. It also encourages the development of informal land market.

Balancing demand with supply in the land market is not easy both for individuals and states. This is basically due to the processes and procedures surrounding land supply and because of the very nature of land itself; which is very fixed, heterogeneous and scarce. Though the latter is not easy to effectively respond to, however, it is much easier to create better environment through which demand meets supply by removing or diminishing administrative/procedural factors that inhibit land supply by introducing efficient and effective land governance system.

2.6.2 Speculation

According to UNESCAP (1997) *“Land speculation occurs when the demand for land, at the present time or in the near future, outstrips the supply of land.”* It is not only shortage of land supply which causes problem and speculation too. Speculation can be a result of inaccurate or unreliable land market information; particularly wrong information about land price, spatial planning and general trend of supply in the market. Speculation might be a manifestation of badly governed land market (Molen, et al., 2008). When the market does not properly address the need of citizens for shelter or investment, speculation takes over. Molen further explains that speculation leads to informal settlements and urban sprawl, creates artificial shortages of land in the market. In this case developers and users heavily engage in land market (start buying in bulk) in an anticipation of future land price hike. Rampant land speculation always thrust land price beyond reasonable value of the land, causing inflated land and property market. It destabilizes the market and hurts all walks of the society. However, urban poor or low income is usually the hardest hit.

In case of high and galloping speculation in land market, speculation can be managed or its effect can be minimized by addressing its main sources (unbalanced demand and supply of land). If the source of speculation is discovered to be shortage of land in the market; the actors can take corrective actions by supplying more land. Government can remove some of the hurdles that could reduce land supply (high transfer tax, regulations and inefficiencies) and increase supply of developed land. It can take speculation curbing measures by levying high property (capital gain) taxes (UNESCAP, 1997) on land hoarders (those who keep land away from market for long). Another tools to address speculation (UNESCAP, 1997) are:

- i. Urban land ceiling- This is the case when the size of a plot that a person can own is limited to certain level. This method is widely applied in India.
- ii. Limiting number of plots- This is a way of reducing speculation by prohibiting people from owning more than one (multiple plots) at the same time. It has been put in practice in Pakistan.

- iii. Increase land supply- Secure supply of land has tremendous effect on speculation. If people realize that land can be easily supplied and scarcity in the market can be limited, no reason for others to rush to get access to it as if they cannot buy it later without significant price difference.

If lack of land market information or its unreliability is fully or partially to be blamed for the speculation, this type of speculation can be better addressed by having proper governance system which makes access to information easier, and procedures and processes of decision making transparent.

2.6.3 Land Sale and Land Lease

Land market allows land rights (title) holders to transfer the rights to buyers on voluntary basis. Land sale is possible when land belongs to private ownership or freehold. In many cases, those who have usufruct rights can lease but cannot sale indefinitely. Governments can sale land under the state ownership either to developers or to individuals. Usually the state land transfer takes place in the form of lease. Individuals who hold land use rights (LURs) are allowed to engage in land transaction in the form of sub-lease which allows them to dispose their LURs for a term shorter than the original one.

Land sales markets typically function imperfectly. The imperfection, first, exists in the form of land supply shortage that drives the price high. Second, in many instances there is lack of credit (mortgage) for land and house financing. The problem is everywhere; nonetheless, it is critical in developing countries (Swinnen et al., 2006). Third, transaction cost (fees for notary and other legal services, payment made to access information and other costs which is not directly included in the land price) is high and unbearable to many. As land sale is quite expensive, land lease is an alternative means to access land.

Lease is a contract agreement that grants exclusive right of land possession for a fixed period of time (Farvacque-Vitkovi et al., 1992). Lease contract is subjected to annual rent payment and observance of covenant included in the contract. Leasehold tenure can be for as many as 999 years. However, in many countries it is only for maximum period of 99 years. Lease tenure involves two parties: a lessor who is actual owner of the land or LURs holder and a lessee who is a tenant. Lease based land transfer can be signed between the government and the developers or between the government and individual users. Land developers or real estate companies can lease land to the users; which is sublease (for a shorter term).

Lease system is practiced in many countries. Some of the lease approaches are (UN-HABITAT, 2003b):

- In Brazil, a lease termed 'Concession of Right to Real Use' exists for public lands. The contract agreement is signed between local authorities and the residents on land. The land can be used for construction and may be transferred once an agreement has been reached with the authorities.
- In Burkina Faso there is a range of specific government leases: for housing, temporary use, permanent use, industrial and commercial use, public offices, and religious organizations.
- In Botswana lease right can be granted based on a Certificate of Rights (COR). The rights are held in perpetuity and can be inherited. However the land cannot be sold although the right holder can sale the improvements on the land. The land alone cannot be mortgaged except the buildings on the land. The land right holder pays service charge to the local authorities.
- In Vietnam land for commercial purposes for households and investors (domestic and foreign) are granted lease rights which can go up to 50 years (AusAid, 2000).

Lease system to be functional it has to lay down the following foundations (UN-HABITAT, 2003b): possibility to build on the land and have access to services of a city; specify a time period; give protection from eviction; allow sub-lease and inheritance; be easily renewed; and facilitate credit and finance.

Land sale gives an opportunity for the buyers to get freehold or perpetual ownership of land. It might also encourage investors who would like to invest in land or develop it. It might earn the poor cash for immediate needs. Free land sale, however in the long run, may lead to negative consequences. Because it

leads the poor who is cash striped to distress land sale. This situation leaves the poor in undesirable position and make them live in an abject poverty for many years after land transfer. In such a case, first the state can protect the poor by providing homeowners guarantee funds which gives relief and increase the ability to own property (Enemark, et al., 2009). Second, land lease or rent in the urban areas can offer alternative solution for the poor who is in a dire need of cash. The poor can transfer, under lease arrangement, land rights on temporary basis without endangering long term prospect of land ownership. Lease can still be a better alternative to buying due to its relatively low cash demand.

Lease has another land policy importance. In a country where state retains sole ownership of land, lease helps the state make effective land development control and intervene in equitable land resources sharing. It can contribute in curbing the frequency of compulsory purchase. Lease contract, nonetheless, has its own weaknesses: there are general feelings that short term leasehold is less safe for long term investment.

2.6.4 Formal and Informal Land Market

Access to land can be through formal or informal means. In the formal land delivery system, allocation and transfer of land conforms with existing laws such as mandatory registration and certification, planning regulations, building codes and standards (Enemark, 2010; Kironde, 1995; Sivam, 2002). As Dale et al. (2006) discuss formal land market must operate within a clear set of policies and laws that are consistent, enforceable and acceptable to the general public. However, in developing countries only fraction of land markets that are operating formally (Palmer, et al., 2009). Formal systems, including mortgage and credit, have largely failed to reach many low-income households. In most countries, even middle-income families left out of formal land markets. As a result, poor people engaged in informal land market which largely operates in an environment which is neither transparent nor enforceable (Freire, et al., 2007). Informal land market is often the most common way that guarantees the poor access to land and it is much bigger than the formal market in cities of developing world (Palmer, et al., 2009).

Formal market differs from system to system. Concept of formal market covers wider ranges of issues. What statutory law recognizes as formal transfer may not be recognized by customary as such or vice versa (Farvacque-Vitkovi, et al., 1992). People may access land formally and later revert to informality through illegal building. The poor, when formal land markets cannot be easily accessed, returns to informal land market to meet their needs. UNESCAP (1997) believes that the poor can be brought into formal land market by facilitating supply side and increasing affordability of land in the market, however.

Informal land market violates few or all of the procedures declared by a government (Enemark, 2010; Kironde, 1995). In this particular case land can be obtained or occupied without permit or without undergoing necessary registrations. Local leaders can allocate or sale land illegally. Land can be transferred illegally through inheritance or purchased in a fraudulent way. Farvacque-Vitkovi, et al. (1992) further explain that informality ranges from buying land from illegal land owners to buying state land illegally from officials. Taking part in informal transfer has risks. But why people participate in informal land market despite the associated risks? Perhaps there are no incentives (less bureaucracy and low cost of transaction) which make formal market preferable as Zevenbergen (2002) has pointed out. This requires the need for provision of incentive for people to bring them into formal channel when they transfer land.

Access to formal land market is not affordable for many (Sivam, 2002; Thirkell, 1996). Opportunities for urban poor households to buy land in formal market are extremely difficult. Approval of sub-division plans and building design through normal channels can take months and prove costly as it involves payment of fee. A comparison of costs for formal and informal housing proves that the decision to buy into a squatter area is not reckless but makes sound economic sense especially in a country where Land

Administration system is very inefficient, corrupt and cumbersome. These challenges can be attributed to weak governance which fails to improve service standard and tackle malpractices and corruption.

Informal urban land market makes land market ineffective and inefficient. Though land transfer is possible, but it is not in well-organized fashion. This makes sophisticated and high standard service unlikely. It also poses other threats: a government loses control over the players involved in the market and it cannot secure transfer and protect the rights of vulnerable individuals who found themselves in informal transfer. In addition, the government loses huge revenue that it would earn from land tax (transfer tax, annual land use fee and other related taxes) if the market is regulated and formalized.

Omirin et al. (2004) find out that in developing countries failure of government land policies manifest itself in the predominance of informal and illegal mechanisms of land transactions. Those policies are neither strong enough to attract those who are involved in informal land market nor conducive for the formal land market to function efficiently and effectively. They believe that stringent policies and its implementation mechanism can exclude the poor and indirectly create an opportunity for informal land market expansion. The popularity of illegality and informality indicate the extent to which there is need for drastic reforms to deregulate land markets. Formal markets need political support and where this is lacking the poor lose confidence in formal market and take full participation in informal one (Dale, et al., 2006). Here, the problem is, even the informal land market can only solve the problem of the urban poor on temporary base. In the long run they may lose their land and possession or might be exposed to regular intimidation, harassment and informal fees to the local authorities.

Informal payments and high transaction costs discourage many from taking part in formal land market. Governments can reduce transaction cost and improve land market by putting efficient and effective Land Administration system which provides reliable and up to date land information (ownership, land use, value) to all. For the development of informal land market and weakening of the formal one, it appears very clear that the situation of governance has a lot to contribute. Whether the root cause of informality is transaction cost, bureaucratic red tapes or illegal state land sale, good governance has a role in terms of improving the situation and leading to strong formal market by weakening the informal one.

2.7 Core Elements of Urban Land Market and their Place in Land Governance

Urban land market to function well and to meet expectations of a society it should be established on a solid ground of good (land) governance. First, it has to be governed by the laws and the policies which are effective, consistent and that can be implemented. Second, spatial planning should be the one that encourages formal land market rather than hindering supply and demand side of the market. Third, land registration and cadastral maps which are foundations of modern and formal land market should be effective. Well established Land Administration systems (computerized registration systems and digitized cadastral maps) make formal land transaction efficient and effective. It also largely contributes in terms of reducing transaction cost. Fourth, the availability of financial sector (mortgage and credit market) is quite important for land market to operate efficiently. Fifth, the role of strong Land Administration institutions and organization are fundamental for organizing and managing all land market related issues.

2.7.1 Land Market Law and Policy

Like any other economic sector, land market is governed by law. Any institutions and instruments associated with land markets should first focus on the law that provides a framework for land transaction (Farvacque-Vitkovi, et al., 1992). The law should be enacted in such a way that it can give adequate protection and guarantee security for all stakeholders in the market. It must enforce contracts and compensate the damage that might happen. It should provide clarity about land transfer, procedures,

compensation, valuation and/or dispute resolution in case conflict arises during or after transaction. The law should provide a mechanism for establishing the real owner of the land and it should be enforced. Good land law, beyond building confidence among the stakeholders, makes market entry, particularly for the poor, easy and smooth by reducing uncertainties related to property rights.

However, property laws outside the Western world does not work efficiently (de Soto, 2001). They are poorly enacted and rarely enforced. They do not protect the owners and guarantee smooth transaction. In many countries, De Soto argues, the legal systems are very complicated and in some cases either they do overlap or have gaps. Many land laws passed by social elite to facilitate their narrow interest by excluding the majority or with negligible participation. Land or property law should be in a simple language and understandable by all social groups. The language of the law, however, is often the language of the metropolitan power (urban elite) (Farvacque-Vitkovi, et al., 1992).

According to UNECE (2005) land policy is concerned with determining how land should be used in order to meet social and economic objectives. Land market needs progressive land policy that incorporates interests of citizens without leaving the weaker part of the society behind (Dowall, 1995). Land market policy that caters for the poor should be dynamic and enhance low income household's ability to access land market. It should be formulated and implemented in a participatory manner. Good land policy encourages equitable land market that bridges the gap among society. In an attempt to address the need of the urban poor, the policy that aims at this goal should provide incentives to developers (public-private partnership) those who would make access to land through formal land market easier for the poor.

2.7.2 Spatial Planning

Spatial planning is a method largely used by public sectors to influence future distribution of activities in space. Spatial planning is aimed at creating a better way of using land in a way it can address demand for shelter, environment and economic development. It is a means of coordinating spatial impacts on various sectoral policies to achieve even distribution of economic development and to regulate the conversion of land use (UNECE, 2008). Government also use spatial planning largely to regulate land market within a given area (UNESCAP, 1997). It exerts both positive and negative influences over the land market outcome greatly through regulation over land development through spatial planning (Jones et al., 1994).

According to UNECE (2008) spatial planning has to be participatory, representative, inclusive and transparent in order to avoid far reaching impact it has on the society. It should be fair and built on consensus. This gives an opportunity for those whose livelihood or benefits might be affected as a result of the proposed plan. It should be flexible in nature and adoptive to the circumstances (UNECE, 2008) in a way it does not compromise its effectiveness and land market performance.

Spatial planning can significantly increase the value of land in the market if land for agricultural use is converted into urban use (Dowall, 1995; N. Wallace, 1988). It can also decrease the value of the land if land in the peri-urban areas are delegated as a protected area or as a rural agricultural land (Mayer et al., 2000). This kind of effect, which comes as a result of planning, might be limited through transparent and accountable process of planning. Spatial planning conducted in non-transparent and non-participatory manner simply help the interest of the rich and political elites who designate spatial planning the way it serves their economic and political interests (Fischel, 2000).

2.7.3 Land Registration and Cadastre

Molen (2007b) argues that ownership of an immovable property cannot be determined by possession alone. It needs some sort of an inventory which makes ownership rights clear and traceable. He believes this is the reason which necessitates the existence of land registration. For years, land registration and

titling have been viewed as the main instruments for increasing tenure security, strengthening emerging land market, and facilitating the use of land as collateral (Deininger, et al., 1999; UNECE, 1998). According to UNECE (1998) for nations to unlock wealth, it requires effective systems of land registration. Well established land registration promotes an active land market and efficient land use. It further argues that *"It makes possible the security of tenure and the development of a mortgage market on which a functioning economy depends."* Zevenbergen (2002) too recognizes the importance of land registration for land market to function well. However, he emphasis on the need of having appropriate mechanisms that encourages people to undergo registration rather than depending only on legislation to do the job.

According to Feder, et al. (1998) registration has two main effects: enhancing tenure security and access to institutional credit. De Soto (2001) argues that unregistered property *"[...] cannot readily be turned into capital, cannot be traded outside of narrow local circles where people know and trust each other, cannot be used as collateral for a loan, and cannot be used as a share against an investment [...]"*. The linkages between land market operation and registration are more identified by Farvacque-Vitkovi, et al.(1992). These connections are:

- a) It can help land market by providing ownership and value information;
- b) It can facilitate land conveyance process and ensure the transparency of the transactions;
- c) It can provide availability of records for land market operations.

Land registration provides structural base for land market development. Providing the infrastructure for such land market to operate, specifically the first registration of the newly created rights and then the subsequent transfer of those rights require significant effort in the area of land registration (Barnes et al., 2000). Effective registration system makes transactions easier. Because buyers of rights can feel secure and confident once they discover that they are dealing with sellers who are legal owners of the rights and have the legal right to sell the property (Stanfield, 1999). Land without legal or disputed titles is rarely bought. This is clear manifestation of how much importance land market attaches to registration or legal titles to land (UNESCAP, 1997). Therefore, efficient functioning of land markets requires efficient and updated land registration systems which clearly record legal ownership of land.

An effective registration system gives low cost and easily accessible land market and property rights information to public (Stanfield, 1999). However, according to UNESCAP (1997) the process of initial registration and registering deeds or titles are often time-consuming in developing countries. Complicated land transaction documents and steps could lead to high transaction cost (Barnes, et al., 2000) which is big disincentives for many to take part in formal transfer. Therefore, simple and clear land registration is needed in order to create well-functioning land market which provides effective and efficient services.

Now a days due to increase in land transfer volume, especially through land market, traditional system of land registry can no longer efficiently support the development of land market (Tuladhar, 2002). Most often land records are dispersed in many offices in a way there is no proper coordination and data sharing among various government offices (Toulmin, 2006). Land records are not easily accessible to the general public. Redundancy is a common problem. This makes the use of data model imperative to enhance market information transparency, consistency and reliability. This approach not only provides better services to the customers but also makes complex processes of land registration easier and understandable.

2.7.4 Financial Institutions

In many countries the main drive behind improved income level for many is not tenure security per se rather it is improved access to credit market which leads to higher land related investments (Feder, et al., 1998). However, there are credit constraints in almost all developing nations' land market (Sivam, 2002; Swinnen, et al., 2006). There is, of course, no or little financial means either to buy land or to invest on land. Urban low and middle income groups constantly straggle to purchase property using their personal

savings which is realistically not easy. Such circumstances necessitate the need for alternative source of finance to get access to land market.

From financial sectors, financing comes in the form of loan, mortgage, credit etc. (Dale et al., 2000). Without these financing mechanisms which support buying and development, land market might not develop. Urban poor can only access land if there are well functioning financial markets which can extend long term and low interest rate credit when land is used as collateral. Quite often this is not the case. Banks are not ready to lend to the poor who uses land as a security. If they offer loan, it is usually with high interest rate that cannot be affordable (Sivam, 2002). According to Johnson (2004) in Kenya only 1 out of 52 borrowers used land as collateral. This is either interest rate is high or banks do not feel secure to lend because of weak tenure security and organizational inefficiencies. Having effective Land Administration system that can guarantee security and facilitates lending is a prerequisite to address this kind of situation.

To access credit by using land as collateral is not easy mainly due to weaknesses of Land Administration institutions in developing countries which are having problems to organize effective land market. Land ownership information, who owns what and where, is not readily available. The lenders, often the banks, have to be assured that the borrower is indeed the owner. The system is over bureaucratic and suffers from rampant corruption, however. In case of dispute, Land Administration institutions' ability to resolve the dispute is limited. Many of them have not implemented modern Land Administration system that speeds up services they provide and help cut transaction cost. They are still heavily dependent on paper based works and nonprofessional staff members.

2.7.5 Land market Institutions and Organizations

Land market to work effectively it is important to have strong institutional mechanisms in place. North (1990) defines institutions as "*The rules of the game.*" These rules can be legal constraints such as contract law, property law and dispute resolution mechanisms, and regulatory frameworks. The rules of the game are formal (like statutory laws and regulations) and informal (like norms and customs) related to land market. These rules of the game define how individuals with individuals; individuals with organizations or organizations with organizations interact and engage in land market activities. In sum, institutions provide structures that reduce uncertainty and increase clarity in the market (North, 1990).

Markets are organized and formed by the institutions (Smyth, 1998). Land market is not exception to this. Strong institution, which can reduce uncertainty and create clarity, facilitates the playing field for all stakeholders in the market. It helps to cut transaction cost (cost of finding information, negotiations enforcing contracts etc.) that improves market efficiency and effectiveness. They also provide rules for enforcement mechanisms. This way, institutions have effect on the outcome of the market. The extent to which land market function effectively depends in part on the appropriateness, relevance and operational efficiency of the institutions of land market/administration (Farvacque-Vitkovi, et al., 1992). This is to say that well-defined and unambiguous institutions improve market outcome and ambiguous institutions that lack clarity can impede the growth of land market (North, 1990).

According to North (1990) organizations are players. Land Administration agencies are organizations that play central role in the development and operation of land market. The efficiency and strength of the organization are paramount for the success of land market. Well-functioning land market organizations have the capability to assist the citizen's strong need for access to land, registration services and dispute resolutions (Dale, et al., 2006; Potsiou, 2006). It removes all legal encumbrances and wasteful resources. These can be done through increasing the level of efficiency and effectiveness, transparency,

accountability and responsiveness in Land Administration. In another way, it takes improved better land governance to increase stakeholders' confidence.

Land Administration organizations that are necessary for the development and growth of land market are inefficient and ineffective in many developing countries (Dale, et al., 2006). They are poorly organized. They lack strong institutional framework, human and financial resources, and technical capabilities. These organizations are disorganized. They lack coordination and cooperation among themselves (Dale, et al., 2006; Dowall, 1995; Farvacque-Vitkovi, et al., 1992). In some countries they are over centralized and this created a gap between those who formulate policies and those who implement them. Due to all of these reasons their ability to provide better services to people is severely curtailed. Contract enforcement mechanisms are not strong enough (UNECE, 2005). They lack capacity to resolve disputes in timely manner. Their capability to redress grievances is limited.

2.8 Governance and its Impact on Land Market

According to UNDP (1997) the challenge for all societies is to create a system of governance that promotes and supports the development ambitions of the society in general and that of the poor in particular. Corner et al. (2005) define governance as “[...] the system of values, policies and institutions by which society manages economic, political and social affairs through interactions within and among the state, civil society and private sector. It is the way a society organizes itself to make and implement decisions. It comprises the mechanisms and processes for citizens and groups to articulate their interest and mediate their differences and exercise their legal rights and obligations. It is the rules, institutions and practices that set limits and provide incentives for individuals, organizations and firms. Governance, including its social, political and economic dimensions, operates at every level of human enterprise, be it the household, village, municipality, nation, region or globe.” Governance includes rules, processes, and behaviours by which interests are articulated, resources are managed, and power is exercised in society. The nature of governance largely depends on the interaction between the state, private sectors and the civic society (Abdellatif, 2003). It also takes into account the mechanisms, process and institutions through which citizens and groups articulate their interests (Arko-Adjei, et al., 2010; UNDP, 1997). UNDP's definition is broad enough to include land market activities which encompass economic, political and administrative issues. So we use this definition as working definition.

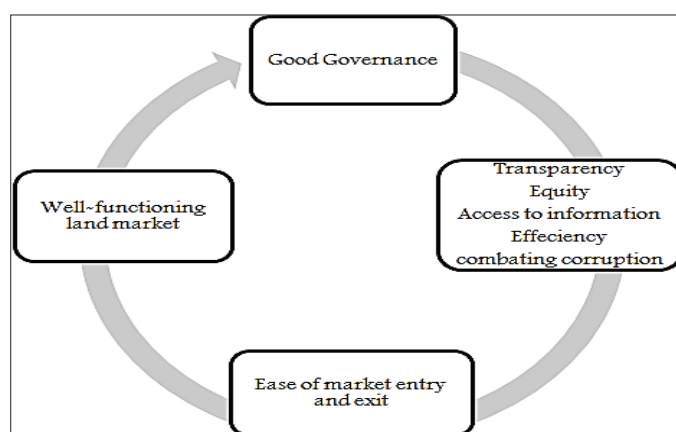


Figure 2-2 Linkage between good governance and land market (a framework)

Governance does not only focus on the outcome but also emphasizes on processes and institutions (Palmer, et al., 2009). Processes deals with the analysis of the agenda setting; who does and how the decision is made and implemented. Governance from institutional perspective looks at the rules, laws and regulations that define the relationships, interactions and the games among the stakeholders.

In another way, Land Governance explains the processes surrounding land and the interactions among various stakeholders in land related issues. Palmer, et al. (2009) define Land Governance as *“The rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed.”* Land governance is primarily concerned with the policies, processes and institutions (Abdellatif, 2003; Enemark, et al., 2009) that manage land, property and natural resources; basically it is about determining and implementing good land policies. Land Governance also governs competing interest of stakeholders (land agencies, courts, municipalities, land developers, individual land owners and notaries) during the process of land transfer, registration and titling, and dispute resolution. Figure 2.2 shows the link between good governance (within the framework of land governance) and land market.

2.8.1 Good Governance and Urban Land Market

Governments in different countries intervene into the land market processes in one way or another. Intervention can be direct land ownership and subsequent land sale. Other type of interference exists in the form of eminent domain use. According to Dowall (1993b), however, governments’ intervention in urban land market can be justifiable on the following three grounds:

- i. Elimination of market imperfections and failures to increase operating efficiencies;
- ii. Removing externalities so that social costs of land market outcomes correspond more closely to private costs; and
- iii. To redistribute society's scarce resources so that disadvantaged groups can have proper share.

However, government’s intervention should not lead to bureaucratic hurdles and inefficiencies. These points taken as a rationale for government’s intervention can only be realistically addressed if a government strengthened good governance in the land market than making mere intervention.

Good governance is one of the areas that determine the outcome of land market. Good land governance creates conducive environment for land market to flourish by combating corruption, increasing efficiency and transparency, and making access to land market information easy. It diminishes or removes bureaucratic hurdles, legal encumbrances and stringent regulations which can severely undermine urban land market operation. Nonetheless, according to Enemark, et al. (2009) land market is mired by corruption (grand and petty) and corrupt practices at various government levels (central and local). This is mainly due to lack of checks and balances which could make organizations and individuals accountable for their actions and corrupt practices. Good governance may help to reduce risk of corruption and rent seeking by opening up organizations and developing the culture of transparency and accountability.

Good governance in the land market sector is important to tackle inherent imperfections (lack of equity, finance, lack of transparency and information) surrounding land market. It helps to solve complex issues like land transaction and possible dispute that would emerge following transaction. Good governance settles competing interest among various stakeholders in land market. Issues of equity and social justice can be better addressed through good governance; pure market model hardly addresses equity. In addition, good governance is imperative for efficiency, effectiveness and better customer services in the land market organizations. In general, it creates effective environment for land transfer.

Good governance helps investment in land market by increasing the confidence of participants (developers and individual users) through the provision of reliable information about land ownership and legal encumbrances attached to it. People buy property only if they know that they are doing business with the genuine owners. They must be also sure about the strength of land market institution for the enforcement of the contracts or to resolve land related disputes cheaply and timely. In a country where there is good governance system, the courts are efficient, transparent and solve disputes in the shortest

possible time. Legal system is also affordable and accessible (deliver justice) to the poor. Moreover, land market in the existence of good governance functions well.

However, practices of many developing countries show that urban land market processes have been facing acute governance problems (Olivia, 2009) that should be urgently addressed. According to Deininger, et al. (2009) land market has been *“Known to be one of the sectors most affected by weak governance.”* Bell (2007) argues that weak governance in the land sector is one of the challenges that land market is facing. Under weak governance land market tends only to serve those who “have” by excluding who “do not have”. Weak governance locks the poor away from financial (Enemark, et al., 2009) services such as mortgages, loan and credit. It also makes formal land market services expensive. Weak governance leads to income inequality because urban land market is less accessible for the urban poor to generate capital. In many cities, the poor lives under constant fear of forced evictions (insecurity of tenure) or development based relocation as a result of weak governance that cannot effectively protect them from market pressure (Bell, 2007; Deininger, Holden, et al., 2009; Palmer, et al., 2009). Land market under weak governance principally serves the interest of the rich and the elite. Prevalence of weak governance in the land market makes the powerful dominate the competition in the land market by pushing the urban poor out who do not have financial muscles and timely information (Deininger, Holden, et al., 2009). Weak governance is more common where land law is complex, incompatible or obsolete. Rampant corruption or lack of motivation in land agencies can be symptoms of weak governance. Lack of transparency in decision-making processes and failure to participate actors might lead to bad governance in land market.

2.8.2 Principles of Good Governance

As UNDP (1997) states good governance is participatory, transparent, accountable, efficient and effective, equitable and promotes rule of law. It also ensures that decisions are consensus based and participatory (engages and empowers citizens). There is increasing awareness in a number of developing countries about the link between improved land governance and well-functioning land market (Farvacque-Vitkovi, et al., 1992). Good governance plays pivotal role in facilitating easy entry and exit in land market. It makes land transaction faster and easier. Good governance supplies land market with reliable, accessible and affordable information. It engages urban poor in the market and creates an atmosphere that encourages their participation so that they can harvest the benefits of strong and vibrant land market. The poor's chance to compete with rich and own land can be increased if hurdles and challenges are removed from urban land market as a result of having good governance in place.

Land market governance can be good or weak. In order to categorize land market governance as good or weak one must look at the process, institutions and the outcome. The quality of process and its transparency, accountability, information, effectiveness and efficiency in decision making process and the final output as a result of these decisions have to be taken into account. Nevertheless, achieving good governance in land market is not easy (Palmer, et al., 2009). Improving governance demands strong commitment of all actors involved; here above all governments should create institutional framework which foster good governance in the area.

There are many elements that constitute good governance. These elements mean different things for different people or organizations (UNDP, 2006). Different organizations develop largely overlapping (yet with some differences) good governance elements or characteristics. The World Bank, UNDP, UN HABITAT, OECD and other organizations have developed various elements of good governance. The Bank's elements of good governance are the most widely used (Abdellatif, 2003). However, some of the dimensions of good governance developed by the Bank (Political Stability and Absence of Violence), UNDP (Strategic vision) and UN HABITAT (Sustainability and subsidiarity) are less relevant for this particular research. Some of these elements of good governance, not from a single organization rather a

mixture are used so that they can fit into land market, are discussed below. These elements of good governance are: transparency of processes, access to information, accountability, participation, efficiency and effectiveness, equity between rich and poor and combating corruption. Depending on these dimensions of good governance we develop good governance framework (indicators) for urban land market in chapter 3 and use them to assess land market in chapter five.

Transparency: Transparency is built on free flow of information. According to Jones Lang LaSalle (2010) a highly transparent property market is categorized by free flow of quality market information and fair transaction processes. Transparency allows the institution that governs and regulates urban land market activities (transaction, mortgage, valuation etc.) follow clear and consistent procedures and allow free flow of information. Land Administration organizations, under transparent environment, should be able to provide information about ownership and transaction to all stakeholders in a transparent way (Enemark, et al., 2009; Palmer, et al., 2009). The decision they make and fee they charge for services they provide must be done in such a way that anyone who is interested can access information (UNDP, 1997). Transparency allows land transfer by negotiation, auction or tender to be done openly. In general, civil service's level of openness and honesty in its reporting of operation and the actions it takes helps to know its level of transparency (Bell, 2007). Lack of transparency in land market creates a window of opportunity for corrupt officials to abuse their power and transfer state land illegally (Zakout et al., 2007).

Access to land market information: Availability of authentic information about ownership and cadastre is a base for creating robust land market. First, genuine land ownership information protects investors from engaging in risky business. Second, availability of reliable information about land price, level of supply, mortgage and legal fee help actors to make rational judgment about land market. Third, laying down clear information about procedures involved in land transaction processes and time needed for registration is an incentive for many to participate in land market. Difficulty to access information results in high transaction cost. This is a disincentive for property transaction. These problems, issues surrounding transaction cost and tenure insecurity can be addressed by well-developed and functional land registration system which makes reliable and up to date land information available (Zevenbergen, 2002).

Land market imperfection could also be due to asymmetry in land market information. This is to say that different stakeholders do not have the same information and/or equal access to information about transaction, property values and proposed zoning or development planes that might affect demand and supply equilibrium in the land market. In the absence of equal and transparent access to information insiders (politicians and elites) benefit and the losers are largely the poor. To avoid information asymmetry and to provide transparent, timely, reliable and affordable information, development of e-governance and one-stop shop should be given attention. Dale et al. (1999) argue that “[...] *the provision of effective public access to land information is important prerequisites for developing land markets.*” Availability and provision of market information is not something that is totally left out to the general public. Government has big stake and should play big role in facilitating access to information (P. V. D. Molen, 2007b). It has to make sure that all get equal opportunity to access information; it should not be for the sole purpose of serving the rich. Molen ascertains that access to information is emboldened by providing the public constitutional rights to access it. Indeed government plays central role in providing access to information.

Accountability: All public servants in Land Administration (land professionals and other actors) dealing directly or indirectly with land market should be held responsible for the wrong they do and accountable for the action they take or decision they make when implementing central or regional policies (Palmer, et al., 2009; UNDP, 1997). There must be a mechanism (checking or monitoring) in place that makes them answerable for their actions and for the resulting consequences. Sometimes reckless decisions by policy

makers and actions by those who implement it (if non-transparent and non-participatory) would adversely affect land market that in turn might impact an economy and livelihood of low income families. Generally, accountability makes someone responsible for irresponsible decisions and actions like expropriation, provision of wrong market information and inaccurate valuation that would lead to undesirable results.

Equity: According to Palmer, et al. (2009) equity ensures nobody who participates in land market is left behind and equal opportunity is guaranteed for all. Access to land market and benefits from it should be equitable. No group within society should be excluded from being able to access land due to legal impediment and procedural difficulties. There must be a mechanism that directly or systematically engages, particularly urban poor (mostly women) who are often left out of land market competition mainly due to financial and legal challenges. Equitable land market diminishes social tensions and promotes land market growth which in turn leads to economic development (Enemark, et al., 2009).

Participation: The purpose of participation is to engage stakeholders at various levels in decision making processes and achieve broad consensus. This increases quality of decision making, reduces uncertainty and increases stakeholders' confidence. Participation guarantees all pertinent decisions (transfer fees, mortgage and contract laws, zoning plan, valuation etc.) involve stakeholders and allow them to actively engage in the matters that affect their interests. It particularly empowers and makes voices of the poorest and the most vulnerable groups are heard in decision making (Palmer, et al., 2009; UNDP, 1997). Participation of the stakeholders can be direct or alternatively through the organizations that represent their interest.

Efficiency and effectiveness: Efficient and effective Land Administration organizations and institutions create land market that meets the expectations of the actors. It provides quality and speedy services that satisfy customers. According to Bell (2007) efficient land market leads to reduction in service cost and time (registration of property transaction and information provision). Fast service delivery reduces risk of bribery. It has the ability to solve land market disputes in timely and cheaply fashion. Effective land market achieves a project target set. It serves and reaches out to all participants including the poor. Effective land market also enforces contracts that protect both the buyers and the sellers.

Combating corruption: In many countries weak governance, particularly corruption, is one of the major issues challenging the progress of land market (Molen, et al., 2006). There is general concern about fraud in land market. Rampant corruption in land market not only increases transaction cost (informal payment) but also discourages people from participating in formal land market. These have many negative impacts both on a government (loss of revenue) and on a society (high insecurity and transaction cost). Corruption could significantly influence investment decisions (Lambsdorff, 1999). Under this condition few would actively participate in land transaction.

2.9 Summary

In this chapter we have provided theoretical foundations of land market, to be specific about urban land market. Various definitions are given and finally working definition is established. The role tenure security plays in urban land market has been illustrated. Circumstances surrounding access to urban land have been elaborated. However, the main focus is to establish the theoretical link between land market and good governance. We have realized that governance plays a role in terms of shaping land market. Having good land governance might guarantee better land market which takes the need for all people from all walks of life to access land. Good governance can play significant role in terms of balancing unbalanced demand and supply which might arise as a result of bad governance that does not properly respond to citizens' need and does not create well established spatial planning. It can also mitigate wild speculation which destabilizes land price and affect the poor's access to land. It has been established that good land

governance has a lot to contribute as far as dealing with informal land market is concerned. This is because informal land market in most of the case signifies the need to improve land governance and it is also caused by ineffective and inefficient means of dealing with land market. In another way too, good governance in place can create better environment for drafting land laws and spatial planning which have tremendous effect on land market. In general, having good governance can address many challenges surrounding land markets which might not be easily solved by having human, financial and technical resources alone. It can be seen as a recipe which makes land market function well.

3. DEVELOPING ASSESSMENT FRAMEWORK

3.1 Introduction

There are various types of indicators for Land Administration performance measurement developed by Burns (2007). Land Governance assessment (LGAF) framework is also one of the most comprehensive frameworks developed recently by prominent personalities in the area (Deininger, Holden, et al., 2009). UNDP (2006) also has its own Land Governance indicators particularly designed to assess pro-poor and engendered land policies. UN-HABITAT under its network for land tenure (Global Land Tool Network-GLTN) has come up with indicators. It also has specific Urban Governance indicators (UN-HABITAT, 2004). Dowell (1995) has developed a framework to assess land market but his assessment does not focus on assessing governance aspect of land market. It mainly focuses on land market from planning and economic perspective. These and other frameworks do not address the need for a framework to assess land market from Good Governance perspectives. Therefore, developing comprehensive framework which enables us to assess land market is quite imperative and we do that in this chapter.

Section two deals with urban land market assessment. Here dimension of assessment and means of assessing land market is touched up on. Insight into indicators is provided under section three. Under this section importance of indicators, types of indicators and their dimension are discussed. In section four and five methods of developing indicators and their validation are elaborated subsequently. The scope of the indicators is addressed under section six. The last section looks into measuring performance.

3.2 Urban Land Market Assessment

As we have discussed earlier under chapter two, urban land market suffers like any other markets due to market imperfections. These imperfections occur mainly due to weak governance and lack of access to finance. All of these imperfections exist in almost all countries but the situation in the developing countries is worse (P. V. D. Molen, 2007b). Yet the level and nature of imperfection differs from country to country and from one municipality to another largely depending on the quality of governance in place (organizational and institutional strength, efficiency and effectiveness etc.). To capture the level of imperfection and to find possible remedy to the problem we need to assess urban land market.

Performance is an accomplishment of a given task measured against defined or fixed standards of accuracy, completeness, cost and speed. Assessment of performance is a necessary precondition before embarking on possible intervention measures (Deininger, Holden, et al., 2009; Kaufmann et al., 2009). Assessment provides up to date information on the status of land market and its performance (Deininger, Holden, et al., 2009; Dowall, 1995). It enables decision makers to measure progress against strategic goals, to assess the general health of a market and to diagnose constraints (Molden et al., 1998) surrounding land market; in this particularly case its governance. Governance at all stages (drafting land market laws and policies, its implantation and the result) should be assessed. Above all, assessment helps policy makers and actors realize weaknesses and strengths in the market. It assists (primarily the decision makers) to understand the market better so as to improve its governance (equity, access to information, efficiency and effectiveness, transparency, and combating corruption) and performance (Bhatta, 2010; Steudler et al., 2004). In other words, it provides solid ground for defining suitable strategies for improving land market governance and performance. Assessment in general and land market assessment in particular can be broadly used to assist these activities (Dowall, 1995):

- i. To support governmental planning and decision-making;
- ii. The evaluation of government policies and actions;
- iii. To provide other stakeholders with valuable land market information that helps them make sound decisions.

In our specific case, assessment of land market is indispensable for these reasons:

- To see whether urban land market caters for all residents despite income gap between rich and poor. In the land market which disregards equity aspects, it is only the rich who reap the benefit market provides. The poor hardly afford to compete in the market and win to own property.
- To understand whether the market is strengthened by availability and quality of information, or weakened by unavailability and poor quality of market information. Unless the market is governed by the principles of good governance provision of quality and timely information might be compromised. Information asymmetry always puts the poor in disadvantaged position.
- To know whether the processes and procedures involve land transfer are effective and efficient.
- To observe if land transfer and associated processes are done in a transparent way.
- To find out whether the government is combating corruption or not.

These points and others necessitate the need to develop comprehensive land market assessment framework. We assess the market performance from good governance perspectives mainly due to the pivotal role governance plays for the creation of well-performing land market.

3.2.1 Dimensions of Assessment

The main focus of our assessment is not urban land market per se rather what we are interested to assess is to find out to what extent urban land transfer complies with the principles of good governance. This is to say that our interest is to assess dimensions of good governance in the processes and issues involving land transfer. Therefore, some of good governance dimensions such as equity, access to information, participation, efficiency and effectiveness, and combating corruption are assessed.

3.2.2 Ways of Assessing Land Market

Land market is assessed through various ways. It could be done by comparing performance of market in one country with another or with the best performing market in the field (Bandeira et al., 2010). Land market can be assessed by all levels of government; national level (to see general outlook and policy implementation at national level) or at municipal level to get clear picture of situation in particular areas. Assessment can be conducted by local actors (government, NGOs, research groups, financial institutions) and international organizations (research groups, business companies and NGOs). It may cover areas of interest such as inputs (laws, policies and resources), processes (implementation and handling procedures) and outcomes or outputs (level of equity, transparency, transaction volume etc.). The assessment should be as comprehensive as possible to address governance issues at institutional and operational levels.

3.3 Indicators –General Overview

An indicator is a tool which provides particular information on state or condition of something measured against a certain benchmark. According to Radaelli et al. (2008?) an indicator can be the measurement of an objective to be met, a resource mobilized and an effect obtained. As USAID (1996) puts *“Indicators tell us specifically what to measure to determine whether the objective has been achieved.”* The indicator helps to address issues like how much is done and whether there is a progress towards a certain goal or not (UNDP, 2006). An indicator can be used at various levels (high and low level of administration) and sectors (public and private). They can be used at different stages to measure whether there are laws and policies which facilitate and promote land market, to see implementation and to measure the result gained. Overall, they help to determine if one dimension or more of it is closer to the set goals or to the bench mark used.

3.3.1 Importance of Indicators

Land market performance indicators are essential tools to assess whether land market is equitable, efficient, effective and transparent, access to information is easy and whether there is an effort to combat corruption. Participation in decision making and accountability can be assessed using the indicators. It also helps to understand and monitor direction of the market (socio-economic progress as often envisioned by decision makers). These indicators are the base to figure out what the laws and policies of a government look like (inclusiveness and pro-poor). It can provide bulk of information: whether laws and policies on paper are working on the ground (to assess *de facto* vs. *de jure*). Efficiency and effectiveness of the organizations involved in the land market can be evaluated/assessed using these indicators. They give insight into the level of corruption, accountability and transparency as well.

3.3.2 Types of Indicators

There are various types of performance indicators developed and used for different purposes over time. The type of performance indicators chosen greatly depend on the purpose of the performance assessment (Molden, et al., 1998). The most commonly used and widely available performance indicators are economic, governance, pro-poor and gender indicators (Arko-Adjei, et al., 2010; Corner, et al., 2005; Deininger, Holden, et al., 2009; Dowall, 1995; Kaufmann, et al., 2009). There are land market performance indicators that help to assess land price, supply and demand in land market (Dowall, 1995). However, there are no indicators that reveal the performance of land market from good governance perspectives.

Some indicators are rule-based (*de jure*) and others are outcome-based (*de facto*) (Table 3.1). They can be qualitative or quantitative, or the amalgam of both; most often they have this character (Bandeira, et al., 2010; Deininger, Holden, et al., 2009). According to Kaufmann, et al.(2009) and Corner et al. (2005) rule based indicators are those which show whether there are laws and policies (which promote good governance) are in place or not. Having these laws is obviously first (necessary) step towards achieving better governance in any given system. Land market (for better result) of course needs laws and policies (strong institutions) which promote good governance.

Possible dimensions	Types of indicators				Assessment methods	
	Rule based	outcome based	Quantitative	qualitative	Goals set	Best practices
• Economic	Laws	Opinion	Numerical	Yes/No	Own target	Benchmark (best performer in the area)
• Governance	Policies	Perception		(Opinion		
• Gender	Regulations	Satisfaction		Perception		
• Pro-poor	Code of conduct			Satisfaction)		

Table 3-1 Dimensions, types and assessment methods of indicators

Having those laws and policies by themselves may not tell much about efficiency and effectiveness of the market. The outcome (after having laws and policies) must be measured to gauge the result against the proposed objectives or target set (predefined target). This makes the need for outcome-based indicators imperative. Outcome-based indicators show what actually is happening: practical implementation of policies by taking measureable result and the perception of the actors into consideration. Though it is costly to collect data about outcome-based indicators, they present better picture of *de facto* processes (Corner, et al., 2005). Nonetheless, rule-based and outcome-based indicators are supplementary.

In other ways, quantitative and qualitative indicators help to assess issues in different approach and they are also developed in different ways (Corner, et al., 2005; Radaelli, et al., 2008?). Quantitative indicators are measureable in terms of actual numerical values (numbers and percentage). They are objective and above all easy to understand and interpret. Number of procedures, time and cost involved in property transfer and information sharing; and percentage reduction in corruption cases and percentage of landless urban residents can be assessed quantitatively. Quantitative indicators, nevertheless, are difficult to develop

mainly due to time and cost involved in data collection. In another way, qualitative indicators basically measure issues in a subjective way. They tell perception of people. They depend on what others say: like yes or no to a given question (Table 3.1). Availability of pro-poor land policies, people's perception about service provision, availability of corruption and bribery and perception about property affordability can be assessed using qualitative approach. For this particular case, assessment of land market, we are going to develop indicators that are both qualitative and quantitative in nature. This is mainly due to the fact that governance issues in land market cannot be plainly measured only in quantitative terms.

3.4 Methodologies for Developing the Indicators

In order to develop indicators for urban land market assessment, critical analysis of literatures has been done. Indicators developed for various purposes have been studied and analysed. In particular, relevant indicators have been given due attention. After analysing literatures, finally we have come up with good governance indicators relevant to urban land market. The process of developing indicators (appendix 1) has greatly benefited from the concepts and indicators developed in related works (appendix 4).

The most important thing we should keep in mind before embarking on developing indicators is to know the objective of what we are going to assess using these indicators (Table 3.2). Without knowing our goal and what the issue under considerations is going to achieve, it makes little sense to talk about assessment or evaluation. In this particular work, as already explained, we are going to assess performance of urban land market. Here we expect urban land market in the existence of good governance to be transparent, equitable, effective and efficient, easy access to information and less prevalence of corruption.

Objectives	Goals
<i>To give all equal opportunity to access land</i>	<i>To decrease the number of poor and landless</i>
<i>Sustainable Economic growth and social stability</i>	<i>To bridge the gap between those who have land and do not</i>
<i>Achieve efficiency in land and resource use</i>	<i>Transfer land to the most efficient and productive users</i>
<i>Capital generation</i>	<i>To provide access to loan and mortgage to as many people as possible</i>
<i>To reduce/ eliminate poverty</i>	<i>Pulling people out of poverty by giving them access to market</i>
<i>Promote investment</i>	<i>Increase investment in land (real estate and industrial development)</i>

Table 3-2 Urban land market goals and objectives

Selecting appropriate and useful performance indicators is no very complicated task. However, an effort to develop comprehensive indicators requires careful thought and rigorous analysis (USAID, 1996). Many indicators can be proposed at initial stages; which are possible indicators. Yet, not all indicators have the same weight and equally important. Therefore, thorough analysis of the indicators is crucial so as to prioritize and assign the most appropriate indicators for the task in hand.

Indicators are most commonly developed by asking series of questions (UNDP, 2006) about the point under discussion. For the purpose of developing indicators we have asked relevant questions:

1. Equity

- Are there laws and policies that promote equity?
- Is competition in the market fair?
- Does the government take affirmative action (subsidy) to give the poor access to land?
- Is land price affordable to the poor and or low income social groups?
- Is access to financial sources easy for the poor?
- Is information equally accessible to all (no or less asymmetry)?

2. Access to information

- Is there legal provision for making land market information publicly available?
- Is timely land market information available? In what format (hard copy or online)?

- How reliable land market information is?
- How difficult (cost, time, procedures) it is to access market information?
- 3. **Participation**
 - Do citizens (particularly the poor) take part in important decision (land market)?
- 4. **Efficiency and effectiveness**
 - How fast the process of registering property is?
 - Is property affordable to the poor/low income families?
 - How high cost of transaction is?
 - How many procedures are involved?
 - How big volume of annual property transfer is?
 - Is informal property transfer properly managed?
 - Is there strong coordination among various departments handling land market?
- 5. **Transparency**
 - Are there laws/policies that make information and processes open to public?
 - Is information about fees and procedures involved well defined and publicly available?
 - Is there announcement/notification about state land sale?
 - Is market information published in detail and on timely fashion?
- 6. **Combating corruption**
 - Are anti-corruption laws and policies in place?
 - Is anti-corruption agency in effect? How effective it is?
 - How prevalent cases of corruption and bribery are?

According to UNDP (2006) another means of developing indicators is through the use of process flow chart. This needs the assessment of all the steps involved in the process. Land market that caters for the larger interest of a society starts by developing laws and policies that take market to that general goal. So we need to develop indicators which tell about the whole process (from drafting laws to its actual implementation and achieved results) to get the overall performance of the market. USAID (1996) has developed seven essential criteria for judging appropriateness and usefulness of indicators. While developing the indicators in appendix 1 we have taken these criteria into consideration:

1. **Direct**-Indicators should measure the result as closely as possible to the intended outcome.
2. **Objective**- What is being measured should be free of ambiguity. It should be clear to all those who might use the indicators to measure the current status of a market against defined objectives.
3. **Adequate**- Indicators should widely cover all the necessary aspects of the issue under discussion.
4. **Quantitative**- Whenever possible quantitative indicators should be developed because they are more objective than qualitative.
5. **Disaggregate**- Over generalized indicators barely produce good result. Because they cannot capture the facts embedded in details.
6. **Practical**- Indicators can be practical if we can easily measure them and the data for the measurement can be easily accessed.
7. **Reliable**- Here both the indicators developed and the data source should be reliable.

UNDP (2007) has another criteria for developing indicators. But only two of them are considered for the purpose of developing the indicators under appendix 1. These are:

1. **Validity** -Does the indicator measure what it purports to measure?
2. **Reliability**- Can the indicators be produced by different people using the same methods?

After asking questions pertinent to land market governance (above) and applying essential criteria (above) we finally developed indicators useful for assessing situation of governance in the urban land market in appendix 1. Those indicators are developed in such a way that they can be used both in the field and for desk-research depending on the availability of data and researchers preferences. For this particular case, we do not go to the field and collect data using the indicators for the purpose of assessing circumstances

surrounding urban land market(in our case China). Here we use secondary data to see the strength and weakness in the market from its governance aspect.

3.5 Indicators' Relevance Validation

First of all, indicators should be as broad as possible. At the same token they should not be too complicated for average people (users) to grasp what they measure and the result they intended to produce. Indicators once developed, their validity and relevance should be validated; before actually use. Method of validation depends on the scope and the designed methodology beforehand. However, there are two ways of validation. First, survey of households, users and other actors is quite familiar method of validating the relevance of the indicators being developed. However, this does not necessarily guarantee high quality. In addition to this, this method is quite expensive to conduct and time consuming. Second, in areas surrounding land sector, validation of indicators is frequently done relying on expert opinions (Deininger, Holden, et al., 2009). World Bank and some other organizations depend on expert analysis for the validation of indicators they develop and the assessment they make. The relevance of validation and assessment of indicators developed here solely depend on the experts' opinions that are familiar with Land Administration mainly due to time and resource constraints.

3.6 Scope of Indicators

Indicators can measure performance of any issue or activity at all levels (national or local levels). They usually illustrate the current state of affairs of a point under discussion at municipality, district, and province or at a national scale. The indicators developed here can be used at any mentioned levels. However, this work assesses urban land market at country level using these indicators.

3.7 Measuring Performance

The fundamental task of any indicators is to measure performance of a given issue. Be it quantitatively or qualitatively, indicators' assessment is gauged against some other values or targets. Without comparing value obtained as a result of assessment we cannot exactly tell the relative position of the market. The relative position can be well understood mainly by applying benchmark and best practices methods. Benchmark system is the case when the value of the assessed issue is compared to the set goals (Bandeira, et al., 2010). By comparing the result we can easily tell whether we are far away, there or passed the set goals. This is basically quite helpful to monitor predefined objectives. Another method is "best practices" method. Here we do not compare the result gained after assessment against the defined goals or objectives. Rather we observe relative performance of a market as compared to other markets in other places; which is said to be a best performer as far as good governance is concerned. This can be done by comparing the value of each dimension or the overall performance value against that of another country (de Vries, 2010). In this research we rely on best practices way of assessing performance of land market.

3.8 Summary

Assessment of land market is a necessary precondition before embarking on possible intervention measures. It enables decision makers to measure progress against strategic goals and or against best practices to assess the general health of a market and to diagnose constraints. Assessment can be done at national or sub-national levels and also can be carried out by governmental or nongovernmental organizations. It is done by developing comprehensive and proper land market assessment framework. Indicators in the framework are most commonly developed by asking series of questions or by using process flow charts. Once developed, those indicators can be validated through household survey techniques or expert opinions.

4. CURRENT SITUATION ANALYSIS OF URBAN LAND MARKET

4.1 Introduction

Urban land market in China has been officially introduced following the constitution of 1988. This has happened nearly a decade after the economic reform due to the sensitivity of land issues in the country (Hin, 1999). Subsequent land laws and policies have added some clarity and strengthened urban land market. Since then urban land market is constantly growing. Now it exists in all cities and involves many actors; domestic and foreign companies, and state and non-state actors. It has been growing for years and currently Chinese urban land market is, perhaps, the biggest and the fastest in terms of annual growth (Jones Lang LaSalle, 2010).

Under this chapter our area of focus, as defined under chapter one, is urban land transfer. When we deal with urban land market, we directly or indirectly touch buildings. This is primarily due to the fact that urban land is overwhelmingly for construction purposes. Therefore, we employ our working land market definition (section 2.2) which comprises land and buildings. However, as we mostly deal with primary land market, our analysis takes great deal of land transfer into account; with little attention to buildings.

The pervious chapter (3) discusses about assessment, developing assessment indicators and their validation mechanisms. This chapter analyses the current situations surrounding Chinese urban land market. The second section gives an insight into land tenure and property rights arrangements. The third section discusses urban land market in the country. Here, three levels of land market are discussed. Analysis of the driving forces in the urban land market is addressed under section four. Section five and six deal with land transfer and the actors involved in the land market respectively.

4.2 Land Tenure and Property Rights

China's urban land reform, among others, is one of the most important measures taken by the government in the late 1980s (Xie et al., 2002). The reform has ushered the country into new era of economic development through opening up to market economy. It has created land market that basically depends on lease system, which is Land Use Rights (LURs) transfer, both in urban and rural areas. The reform, though, did not give urban residents the right to fully own land they use or did not give many bundles of rights; LURs holders can still transfer land.

Chinese constitution, in 1988, granted the citizens the right to transfer LURs (Chinese Government's Official Web Portal, 2004). The amended constitution and Land Administration Law (LAL) which was passed in 1998 and amended in 2004 have put solid legal foundation for the establishment of land market through LURs transfer. The constitution and the LAL ascertain dual system of land regime in the country.

4.2.1 Collective Ownership

Land in rural area is owned collectively. This gives villagers the right to own the land under their jurisdiction collectively: all villagers in a village own rural land. Basically land which is under this ownership cannot be converted from agricultural use to construction. Transfer is possible only as far as the land is used for agricultural use for a maximum period of 30 years. Nevertheless, most of collectively owned land in peri-urban areas is being used for construction which is illegal. Due to this challenge, pilot

project in Guangdong province is underway since 2005 to facilitate for the potential rural land conversion for various uses except for luxury villas. According to this project, which is still to be fully implemented, the villagers have the right to negotiate with developers about potential LURs transfer (Xu, Yeh et al., 2009).

4.2.2 State Ownership

All land in urban centres is owned by the State (except the structures on the land). Municipalities or cities are de facto owners of urban land. Urban residents purchase the rights to use land (LURs) for a definite period of time. Land transfer is facilitated, not through ownership certificate, rather through LURs transfer. The law provides that land can be transacted (transferred, mortgaged, leased) to individuals or organizations. According to the LAL of 1998, duration of the lease depends on the type of use the land is subjected to: 70, 50 and 40 years for residential, industrial and commercial uses respectively.

In the past (before 1988) there was no property or land market as such where people could have access to property through purchase. Largely, urban residents heavily depended on the public housing (Table 4.1) or houses provided by the State Owned Enterprises (SOEs) and or *Danwei* (work unit). In Shanghai, for instance, most people live either in leasehold public housing or houses purchased as a result of the reform. However, current trend shows a shift from public housing (public ownership) towards commercially built ones (private ownership). According to table 4.1, commercial housing is growing fast and has become the dominant (39.1% in 2008) property rights structure in Shanghai since 2006. This shows a gradual shift from leasehold property rights to more private property rights ownership on buildings.

Property Rights Types	2004	2005	2006	2007	2008
Leasehold Public Tenement	25.9	25.5	23.8	20.4	17.4
Reformed Private Tenement	42.9	40.4	40.4	37.3	37.8
Commercial Tenement	27.8	30.5	32.4	39.4	39.1

Table 4-1 Property Rights Structure in Shanghai (out of 100)- based on (SBS, 2009)

4.3 Urban Land Market

Land is transferred through two main channels: formal and informal means.

4.3.1 Formal Land Transfer

In urban areas the State is the sole owner of the land. It acts in practice as a landlord. The State is the only land supplier for different urban land uses (residential, public, commercial and industrial). This can be done by leasing out land to users and developers through the provision of LURs certificates for a given period of time. Once the contract term is over, there is possibility for an extension. Moreover, Property Rights Law (PRL) of 2007 provides that LURs for residential use is automatically renewed up on the expiration of the contract term. This is a significant progress towards creating better investment environment (enhance security of tenure) both for developers and home buyers.

Xie, et al.(2002) identify two tiers of land market in China: the market between the state and the users. According to them except the State all the rest are regarded as users. In fact, this kind of categorization makes no or very simple delineation among the users (private developers, SOEs and ordinary users which are individuals and organizations). However, there is clear boundary between the users themselves (section 4.6). In the case of three tier land market the state is the sole supplier of land in primary market; the developers are the buyers in the primary market and suppliers in the secondary market. The users are the consumers in tertiary market (Tian et al., 2009).

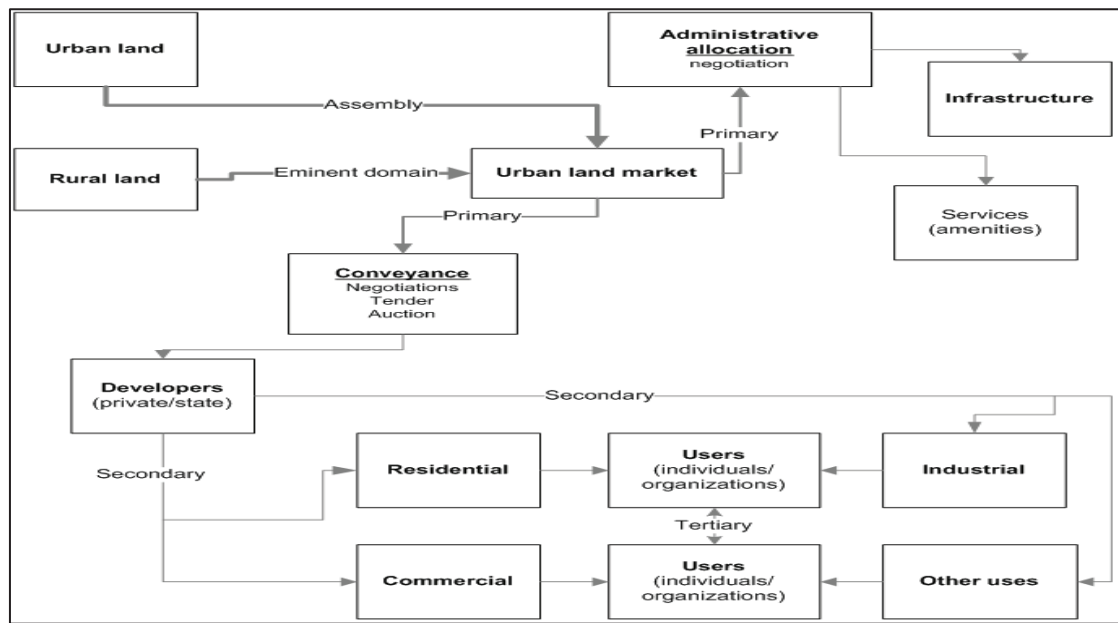


Figure 4-1 Three tier Chinese urban land market model

- 1) **Primary land market:** Land market in peri-urban areas primarily depends on acquisition of rural (collectively owned) land. The State uses eminent domain means to take land for urban use (LAL of 1998). Once Developers proposal is approved by the county or municipal level government, villagers are notified through a notification which stays public for at least five days. Following the notification, the farmers can file for compensation or else they can seek clarification as to the purpose of the expropriation. They can still negotiate about the possible compensation. If they are not happy with the proposed plan and compensation they can call for meeting for further discussion. In most of the cases, however, the participation from the villagers (farmers) is insignificant and has little influence in terms of reversing the decision made by the county/municipal people's government (Lei, 2010).

The process of compensation payment is not based on market value. Rather it depends on some complex formula of compensation (Bertaud, 2010). The formula for compensation and the amount paid differs from city to city and from region to region (Tian, 2008). Basically farmers who lose their land through acquisition are entitled to receive compensation for land, average value of the agricultural products of for three years, for the structure on land and resettlement or relocation compensation. The farmers who lost their land might be given another agricultural land with monetary compensation or else they can be transformed into urban residents. The government makes efforts to integrate and find them jobs. These are encouraging instances of protecting individuals' rights and their property ownership. Nonetheless, in many cases, according to Tian, et al. (2009) *"The lives of affected farmers were much worse after losing their land because they could not receive enough compensation to maintain their standards of living in the future."*

Once land requisition is complete, the State leases out the land to developers (private or SoEs). Here the relationship between the two (the state and developers) is typical land market transaction. In this market the State (primarily municipal governments) transfers/leases out urban land to the developers depending on market value (conveyance). The value can be determined through negotiation (industrial use and low income housing projects) or by the means of tender and auction which are open to general public. Occasionally, land value is determined by the state's economic, regulatory and policy objectives rather than mere competition in the market (MLR, 2007; Tian, et al., 2009).

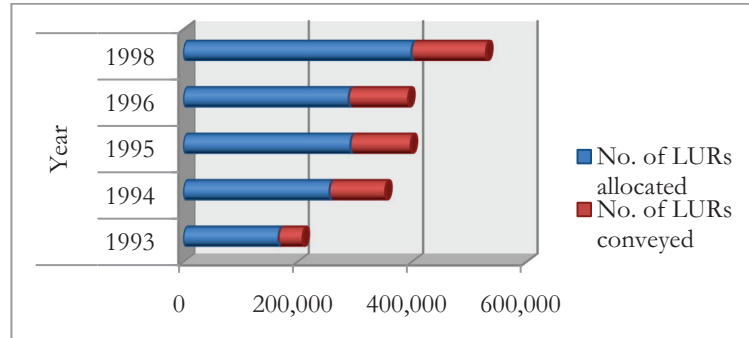


Figure 4-2 Composition of land allocated and conveyed- adopted from Ho & Lin (2003)

Another part of primary market, very important in terms of land transfer volume, is administrative allocation. In China most of urban land goes to administrative allocation on annual basis (figure 4.2). Predominantly, public organizations get access to land (Xie, et al., 2002) for infrastructure and social services through administrative allocation. They do not directly buy land from market by taking part in auction and tender, rather they get land directly from the State. Under this arrangement, they are required to pay compensation to the collective owners and cover costs involved in land acquisition and some pay annual land use fees (Palomar, 2002). The arrangement may help to expand infrastructures and public amenities. Under administrative allocation arrangement, because land is regarded as free or very cheap, there are instances when some institutions request more land and areas of very high land value to be allocated to them. To put this in context, Xu, et al. (2009) have found out that a research institute in Dalian requested a 50 000m² building site when actually it only needed 600m².

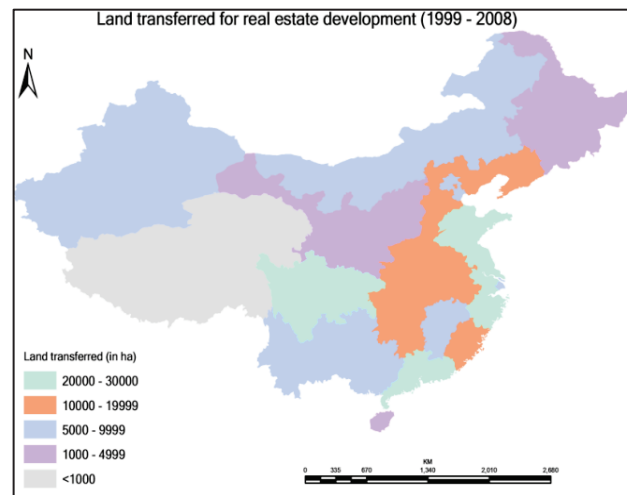


Figure 4-3 Volume of land transferred from 1999 till the end of 2008 based on (NBS, 2009)

State land has been massively transferred to developers. Large volume of this transfer has come from eastern part of the country (figure 4.3). Some provinces/municipalities have transferred more than 1 percent of their total land area (Shanghai). Beijing, Zhejiang and Jiangsu have transferred 0.6, 0.21 and 0.25 per cent of their total land mass from 1999 to 2008. Tibet (from the west) has only transferred 0.01 per cent of its total area (table 4.2).

	Beijing	Shanghai	Zhejiang	Shandong	Jiangsu	Guangdong	Tibet
Total area	16800	6341	101800	153000	102600	186000	1220000
Land transferred in (1999-2008)	97.9	69.2	218.9	25.6	263.5	248.9	2.2
Percentage	0.6	1.1	0.21	0.16	0.25	0.13	0.01

Table 4-2 Percentage of land transferred from 1999 to 2008 to the total area (km²) based on (NBS, 2009)

- 2) **Secondary land market:** It basically involves developers and users (individual consumers or organizations) with the State acting as a regulator (facilitating and moderating). Here the developers act like sellers and users are the consumers. After developing land (building houses and offices) they lease it out to users in a competitive market (MLR, 2007). However, LURs the developers get from the state moves over to new users when developers sale commodity houses (houses built by real estate companies). This market allows all LURs holders to dispose their property (transfer, mortgage, or sublease) to others in accordance with the law (PRL) which requires all transaction to be registered with local authorities (Article 9 of PRL).
- 3) **Tertiary land market:** This market provides a forum for a wide range of sub-leases among land users. This is a case when a person (natural or non-natural) leases out the property he himself got through lease with fixed time period from a developer to another user for a time period not more than what is mentioned in the original document (LURs certificate). This market needs formal approval to be valid and should also comply with the laws and the land use regulations. Transaction done at this level, just like other transactions, required by the law to be registered. Yet, many fail to undergo registration. As Xie, et al. (2002) describe it illegal transaction is common at this stage.

4.3.2 Informal Land Transfer

The prevalence of informal or illegal land transfer is big in the country. The percentage of land being transferred illegally was typically high in the 1990s, though it has shown big drop after 1998. This is perhaps due to the effect of the passage of LAL in 1998 which has anti-illegal land transfer provision. Illegal land transfer accounted for 21.17% of the total land transfer in 1995 (table 4.3). However, this figure has dropped to mere 1.9% in 2010 (Xinhua, 2011a) which is remarkable in terms of dealing with illegal land transfer. The biggest share of illegal land use comes from illegal occupation and this is followed by illegal authorization by authorities in the 1990s. Illegal authorization has remarkably dropped from 12118ha in 1995 to 320ha in 2003 (Table 4.3). Conversely, according to annual report of MLR, 27,559ha and 27,866ha of land went for illegally use in 2009 and 2010 respectively (China Daily, 2011). Table 4.3 illustrates the situation.

Transaction type	1995	1996	1998	1999	2000	2001	2002	2003
Illegal land use on record	48 180	29 623	35 938	18,554	22,313	17,085	18,100	28,836
%in total land transaction	21.17	7.26	2.55	2.85	1.55	0.69	2.89	1.93
Illegal occupation	25,120	18,640	22,728	8,645	12,792	12,187	14,520	24,347
Illegal authorization	12,118	778	926	300	2,263	556	97	320
Illegal transfer or sale	3,248	2,774	4,615	2,524	2,592	1,859	1,396	1,824
others	7,694	7,431	7,669	7,085	4,666	2,482	2,088	2,345

Table 4-3 Informal land use or transfer in China- adopted from:(Xu, Yeh, et al., 2009)

The development of illegal land use can be attributed to the illegality of rural land conversion to urban land. Collective LURs holders have no right to negotiate with developers for potential land transfer for the purpose of construction. But farmers do negotiate illegally either with developers or individuals and land is being used for construction. Nevertheless, the State has acknowledged the need to legitimize land previously went for illegal construction and pilot project is under way which legalizes illegally transferred lands and also to provide collective owners to transfer land for construction purposes (Xu, Yeh, et al., 2009). In the future, this might have huge impact on reducing informal or illegal land market.

4.4 Drivers of Urban Land Market in China

Land market, in China, has shown impressive growth over the past 30 years. The State leased out millions of hectares. In 2009 only, China has sold or allocated 319,000 hectares of land (earned \$234 billion from the sales) which is equivalent to three times the size of Hong Kong's land mass (Bloomberg News, 2010).

As a result of ever growing land market in the country, many residential and industrial complexes have been built. Thousands of small cities emerged and the bigger cities double or tripled in size. The growth in urban land market, generally, is phenomenon. So why the market has been booming and conversion of farm land to urban construction has been intensified? Some of the main driving factors behind these massive changes are: urbanization, land tenure reform, economic growth and high demand and supply (Bertaud, 2010; Fubing, 2008; J. Liu et al., 2005). We discuss them in more detail below.

4.4.1 Urbanization and Urban Infrastructure Development

China is a country of 1.354 billion population (UN Population Division, 2010). In the past the vast majority of the population was living in rural areas. In 1978 urban population was only 18% of the total population (Zhang et al., 2003). Following the late 1970s economic reform (urban land reform is one of the major constituents came in 1980s) and subsequent economic growth, China's urban population has increased from 191 million in 1980 to 562 million in 2005; mainly through migration from rural to urban areas (Yusuf et al., 2008). There are very high rural-urban migrants that are exerting pressure on urbanization. Before the reform, one child policy and *hokou* system (assigning every person in China a residence in a specific locality) have put temporary halt on urbanization. Nonetheless, economic growth matched with the relaxation of the regulation (*hokou* system) has led to fast increase in urbanization; perhaps the fastest urbanization phenomenon seen for years. As a result the percentage of current urban population has reached 44% (World Bank, 2010). This figure is expected to reach 53.2% by the end of 2020 (UN-HABITAT, 2009). Increase in urbanization means increase in demand for urban land whereas a decrease in urban space (shortage of urban land).

Urban areas have been growing and expanding very fast. Liu, et al. (2005) have found out that urban land of China increased by 817 000ha within 10 years (1990–2000). In 1990s it had been phenomenon in the east and along the coastal areas. All cities and towns have grown both in area size and population. Shenzhen has grown from city of less than 500 000 inhabitants in 1980 to 8 million inhabitants in 2005 and 70% of them are migrants. Urban sprawl (cities expansion into rural lands) has become common phenomenon around almost all Chinese big cities despite the government policies and efforts to either control or minimize it (ADB, 2006). All of these expansions and growth have mainly come at the cost of agricultural lands. Millions of farm households have been either evicted or resettled and farm lands surrounding urban areas have been converted to urban uses such as residential, industrial, commercial, public open spaces and infrastructure.

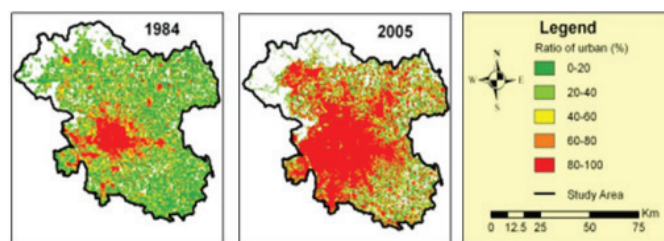


Figure 4-4 Beijing's spatial growth- source: (Huang et al., 2008)

In the country, to cope up with huge influx of migrant workers and also to accommodate economic growth, big cities have grown even bigger (both in area and in population size) and small towns and cities have emerged. For instance Beijing has witnessed spectacular growth over the years; most of it came after the reform. It has shown spectacular spatial expansion (figure 4.4). Similar things happened in other cities too. According to ADB (2006) the number of towns in China has exponentially grown from 2786 to 20358 between 1983 to 2005. This impressive urbanization has profound effect on urban land market.

Large magnitude of urban land market, from virtual nonexistence in 1970s, has grown to the level of one of the players in the country's economy. The market has earned national and local government massive

revenue of 2.7 trillion Yuan in 2010 (People's Daily Online, 2011; Yang et al., 2009). This is enormous economic contribution. It has also played great role in terms of providing land for individuals, organizations and developers for residential, industrial, commercial and other uses.

Urban growth comes with expansive expansion of urban infrastructure and services. This too needs large tracts of land. Land for public goods can be supplied by the State (administrative allocation). Provision and expansion of urban infrastructures and services can impact urban land market in different ways. Private individuals or companies can participate in schools, hospitals and sport facilities construction. These need large tracts of land which exerts pressure on land market in general and demand and supply of land for urban uses in particular. In another way, land supplied for public infrastructure under administrative allocation can still exert pressure on land market. First, it largely reduces land available for other uses. Second, it affects supply and demand which of course impacts price of land; especially if land allocated for public use goes on sale. This is the case in informal or illegal transfer.

4.4.2 Land Reform and Improved Tenure Security

China amended its constitution (in 1988 and the latest in 2004) that has created legal foundation for land market. Following the amended constitution many laws, policy statements and regulations have been passed which aimed at improving property market. These subsequent land laws (LAL, PRL and REAL) have solidified land market. These laws and policies not only created the market but also defined (with limited level of clarity) the role of the State and other actors in the market. The promulgated laws have facilitated orderly land transaction procedures and have improved investment environment, significantly. They guarantee tenure security and provide legal protection for developers and users. All previous land laws and newly created ones promise legal protection for LURs and guarantee in case of violation either by individuals or by the State itself (article 4 of PRL). Specifically, the new PRL of 2007 has increased protection of property rights and considerably curtails arbitrary use of eminent domain by municipalities. This law as well has created favourable condition for the development of property market and mortgage lending. Following the reform of 1980s, which fundamentally changed tenure arrangement, real estate industry mushroomed immediately. Mortgage providers, banks and other financial institutions, have heavily invested in real estate.

Furthermore, property rights and tenure security have been showing continuous and tangible improvements for years. The constitution and previous land laws have significantly improved tenure security by allowing property transfer and protecting the rights of LURs holders. Moreover, PRL of 2007 has further improved property rights and recognized individuals' property ownership for the first time (J. Tan et al., 2009; Time, 2007) and give individuals equal legal status and rights as the State in property ownership and market development (article 3 of PRL). The law allows the development of diverse ownership besides the State ownership. This law has also cleared the ambiguity surrounding the question what will happen once the lease terms come to an end. According to PRL, LURs for residential land use is automatically renewed up on expiration and LURs for other uses are negotiable. What we see from this law is that LURs for residential use, specifically, is approaching perpetual or full ownership rights.

However, the Land Administration Law (LAL) that provides tenure security of land is not without some shortcomings. Palomar (2002) argues that there is somehow tenure insecurity due to weakness in enforcement of current law. In some instances the law itself is unclear or ambiguous, he argues. They are unsystematic and lack clarity in some areas (Tian, 2008). He further argues that there is also deliberate attempt in the provision of the law which is aimed at putting public interest above the interest of individual LURs holders. This creates loopholes for manoeuvre and inefficiency which lead to tenure insecurity and corruption. In addition, we cannot still say that PRL provides all bundles of rights to land.

According to Heritage Foundation (HF) and International Property Rights Index (IPRI), China despite showing huge improvement over years is still lagging far behind in protecting property rights. Its property rights situation is no way better than countries like Thailand and Malaysia (table 4.4). This evidently shows how far the country has to go to improve property rights and tenure security which are the foundations for sustainable formal land market.

Country	Property rights Index	
	HF score Max. 100	IPRI score Max. 10
China	20.0	5.1
Thailand	45.0	5.2
Japan	80.0	7.6
Malaysia	55.0	6.1

Table 4-4 Property rights comparison based on (Heritage Foundation, 2010; IPRI, 2010)

4.4.3 Economic Growth

Yunnan (2008) has observed that over the last ten years China's property market has become a driving force for national economic development. The country has witnessed average annual economic growth of 10% following economic liberalization of the late 1970s (China Today, 2010). Economic growth has attracted migration which triggered rapid urbanization. Above all, improved living condition in urban centres has amplified the need for urban land which in turn has expanded urban area by many folds

Year	1978	1980	1982	1984	1986	1988	1990
Rate of urbanization (%)	3.7	3.5	4.8	4.4	5.2	5.1	4.7
GDP Per capita(\$)	154.97	193.02	201.44	248.29	279.19	280.97	314.43

(Bertaud, 2010). Table 4.5 shows the link between reformed economy and increased urbanization which could reinvigorate urban land market.

Table 4-5 Per capita income vs. urbanization based on World Bank (2010)

Improved economy matched with increased disposable income lead to high demand (M. Tan et al., 2005) for residential apartments and villas, office buildings, and industrial complexes. Companies and organizations consume industrial and commercial complexes in large volume. Better employment opportunities and improved payment have increased disposable income (table 4.5) of urban dwellers. This has driven demand for housing plots and apartments high. Better income is linked to demand for more than one residential house and also has consequence on household size. Both cases have significant effect on the consumption of urban land which can be addressed basically by urban land market.

4.4.4 High Demand and Supply of Land in the Market

Land market in fact works in an area where there is a demand for land. In a country where land is considered as a commodity, land (use) rights can be transacted (transferred and mortgaged). Following the reform, China has allowed land transaction which responds to demand (to larger extent) in the market. However, the balance between the demand and supply does not always depend on market. This is because of the government's heavy intervention in the primary land market. Land is available in the market, often, through formal means only if the government decides (Ding et al., 2010). The State has retained the power (Bertaud, 2010; Tian, et al., 2009; Yunnan, 2008) to supply land in primary market whenever demand for land arises. Due to rapid economic growth in the country, demand for urban land is ever increasing. Urban open spaces have been allocated at massive scale. Old city centres have been either renovated or have faced demolition to make way for new developments. To meet high demand, millions of arable land has been converted to construction land over years.

There are two major diverging forces (policy issues) affecting demand and supply balance in Chinese land market. These are policies which aimed at investment attraction and revenue generation.

- i. Local authorities mainly transfer land to attract investment into their respective municipalities or prefectures (regional cities). In other way, reward and promotion of the local leaders mostly depends on the level of economic success (investment) they have managed to attract into their

respective municipalities. This makes the leaders to be in constant competition with one another in local development and land transfer. This leads to large volume of land transfer.

- ii. Revenue from land transfer is one of the major sources of income for cities to provide social amenities. Reports show that revenue of local governments from land transfer accounts for 35% of the total in 2001 and 46% in 2009. The revenue is as high as 80% in some cities. Many cities are becoming increasingly dependent on revenue from land transfer (Global Times, 2010c). Desperate to fund local/municipal projects, land is being massively leased or awarded to investors. This has made supply exceed demand in some cases which eventually forces land to be transferred at a nominal price to developers without taking its market value into account. Most of the time land is supplied through negotiation which seriously undervalue it (appendix 5), though the price for land remind beyond the reach of poor and middle class (Tian, et al., 2009).

4.5 Land Transaction

Land in primary market is being transferred from the state to developers and or users through different ways. This transfer has been a source of massive revenue both for local and central governments. The revenue which has been generated as a result of land transfer has dramatically grown from 19.4 billion Yuan in 1995 to 2.7 trillion Yuan in 2010 (NBS, 2009; People's Daily Online, 2011). The revenue is very essential for local development. What we can see from these figures is the importance/role land transfer is playing in national economy. However, land transfer and the resultant revenue are not evenly distributed geographically (figure 4.6). Almost each coastal provinces and municipalities have generated more than 1 billion Yuan from land transfer in 2008 whereas Xinjiang and Qinghai from western part of the country only generated 15.5 and 13.7 million Yuan in 2008 respectively. With time, nonetheless, there is also increase of revenue from land transfer in the rest part of the country. The figure below shows regional differences in terms of land transfer revenue generation.

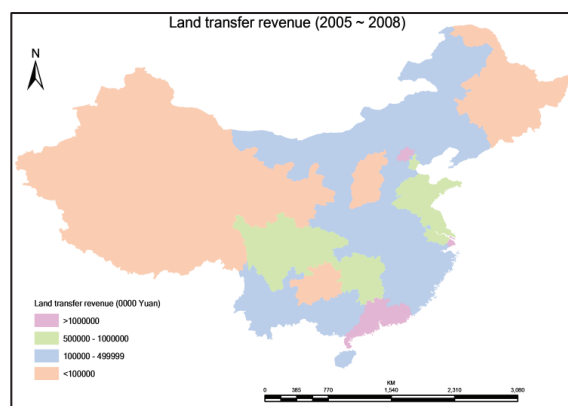


Figure 4-5 Land transfer revenue based on (NBS, 2009)

4.5.1 Negotiation/agreement

According to Real Estate Administration Law (REAL) of 2007 state land in primary land market is transferred in three ways: negotiation, auction and tender (article 13). In the past negotiated means of LURs transfer was dominant in all cities and in all cases (residential, commercial and industrial). However, policy directive of 2002 by the Ministry of Land and Resources (MLR) and the REAL have banned all state land lease for commercial/profit purposes except land for industrial use. Land for residential and commercial uses must be granted only through either tender or auction (Tian, et al., 2009).

Negotiation is a case when land leasing prices are determined by an agreement between local authorities and land users with limited reference to land price guidelines (Qian, 2008). Decentralized system of administration has given local leaders the power to dispose urban land. Through land disposition they

have made an attempt to generate revenue. Land transfer earned the government 2.7, 1.6 and 1 trillion Yuan in 2010, 2009 and 2008 respectively (People's Daily Online, 2011). Beyond source of revenue, land transfer is also used as an incentive to attract huge investment into various cities. Stiff competition among local leaders to grow economy through local and foreign direct investment (FDI) have forced many leaders to be involved in negotiated LURs conveyance; which is believed to be less efficient and transparent. In the 1990s urban land has been transferred to developers through this means (figure 4.6). Only fractions of LURs have been leased either through tender or auction since 1980s (Han et al., 2003).

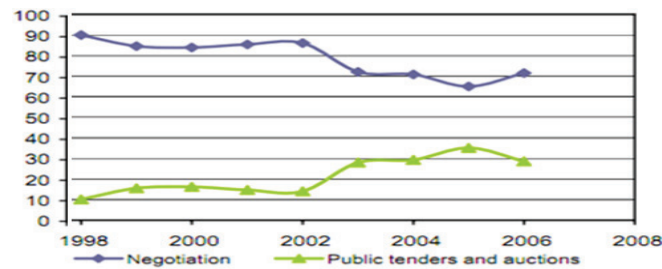


Figure 4-6 Land transfer by negotiation, and by public tender and auction-Source: (Fubing, 2008)

According to Cai, et al. (2009) negotiation with developers often entails hidden processes. Primarily, land is granted at a nominal price and as a result the State is deprived of huge revenue that might be earned from LURs transfer. REAL of 2007, nevertheless, states that *"Prices for the use of the land leased out through negotiations between related parties shall not be lower than the bottom price stipulated by the State provisions."* This is to reverse undervalued land transfer and to maximize gains but it cannot solve the problem entirely. Land transferred under non-competitive environment (negotiations) barely goes to the best users. Furthermore, in most parts of the country, the process of negotiated land transfer has been very corrupt and lacks transparency. It largely enriched those officials who engaged in the negotiation process. Though, discontent from the general public has led to the total ban of negotiated means of land transfer except for few exceptional cases (National people's Congress, 2007b). Currently LURs can be awarded through negotiations (administrative allocation) only if the land is meant for the following uses (article 54 of LAL):

- Land for state administration and military affairs,
- Land for fundamental urban facilities and public causes,
- Land for energy, transportation and other facilities supported by the state and
- Land for other uses set by laws and administrative regulations.

The new policy directives require allocation process by agreement to be publicly noticed and the result to be publicized (S. Wang, 2009); it is an indication into persistent efforts to create transparent and well-functioning land market. Negotiation has been the dominant one, but it is gradually losing ground to tender/auction (figure 4.7). In many cities negotiated conveyance continued despite policy changes.

4.5.2 Tender and Auction

In 1990s, tender and auction had minimal role in terms of determining land price. Only few per cent, in most parts not more than 10, of the LURs was done through tender or public auction (Han, et al., 2003). In recent years, rampant corruption and misallocation of public resources have forced central government to make major shift from land lease by negotiated means towards tender and auction. Article 13 of REAL says, *"The right to use the land for construction of commercial, tourist, recreational facilities or luxury housing must be leased out through auction or bidding, when conditions permit; when conditions do not permit and auction or bidding cannot be adopted, it may be leased through negotiations between the related parties."* According to the new guidelines all public land sale is done through tender or auction publicly and the detail information before, during and after transaction is required to be available on line (should be made public). Competitive public bidding (tender and auction) is a policy objective which helps the state attains the following major goals:

- I. Transparency in the process- bidding puts things under public scrutiny. This makes the State earn public trust by putting orderly manner through which transaction information is publicly accessible. This significantly advances governance positions and encourages investment in land market. Equally important, bidding allows land resources to go to the best users.
- II. It enables the State generate more revenue from land lease. Land transferred under competitive bidding is most likely to earn the state market value (appendix 5).

Despite improving transparency in land allocation this process is still neither completely transparent nor free of corruption. Cai, et al. (2009) argue that there are some loopholes (fixing the winner/deal before starting bidding) in the auction and tender process which gives unfair advantage to some bidders. The role tender and auction play in order to create transparent and effective land market is indisputable, however.

4.6 Main Actors in Urban Land Market

In Chinese urban land market there are many actors such as the State (national and local authorities, ministries and agencies), developers (real estate companies and investors), SoEs, *danwei*, users and financial institutions (Han, et al., 2003). All actors, largely, have different stakes and interests in the land market.

4.6.1 The State -Sole Urban Land Supplier and Guarantee Provider

The state is the most prominent player in urban land market due to the tenure regime of the country; urban land is state owned. Among many MLR, Ministry of Construction (MC), Ministry of Housing and Urban-Rural Planning, National Development and Reform Commission and others are responsible for urban land market policy formulation, implementation and management/supervision (Tian, et al., 2009) in different ways. The respective subordinates of these ministries at provincial and municipality levels are directly involved in the processes of planning and land transfer.

The Land Administrative Department (LAD) of the State Council is responsible for the administration and supervision of land in the whole country. Article 12 of REAL provides that “ [...] *a city or county people’s government and the Urban Planning, Construction and Real Estate Administration Departments shall jointly draft a plan on the tracts of land to be leased out with their uses, term of use and other conditions, and following the provisions of the State Council, report to the empowered people’s government for approval and then hand down the plan to the Land Administration Department of the city or county people’s government for execution.*” It is the LAD of the city which signs contract of LURs on behalf of the State with the buyers. Municipalities (its LAD) in close coordination with various bureaus and departments engage in land requisition from collective owners and subsequent transfer to developers. They have also the mandate to allocate land for public infrastructure development.

The State (at central level) has big stake in urban land market. It is the State (local authorities implement) that has the right to convert land ownership rights: from collective ownership (rural) to state ownership (urban). Conversion of basic farm land and land of more than 30ha can only be converted by the approval of the State Council. The State creates land banking through rural land acquisition and assembly of urban land. By creating land banking the State leases land out to developers and or allocates for administrative use. The State has monopoly over primary (S. Wang, 2009) urban land market: land for big real estate projects, industrial parks and public infrastructures is made available by the State. Local state agents (municipalities or city administrations) are the de facto state land sellers (LURs conveyance). Local Land Administration Bureaus (LABs) of MLR is authorized to administer land state transfer.

The State’s active involvement in the land market has several side effects. Its efficiency in supplying land that matches demand has been questioned. Supply of land that usually does not match demand has negatively affected the performance of the market. First it creates surplus which leaves some land vacant for years and also affects land price. The risk of leaving land intended for development vacant for years

keeps the land underutilized (Tian, et al., 2009). Second, it leads to transferring large tracts of land for developers at non market price (section 4.5.1). These scenarios usually emanate from lack of good governance.

Another major task of the State is to provide security and guarantee. This is mainly done through property registration. Currently in the country there are two types of registration: initial and transfer registration. Registration in urban centres is almost completed whereas, according to Ho (2001), registration of the rural land is far from behind. PRL of the country guarantee full protection of all the registered property while unregistered transaction is illegal and does not enjoy any legal protection. Registration of properties in the cities is done in each locality. According to the law of the country buildings and land need separate registration. Until the passage of PRL of 2007 there was also lack of uniform registration in the country.

4.6.2 Real Estate Companies – private developers

Developers are public or private-sector companies engaged in real estate development. Based on their origin they can be domestic or foreign developers. Those developers are of different size depending on the size of the project they manage. Developers who manage projects of more than 100 hectares of land are regarded as large (Han, et al., 2003) and the rest can be branded as medium or small size developers.

Developers play central role in urban land market. The developers usually initiate projects. They respond to market conditions and they are the first to do so. They usually get land in primary market from the state (LURs by lease) and build residential villas and apartments, office buildings and industrial complexes for sale or rent. In China, developers are the major actors in terms of buying the State land and providing housing to the rest of the people. Individuals participate in primary land market though their role in primary land market is not as big as that of the developers. Therefore, developers have great role in supplying bulk of houses and offices, and in responding to demand of individual consumers.

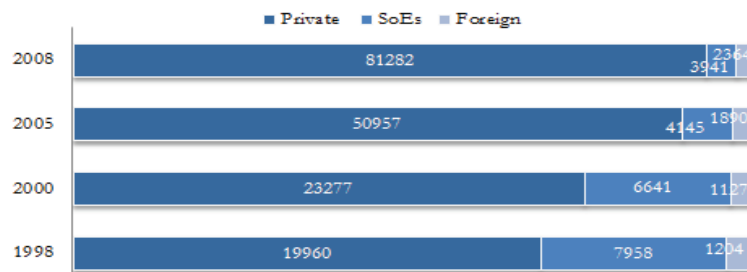


Figure 4-7 Enterprises in the Real Estate development based on (NBS, 2009)

In Chinese land market the number of private developers is by far larger than that of the SoEs. It is rapidly growing from year to year: by 307% within 10 years. In 2008 there were 81282 private real estate developers in the country (figure 4.7). But not all of those developers are equally powerful. Some of them buy many hectares of land for development. In some cities few developers dominate land transfer market. This might be good for easy and efficient land transfer as Land Administration bureaus do not deal with many individual customers. This kind of situation, conversely, might create perfect atmosphere for the development of market oligopoly: a case when few companies decide land and/or property price.

4.6.3 State Owned Enterprises and Danwei

In the past actors like *danwei* (work unit) and the State Owned Enterprises (SoEs) had actively took part in land market not only as users but also as land suppliers (leasing out extra land under their possession). Attracted by constantly rising land price, they have been persistently involved in informal land transfer. Till very recent years, SoEs and *danwei* dispose land they received as state agents free of LURs fee to developers or they develop land in collaboration with developers (Tian, et al., 2009). Presence of SOEs and *danwei* in the supply market has created a system of dual track primary land market (Tian, et al., 2009;

Xie, et al., 2002) in the country; especially in cities where regulation is not properly implemented. This resulted in substantial reduction in revenue that might go to the government treasury. It also has undermined the State's ability to effectively implement regulations. The State, however, has recently taken extra measures and totally banned any land supply activities except by the State (Cai, et al., 2009). According to this measure, SoEs, *danwei* and others who have been engaged in urban land supply should return land back to local authorities and LURs conveyance must be done only by the municipalities. However, in the recent years the government has totally banned this practice and has got complete monopoly over urban land supply in primary market.

Most recently, SoEs and other state agencies have largely shifted from undeveloped land selling to real estate development (Yusuf, et al., 2008). The role of those big and powerful SoEs, specifically central SoEs, have changed in the recent years. Many of them are becoming more and more active players in the land market. They purchase urban land in large quantity and develop it. Their role in urban land market, buying, is constantly increasing (Wu et al., 2010). Nonetheless, their number is decreasing: it has decreased by 50.4% from 1998 to 2008 principally due to consolidation (figure 4.8).

In the most recent years, SoEs is taking active role in urban land market and its market share is in surge. Market share of SoEs (local and central combined) in the country has grown from about 55% in 2008 to the current nearly 70%; coming to a situation of market domination by reducing the role and share of private developers. They buy land through active participation in auction and tender. According to Wu, et al. (2010) *"There has been strong positive correlation between land auction price in Beijing and the winning bidder being SoEs [...]."* They claim that, usually the price of land is 30% higher when central SoE wins an auction. Their active engagement, perhaps, helps to respond to demand for homes and reduce acute shortage. They are largely blamed for skyrocketed land price, nevertheless.

4.6.4 Financial Institutions

Financial institutions such as banks, insurance companies and other lenders are the foundation of real estate business in China (Han, et al., 2003; MLR, 2007). Fund for real estate developers mainly comes from banks. Developers borrow from banks to pay for LURs transfer and construction. The SoEs and other state agencies borrow from banks. Individual users, for land and house consumption, basically rely on bank loans and state subsidies to buy properties. For most of public sector employees the government has set up alternative source of fund (apart from loan and mortgage from financial institutions) for housing in the country. Housing Provident Fund (HPF) which was set up in 1990s was aimed at facilitating access to property market. According to Wang, et al. (2005) HPF provides fund for workers at a low mortgage interest rate. The law of HPF requires all public sector employees to save limited percentage (up to 10%) of their monthly salary (employers are also required to contribute about half of this per cent) which is meant for home purchase and or repair/renovate it. HPF, which is an innovative and alternative approach, has helped in facilitating access to property and has given an option to those who do not afford bank loans (cannot afford down payment or do not have property for collateral).

4.6.5 Users

Users are individuals or organizations that buy land (property) for various purposes such as residential, office, industrial and for other uses. They are consumers who do not regularly engage in land transfer (for profit making purposes) like private developers and SoEs. Users have different preferences for property they consume. They may access property through purchase or rent. They can buy luxury villas or low income or economy housing depending primarily on their level of income. In most developing countries users' ability to own property is severely limited due to low level of income and lack of access to loans and mortgages among the rest hurdles. Therefore, the poor and low income groups often rely on state subsidy that makes property affordable or on financial institutions which offer mortgages (low rate) for housing.

4.7 Summary

Security of tenure has been showing significant development over years. The constitution and the land laws provide protection for property rights. But there are problems, especially related to the use of eminent domain. Yet, compensation is getting better. The rate of forced eviction has shown improvement though situations like compensation and expropriation have still many shortcomings. The property law does not still provide as many bundles of rights as possible. In general, there is clear shift from total reliance on the government, to property owning through commodity purchase and LURs transfer.

The state has massive stake in urban land market. It acquires land from collective owners and converts it to urban use by using eminent domain power. Use of eminent domain has been blamed for failing to award market value those who lost their property. The State transfer urban land through two main channels: administrative allocation and conveyance. Many hectares of land have been administratively allocated. Land conveyance has been also used to transfer land. This of course has enabled the government generate revenue. It is very clear that true land market where market fundamentals dictate land supply, value and location hardly exist in primary land market (administrative allocation and negotiations). Tender and auction which have recently got momentum are largely market driven.

In primary land market the State is the major land supplier. However, there are instances when land is supplied through informal means. Illegal state land transfer and fraudulent registration have created informal land market. Nevertheless, there are signs of gradual decline as far as illegal transfer and authorization are concerned. Local governments who are directly involved in land market, supply more than what the market demands to maximize local revenue. This approach of mere focus on revenue maximization has adverse impact on land price and resource allocation efficiency.

Among the three methods of land conveyance, negotiation has been the most widely applied method since the emergence of land market in the country. This method is so susceptible to under table negotiations, nepotism, power abuse and transfer inefficiencies. Under this mode of transfer land rarely goes to the highest bidder and best use. But it is an incentive and better means to attract investors. Due to the above mentioned weaknesses/bad governance, the government has taken series of measures which calls for improved and transparent negotiations. These have put a limit on negotiation while encouraging competitive market mechanism (tender and auction). Nonetheless, negotiation is still the most dominant. This is perhaps due to local governments' reluctant and sluggish move towards embracing tender/auction.

The major actors are the State, developers (private and SoEs), users and financial institutions. The State is very much active as land supplier. It provides security through property registration and legal protection. The State's involvement in the land market comes in many forms. The task of central government is formulation of policies which guide the direction of the land market. Actual land transfer is done in by municipalities in collaboration with the MLR (its subsidiary at municipal levels). In another way, SoEs and private developers are very active in the primary market. They purchase large tracts of land and developed it for various purposes. The role of SoEs in land market is on surge. This might pose threat to the private sector developers. Ordinary users are the consumers of, largely, final products such as residential, retail and commercial buildings. Financial institutions are the source of fund for developers (for land purchase and development) and for the users (mortgage borrowing).

5. LAND TRANSFER ASSESSMENT USING GOOD GOVERNANCE INDICATORS

5.1 Introduction

The previous chapter has analysed current situation of China urban land market. We have analysed tenure security, different types of urban land market in the country, driving forces behind constantly growing land market, modes of land transfer and about the major actors. In those sections we have just touched governance aspect of the market, which is of course the underlying issue of this research. This chapter provides the assessment of Chinese land market purely from good governance perspectives. Here the assessment is done entirely based on the framework developed in chapter 3. Due to time and data limitation, this research cannot discuss all indicators of good governance dimensions; rather provides detailed assessment of equity, access to market information, efficiency and effectiveness, participation, transparency and combating corruption. These dimensions are preferred because they are the one which are very relevant for current Chinese tenure arrangement. By assessing these dimensions we are able to answer questions like what issues of equity, access to information, transparency, efficiency and effectiveness, and combating corruption look like when the State controls primary market and defines 'rule of the game'.

5.2 Equity

Here, as illustrated under section 2.8, we discuss equity in terms of equal opportunity to have access to urban land market. This takes pro-poor dimensions. Because most of the time its urban poor (who is predominantly women) have little or no access to land. Therefore, whenever we talk about equity we are directly referring to the poor and indirectly to the women. Below we see how urban land market in China under full state ownership is addressing the poor's need for land in general and to housing in particular. Though these two are different in Chinese context, yet they are intricately linked. This section enables us to answer questions like how the poor get access to land under the current urban land market arrangement (LURs conveyance through tender and auction, competition for resource with big real estate companies etc.). We answer this by looking at pro-poor laws and policies aimed at providing the poor fair access to property, availability of subsidies for low income families to buy property, availability of affirmative action that benefits the poor, and affordability of property to the poor and low income families.

5.2.1 Pro-poor Laws and Policies for the Provision of Affordable Property

According to UN-HABITAT (2010) the number of urban poor who are below national poverty line is less than 2%. Urban poor in general are facing challenges. First, there is huge shortage of affordable housing and urban households believed to lack enough living space is estimated to be 1.56 million (Xu, Yeh, et al., 2009). Second, property affordability is one of the challenges millions of urban low income families have been constantly struggling with. Third, land market which is mainly dominated by developers has been catering for the rich. This is clearly reflected in the provision and supply of commodity residential houses. In the country, over the years many commodity and luxury houses have been constructed in massive numbers than affordable or economy housing (S. Wang, 2009).

Major concern for the urban poor is land for shelter. High price of urban residential land evidently makes life complicated for the urban poor who depend on the affordability of property. Affordable property for the low income groups has been given little attention. This circumstance necessitates pro-poor land market policies that make the market work not only for the urban rich but also for the poor. Therefore,

after realizing how many urban poor left behind due to high land prices and market inefficiencies, the government seems has turned its attention towards making land market equitable by putting pro-poor measures in place. According to Xinhua (2010a) “*The General Office of the State Council, China's cabinet, listed [...] specific measures [...] increasing supply of low-cost houses for low-income families and common residential houses, encouraging reasonable house buying while restraining purchases for speculation and investment [...] speeding up construction of housing projects for low-income households, and specifying responsibilities of local governments.*” In December 2009, the central and provincial governments have initiated policies which increase low cost housing supply. Policies, like the above one, that encourage affordable housing have been in place for years. In 1998 the state council had envisioned the need for low income housing (Meisheng, 2004) and pushed forward with *Anju scheme* (housing construction for low income families) (Hongyu, 1998). To guarantee the continuity of the previously started pro-poor urban housing policies, Administrative Rules on Low Rent Housing for Urban low income households was enforced in 2004. CBRE (2010) report shows that the government allocated 10% of the economic stimulus money for low income housing construction. The government has formulated series of policies like Welfare Housing Project, *Anju scheme*, affordable housing policy, low-rent housing policy, etc. since the Mid 1990s to address housing problems. In order to implement these policy objectives, the government has employed various measures.

Instead of providing the poor direct access to land the government has focused on the provision of economy housing in order to improve the lives of those who live in deplorable housing condition. From 2000 to 2010 the government has achieved remarkable success by pulling 65.31 millions of people out of slum like condition; a reduction of slum dwellers by 25 per cent. This pro-poor approach was achieved by using market mechanism as a platform (UN-HABITAT, 2010). The government built 1854959, 6219833 and 9709063 economic houses/units in 1997, 2003 and 2008 respectively (NBS, 2009). The figure of 2008 is an increase of 423% from what it was in 1997.

5.2.2 Mechanisms Used for Making Affordable Housing Available

The most widely followed approaches to provide affordable housing for low income households in urban areas are: free land allocation (mostly widely applied) meant for economy houses to developers, direct fund injection (subsidies) from central government, fund from provincial and municipal governments for the construction, tax exemption for the developers, and reduction of construction cost and price control. Xinhua (2010c) has reported that Central government has recently increased subsidies for building affordable housing from 300 Yuan/m² to 400 Yuan/m² and from 400m² Yuan to 500 Yuan/m² in Central and Western China respectively. Land supplied for low cost housing has increased significantly in recent years. Developers are encouraged to use 70% of the land they are granted for low cost housing construction purposes (Xinhua, 2011a). According to Gao (2010) lands for the construction of the economic houses are made available by the form of administrative allocation, and included in the yearly land supply plan. An administrative land allocation largely offset land price which in some areas constitute up 40% (Wu, et al., 2010) of the price of the completed houses. This undeniably reduces the price of housing and makes it relatively affordable. But not always for all; there are still those who cannot afford affordable houses (Global Times, 2010b). Not all poor are eligible for affordable housing. In Shanghai application for affordable housing is based on some conditions. These are (<http://www.shgtj.gov.cn/>):

- i. Having obtained permanent residence status of town/township in this Municipality for a fixed number of years;
- ii. The disposable income per capita of a family is below the prescribed criteria;
- iii. The floor space per capita of a family is below the prescribed criteria.

5.2.3 Positive Discrimination to Create Equitable Land Market

The Chinese government uses variety of policy options available so as to make affordable housing programs realistic. In order to give low income household access to land market, different preferential

treatment has been considered. Some of them are: easing credit for low income household who build houses (Morgan, 2008), subsidies, tax relief, and low loan/credit rate (Duda et al., 2005; Ju, 2002). First, for the very poor and first home buyers it is relatively easy to access HPF (public employees). But for those who would like to access HPF to purchase second home or more, there are many constraints which make the fund hardly accessible to them (HPF with higher interest rate). Secondly, for instance, Xi'an municipal government has been offering subsidies to home buyers based on the size and purchase price of the dwellings, with buyers of smaller homes set to benefit the most on a percentage basis ($<90\text{m}^2 = 1.5\%$; $90\text{-}144\text{m}^2 = 1\%$; $>144\text{m}^2 = 0.5\%$). In Changsha, the government has offered a subsidy of RMB80,000 to first-time buyers of affordable housing and reduced transaction taxes from 1.89% to 1.1%. Thirdly, down-payment requirements have been lowered from 30% to 20% for home purchases made through employee provident funds (Morgan, 2008). In other ways, the government is discouraging third home buyers by restricting loan and second home buyers by raising down payment among the rest (Global Times, 2010a). This might also help in controlling price which otherwise would go high. From here we can see that there is positive discrimination put in place to make the poor or low income families property owners. But the measures in place are not adequate due to sheer magnitude of low income families.

5.2.4 Affordability of Property

Chinese urban land market is growing and changing. Demand for various urban land uses is stubbornly high. High demand which is not supplemented with flexible (entirely market driven) supply resulted in constantly increasing land price. According to Tian et al. (2009) high land price is ultimately making land and housing affordability beyond the reach of the urban poor. There are still many urban poor who does not have access to proper housing. Hongyu (1998) points out that more than 3 million households live in a poor housing condition. This is principally due to immense gap between property price and households' annual income. The gap is widening from time to time. The price to income ratio (the ratio of median house prices to median family disposable incomes) has increased significantly over the last few years. According to figure 5.1, in the country for an average family who saves 30% of their household (HH) annual income to buy a house which suits an average income family takes 44.7 years. The time can be as high as 64 years for some provinces of very low income (Henan). Those in Shanghai, high annual HH earnings, need only a little bit more than 20 years to own property. This shows the lower the price-to-income ratio is the higher the potential of the HH to own property within the shortest possible time.

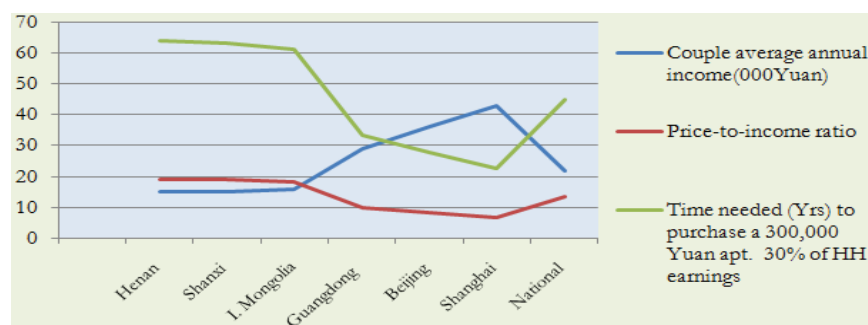


Figure 5-1 Price-to-income ratio; adopted from (Burrell, 2006)

Survey of the People's Bank of China (PBOC) indicates 72.2% in 2009 and 65% in 2010 of Chinese households believe that property price is too expensive (Xinhua, 2010b). In recent years price of land, particularly, is in constant rise. According to Wu et al. (2010) findings land to house price ratio has shown an increase of between 30% to 40% from 2003 to 2007. Just from 2008 till early 2010 it has gone up by almost as high as 60%. Moreover, house prices annual increase in many cities even surpassed annual income increase despite rapid economic growth. For instance the price of economic houses is more than 3000Yuan/m² in Beijing whereas it is less than 1500Yuan/m² in the western and central parts of the country (figure 5.2). This highlights wide regional variations. Generally, property price is too high and

affordable housing in many Chinese cities is so acute (Duda, et al., 2005) despite rising income and the government's action to provide affordable/economic housing to the poor and to low income families.

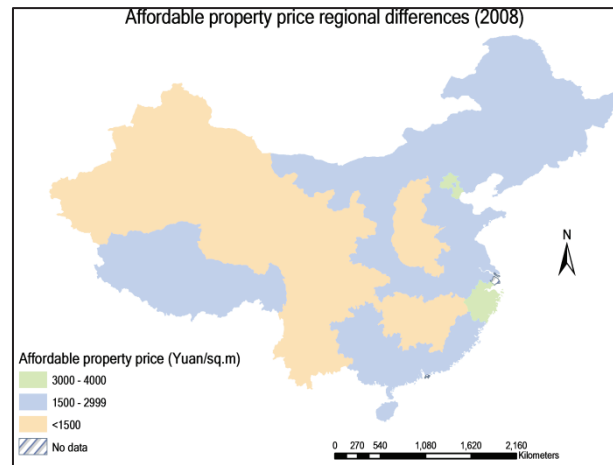


Figure 5-2 Affordable property price regional differences based on (NBS, 2009)

5.3 Actors Participation in the Process of Acquisition

Land market in peri-urban areas, primarily depends on acquisition of collectively owned land. For this to happen, developers' proposal should be approved by a county or municipal people's government. Then villagers are notified through a notification which stays public for at least five days. Following the notification, the farmers can file for compensation or else they can seek clarification as to the purpose of the plan. They can still negotiate about the possible compensation. If they are not happy with the proposed plan and the compensation, they can call for meeting for further discussion. In most of the cases, however, the participation from the villagers (farmers) is insignificant and has little influence in terms of reversing the decision made by the county/municipal people's government (Lei, 2010).

The process of compensation payment is not based on market value. The formula for compensation and the amount paid differs from city to city and from region to region (Tian, 2008). Manner and level of compensation is one of the contentious issues surrounding the use of eminent domain and tenure security. Nonetheless, some municipalities/provinces (Shanghai and Zhenjiang) have taken measures towards creating transparent means of land takings for public use and paying reasonable compensation. Draft law of the land takings circulated in 2009 has the following provisions: compensation should not be lower than market value; place to live in (temporary) for those who are affected by eminent domain; and call for robust public participation in the process of expropriation. This draft law prohibits forced demolition, involvement of developers in demolition, and the use land acquisition if the land is meant for non-profit purposes only. This law allows disputed cases to be settled in the court of justice (Xinhua, 2011b). These are clear signs of consolidating security of tenure which is a measure of good governance.

5.4 Access to Information

Availability of information is very essential for the market to function efficiently. Not only the availability but also the equality of information matters very much. It's only through reliable information that the actors make rational investment decisions. This way, access to information defines circumstances surrounding market governance and determines to high degree the outcome of the land market itself.

5.4.1 Legal Provision for Making Land Market Information Available and Accessible to Users

The Chinese Regulation on the Disclosure of Government Information (RDGI) of 2008 makes all government information at all levels of administration to be publicly available and accessible except the

State and economic secret (Business Anti-Corruption Portal, 2010). This law if enforced effectively could create transparent environment in public sector and makes information broadly available and its accessibility to the citizens easier. The regulation clearly promotes access to information and transparency. According to this law, information can be disclosed to public on request or published on regular basis.

In another similar case, in 2004 the government adopted new real estate policy which requires the release of statistical information on land market in key 40 Chinese cities (Leung et al., 2007). This policy aimed at improving land market information availability and accessibility. It also enhances land market transparency, which subsequently builds sustainable and healthy land market. Real Estate Administration Law reinforces access to information by making regular report on property transaction mandatory (Article 35). According to this article the State institute should regularly publish information on transaction price.

The MLR which is the principal body that handles land related issues in the country, has set many goals (MLR, 2007). One of them is to complete modernization of land information management. To achieve this, it calls for the following which also related to land information management and dissemination.

- a) Establishment of land information management systems and databases at central and provincial levels;
- b) Develop market information management systems (paid by users);
- c) Establish a network of computer system for land market information sharing;
- d) Regular release of land market information and policies to the general public. These all are big steps towards improving availability and accessibility of land information in general and land market information in particular. If implemented properly, they have tremendous impact on eliminating hurdles that land market information flow faces.

Moreover, Decree No. 17 of the General Office of the State Council called for government information resource directory which can address the society's dire need for information. All government departments are required to speed up the process of making information known to the general public (Seifert et al., 2009). Following the decree, provincial and municipal governments have started releasing government information using various channels. For instance, Shanghai Municipal Bureau of Land and Resources use the following channels to make land market information accessible and available to the public.

- Reading rooms in the office;
- Official website (www.shgtj.gov.cn);
- News media for planning and other crucial information;
- Exhibition hall display for significant planning information.

5.4.2 Availability of Land Market Information

Land market information can be accessed from Land Administration Departments/Bureaus found at different levels (provinces and municipalities). As subordinates of MLR, they handle detailed land market information for primary market. They release up-to-date land transaction information. According PRL of 2007 potential purchasers must check ownership and related information of the property only from one registry. This is possible, mainly, with the use of Land Information System (LIS) which has a potential to integrate information from various sources. Article 18 of PRL asks registration department to facilitate access to information and provide copy of the registration information up on request. The availability of land market information in the country is improving and or increasing from time to time. According to Jones Lang LaSalle (2010) there is solid advancement in terms of land market data availability and quality; especially in first tier cities (Beijing and Shanghai). Public access to information seems getting easier. The country's position in terms of information provision to the public is strong (Global Integrity, 2009) and China's score for 2009 is 81 (maximum possible score is 100).

Due to expansion of internet services and e-governance, more than 30,000 websites have been registered under China's government domain name gov.cn and includes 98.5 per cent of municipal governments (NBCP, 2010), access to information has been significantly improved. Land market information is available online. Some of the basic land market information provided by official (mlr.gov.cn, provincial and municipal Land Administration bureau/departments) websites is (see appendix 5 and 6):

- a) Land transfer
 - i. Plot location (province, municipality, neighborhood and plot number)
 - ii. Plot size (in m², hectare or in *mu* (1ha=15mu))
 - iii. Land use type (residential, commercial, industrial etc.)
 - iv. Base value (land price)
 - v. Mode of transfer (auction, tender etc.)
 - vi. Time (auction/tender start time and end which is usually 15 days, and date and time for declaring the winner)
- b) Land transfer notification
 - i. Detail land information as described under (a)
 - ii. Initial price and sale price (auction or tender price)
 - iii. Name of the buyer (with few details)
- c) Master plans and approved development plans

As mentioned above, many municipalities have their own websites dedicated to primary land market (transaction) information. However, official websites are not the only source of information outlet. With booming land market in China numerous organizations (largely private) have appeared as land market information suppliers/providers. Additional information about primary, secondary and tertiary land market can be accessed from those non-official websites. The following are some of the prominent ones.

- Landlist.cn
- SouFun.com
- China Real Estate Information Corporation (CRIC)
- Jones Lang LaSalle
- Ehomeday.com

Besides official sources of land market information, the information provided by private professional real estate companies and agents (those listed above) have made significant contributions (Jones Lang LaSalle, 2010) as far as improving access to market information and its availability is concerned.

5.4.3 Provision of Timely Land Market Information

In order to create well-functioning land market timely information is imperative. This is because timely market information has impact on efficiency and transaction cost involved. Additionally, timely information enhances equity aspects by creating equal chances to access information. In order to facilitate timely land market information, the decree of the General Office of the State Council makes the need for timely information very essential. According to the decree government information should be available to the general public within 20 days from the day of entry. Nonetheless, if requested by a citizen information should be made available on the spot. If this is difficult to meet it can still be provided within 15 working days. But extension for more than 15 extra more working days is unacceptable. An office or official who fails to disclose government information might face an administrative law suit (Article 39). Anyone who is interested can make a request (separate request for information) through:

- Internet (filling online form and sending);
- Letter, telephone, fax and telegram and ;
- In person

Land administration departments all over the country have been mandated with the task of handling land related information such as ownership rights, value, use and transaction (Cheng et al., 2006). They are increasingly developing land information systems which provide rich land market information for the

users. The information they provide includes both spatial and attributes data. For the spatial data provision they are increasingly using earth-observation techniques for data collection and dissemination.

5.4.4 Reliability and Authenticity of Information

Article 21 of PRL makes the Registration Department liable for mistakes made during property registration and requires the department pay compensation for the damage caused. This guarantees property security and tremendously boosts the confidence of those parties who are engaged in land related investment by sending clear message i.e. real owner and clear responsibilities and restrictions.

5.5 Efficiency and Effectiveness

Efficient and effective land market is one of the factors which make land market develop stronger and sustainable. It encourages formal land market which in turn discourages people from participating in informal land transfer. It provides quality service to customers at affordable price. In general, efficient and effective land market can be categorized by low incident of informal transfer, strong coordination among organizations involved in handling land transfer and related activities, few procedures, fast land transfer processes at all levels and low cost of property transfer and registration, and low transaction cost. Below we assess efficiency and effectiveness of Chinese land market by emphasising more on informal land market handling, property registration, procedures, time and cost involved, and coordination among organizations (public) dealing with urban land market.

5.5.1 Recognizing and Managing Informal Land Market

Chinese government does not recognize informal land market. Any property transfer done through informal way or illegally in violation of laws (LAL, REAL and or PRL) is invalid (Rehm et al., 2008). Article 9 of the PRL of the country makes clear that property transfer shall take effect if and only if it is registered. According to the same law (article 16), the evidence for ownership of property is registration. Article 73 of Land Administration Law says *“For illegal transfer of land through trade [...] Land Administrative Departments of the people’s governments at and above the county level shall confiscate the proceeds from the transfer.”* According to the country’s laws, informal and or illegal land transfer is not tolerated.

The law does not recognize and guarantee protection for any informal and or illegal transfer of property even though this kind of transfer widely exists. According to the investigation made by MLR there are 6.6 billion m² “minor property rights” (transfer of rural LURs for urban use/residential) throughout the country. The problem, with these kinds of development, is risk of tenure insecurity. They are susceptible to demolition and eviction without compensation. According to China Daily (2010a) 336,500m² of illegal construction was either confiscated or dismantled by National Audit Office (NAO).

In some parts of China informal land transfer exists and land is usually goes into informal urban land market basically in three different ways: illegal land sale, fraudulent LURs transfer (S. Ho, et al., 2003) and illegal conversion of collectively owned land for urban use (typical case of urban villages). Series of investigations by MLR has found out that illegal land transfer is rampant throughout the country. Most of the time land transfer is done by corrupt officials, and sometimes by municipal or county level officials in clear violation of the LAL (MLR, 2007).

According to China Daily (2010a), the NOA has conducted survey and found out that illegal land transfer and acquisition have been taking place in many provinces and cities. It discovered that several cities have acquired thousands of hectares of farmland (5 cities 12,700ha) in primary land market in violation of the LAL and paid insufficient compensations. In 2010, 53 000 cases of illegal land transfer was discovered (China Daily, 2011). Improper conduct of cities and or officials, which usually emanates from weak

governance, not only fail to create vibrant formal land market but also create an opportunity for growth and expansion of informal urban land market. These kinds of practices might discourage those who take active role in formal land market and undermines institutions that govern formal land market.

Presence of informal land market through urban villages generate a delicate situation; a reality which requires balanced response to the need of the authorities to create sustainable land market and urban spatial growth, and the need for the owners to earn income and get out of poverty. This is also a balance between developing formal land market and protecting the right of collective landowners' rights. Land market value compensation and legal provision to freely transfer collectively owned land (urban villages) to developers could have solved or avoided this kind of situation and stalemate. However, now authorities have realized how bad the situation of dealing with urban villages is and put some plans in place in order to minimize informal transfer in urban villages. Some of the government's initial attempts to manage and redevelop them, though met with resistance (Y. Wang et al., 2009).

5.5.2 Property Registration

The Property Rights Law of 2007 states that property registration can only be done in the registration department of the place where the property is located. For any land to be formally transferred and enjoy legal protection, it must undergo registration (National people's Congress, 2007a). Property Rights Law (PRL) unambiguously indicates that any unregistered land transfer cannot be recognized and does not enjoy legal protection. According to Article 10 of the PRL, property transfer registration takes place in the registration department where the property is located. Article 60 and 61 of the Real Estate Administration Law (REAL) state that, people's government above county level is responsible for registration and subsequent issuance of title certificate. These articles make clear that constructed buildings need separate registration, different from LURs certificate, to receive title certificate. The departments which handle land and buildings registration are different and under a different ministry. The separation of land and building registration makes the procedures complicated and time consuming (Kaiwen et al., 2009). Merging the two departments, which are handling more or less similar activities, might reduce complexities and improve efficiency of registration and service provision.

During property registration process, the applicant should provide evidence materials which show his/her ownership. These materials might be land allocation or grant documents (both in case of administrative allocation and conveyance). The documents may include details such as parcel location and size. Depending on the request from the customer, the registration department performs the following registration activities (National people's Congress, 2007a):

- Check and examine the evidentiary materials showing the ownership and other necessary materials submitted by the applicant;
- Raise inquiries to the applicant in respect of the registration;
- Conduct registration according to facts and in a timely manner;
- Other duties provided by laws and administrative regulations;

According to PRL, if needed and the registration department feels that the evidence is not complete, it might require more evidence and conduct field survey.

After years of great efforts, the registration for state-owned land in urban areas has been almost finalized. Most of the first registration is largely going on in rural areas (J. Tan, et al., 2009). Land registration which is common in urban areas is property transfer registration (sale, lease, mortgage, inheritance). Because of economic growth and real estate boom, there is vibrant property transfer in the country. This makes the need for land registration imperative (managed by land administration bureaus and personals). In this kind of circumstances it is only efficient and effective land registration system that can address the processes and respond to the need of the customers who need secure, reliable and speedy registration services.

Efficient and effective land registration is only possible if the process is aided by IT and supported by skilled Land Administration professionals. Both IT and skills of professionals have tremendous effects on time and cost involved in property registration. This, as well, has significant impact on transaction cost.

According to Palomar (2002) big cities in the country are handling property registration properly; they have attained relative efficiency and effectiveness in handling registration. Shanghai performs better than both East Asia & Pacific and OECD average in terms of the number of procedures, number of days and cost involved during the registration process. Even the rest major cities performance is not far behind the OECD's average. Property registration takes fewer days, but more procedures, in cities like Beijing, Guangzhou and Xian; which is better than East Asia & Pacific average. Even cost wise Beijing and Guangzhou are better than OECD average (table 5.1). Small cities, nonetheless, are still under stuffed and ill-equipped (Palomar, 2002). Guiyang city, ranked 28 in registering property ranking out of 30 cities surveyed in China, is performing better than East Asia & Pacific average only in terms of time involved. If the number of procedures and cost are taken into consideration, the city is far behind regional average (East Asia & Pacific). This is an indication of how smaller cities are performing and what the efficiency of property registration looks like: smaller cities are having weaker performance record (table 5.1).

Chinese cities	Procedures(numbers)	Time (days)	Cost (% of property value)
Beijing	10	59	3.1
Xi'an	8	50	5.1
Guangzhou	8	35	3.7
Guiyang	9	77	12.6
East Asia & pacific	5.0	86.7	4.1
OECD	4.8	32.7	4.4

Table 5-1 Property Registration Efficiency-Chinese cities compared with EA & Pacific and OECD based on Doing Business (2011)

In the past registration across the country did not follow the same procedures and steps; different from municipalities to municipalities. It had coordination problems among various governmental offices and subjected to various legislative disputes (J. Tan, et al., 2009). However, Property Rights Law (PRL) of 2007 provides that the property is registered where it is located and the state pursues uniformed registration system (article 10). This can help in streamlining all registration system and create uniformity.

5.5.3 Procedures and Time Involved in Property Transfer Registration

In China, property registration for land transfer is done in the House and Land Resources Administration Centre. In principle, unlike many other countries, registration process does not involve many offices or departments. However, until the passage of Chinese PRL in 2007 the procedures themselves and their number differ from cities to cities. This means that there was no formal guidelines and format of registering property uniformly throughout the country. Some cities, like Shanghai, had simple and few number of procedures and others do not (Doing Business, 2011). But the new law has created standardized way of registering property transfer and has created a condition for uniform property transfer registration which can reduce regional differences, decrease complexities and increase efficiency. Yet the efficiency and effectiveness of property registration is not the same in all cities. It appears that big cities and well developed ones are enjoying better efficiency: fewer procedures, less time and low cost of registering property (table 5.1). Efficiency of property registration seems to positively correlate with level of economic development.

Country	Procedures(number)	Time(days)	Cost(%of property value)	Rank
China (Shanghai)	4	29	3.6	38
Saudi Arabia	2	2	0.0	1
East Asia and Pacific	5	86.7	4.1	
OECD	4.8	32.7	4.4	

Table 5-2 Registering property efficiency based on (Doing Business, 2011)

According to Doing Business, almost all major cities have different level of efficiency (number of procedures, time needed and cost involved). According to Doing Business survey of 30 major cities, Shanghai tops the rank in property registration and Nanning city has found itself at the bottom. We thought that neither picking the top performer nor the one at the bottom (Shanghai and Nanning respectively) provides the true picture of the country's property registration efficiency. For this reason we opted for Chengdu, rank 11, to demonstrate the processes of property registration using UML activity diagram. The process of property registration in Chengdu takes 11 procedures and 39 days. The figure shows that the registration process is handled by House and Land Administration Bureau. The buyers and sellers take their application to the bureau and the bureau starts to process the application (appendix 2).

Property registering efficiency is not only does not only varies from city to city. It has also regional differences. Coastal and Eastern parts of the country, those which enjoy high volume of land transfer and better economy, enjoys better level of registration efficiency. Whereas large parts of Western and Northern are having low level of efficiency as far as property registration is concerned (figure 5.3).

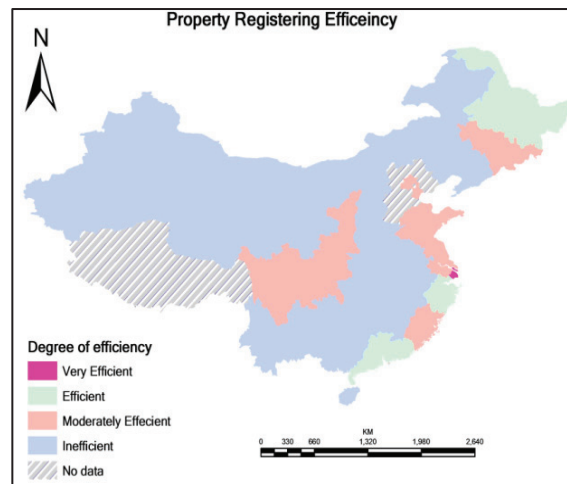


Figure 5-3 Property registering efficiency based on (Doing Business, 2011)

5.5.4 Coordination in Land Market Laws and Policies Implementation

Central government basically formulates laws and policies which govern land market and regulate it in order to achieve its goals. As de facto land owners local governments should transfer land for various purposes not only according to their local interest and realities but also by putting national economic and social goals defined by central government into account. These issues to be fulfilled need great deal of cooperation and coordination between the two so as to effectively coordinate and implement matters of both national and local interests. However, diverging objectives and interests between local and national governments on how to develop land market and setting priorities (Xu & Yeh, 2009).

Local governments' (municipal and county level) main economic priority is different somehow from that of the central government. Their primary area of focus is GDP growth and revenue generation to fund local infrastructure expansion. To achieve these they try in a competitive way to attract investment and projects into their area. To successfully attract investors they grant land (for real estate, industrial construction and administrative uses) at a negotiated price. The revenue that comes from land transfer accounts up to 30-50 % of their annual income or even higher (Yang, et al., 2009). This puts land market in the centre of their economic development objectives. Hence, they would prefer to have great control on its direction and the outcome without much interference from the central government on the land resources at their disposal. Due to this, many policies and decrees passed by the central government have

been either overlooked or partially implemented. Occasionally, some of them have faced local resistance (those do not coincide with local goals and objectives) (Xu & Yeh, 2009).

Local governments are systematically disobedient in some situations. They contravene rules to execute their own agenda. For instance, many municipalities and provinces have failed to implement decree no. 11 of 2002 which states that all land for profit purposes should be transferred through either tender or auction (Xu, Yeh, et al., 2009). However, many years after the decree some local governments transfer land through negotiations (figure 4.6) which is in direct conflict with the position of the central government. A case in point, in 2004, two years after the decree, 76% of the land meant for commercial purposes was granted through negotiations. The rest 24% were transferred through the means of tender, auction and quotation (Xu & Yeh, 2009). Clearly, municipalities breach central government's land market policies in favour of local economic objectives (Duda, et al., 2005). However, central government and local governments somehow do agree on some areas and work in collaboration.

- Mode of land transfer-There is a gradual shift from negotiation to auction and tender
- Revenue sharing (from state land sale)
- General land market policy direction

The following issues are among the areas where central and local governments show weaknesses in cooperation/coordination:

- a) **Land quota-** Central government put restrictions on number of hectares to be converted on annual basis from agricultural land to the land for construction purposes. Therefore, it puts quota to protect farm land. Many local authorities do not comply with it and the quota has been frequently violated.
- b) **Mode of land transfer-** Due to prevalent corruption and misuse of urban land by local officials, central government has issued a decree in 2002 which asks for ban on negotiated land transfer on all land for commercial purposes such as for residential (commodity housing), retail and other purposes. Nonetheless, local governments have not shown restraints and kept on transferring land for commercial purposes through negotiations. After Decree No. 11 was issued, Beijing approved 10 000ha of land through negotiation (Xu & Yeh, 2009) in total defiance of the central government.
- c) **Land for affordable housing-** Continually increasing land and housing price mainly pushed by high demand and speculation has left many low-income households out of land market. Therefore, central government made policy shifts and has taken strong stances (section 5.2.1) to solve the problem of low-income families who are facing challenges due to acute supply of affordable housing. One means of achieving affordable housing is by providing land to the developers through administrative allocation. This policy has direct impact on the local revenue (reduce) which otherwise might be generated through land conveyance to developers who use it for other purposes. However, local governments have remained less enthusiastic in allocating land for affordable housing. They preferred to convey land at higher prices (Xu & Yeh, 2009).

In general, the central government has been increasingly concerned with developing sustainable land market. Ever expanding urban centers mainly in the expense of farm land is becoming matter of great concern (Ding, 2007). Since cooperation and coordinated way of developing land market has not progressed the way central government envisioned, it started to use other mechanisms of implementing policies formulated at national level. Since the enactment of 1998 Land Administration Law, the government has issued different policies and directives aimed at protecting arable land. This is primarily to reduce the rate of conversion of collectively owned agricultural land for construction purposes and to curb misuse of state owned land by local officials (Xu & Yeh, 2009). The state regulated and limited the power of local officials only to deal with land acquisition and later transfer if the size of land area is small. According to article 45 of the LAL, conversion and subsequent transfer of the following needs the State Council's approval. These are:

- Basic farmland(whatever the size of the land);
- Land exceeding 35 hectares outside the basic farmland;
- Other land exceeding 70 hectares.

Weakness in coordination is not something which only exists between the central and local governments. It exists between local government and farmers (Ding, 2007). There is tension between the two regarding processes and procedures of land requisition. This obviously has made implementation of policies, planning and land market management difficult. It is evident among various sectors as well. For example, there is conflict of interest between MLR and Ministry of Construction (MC). Both want to have full control over urban land market. MLR has the authority to transfer land either through administrative allocation or grant. Departments under this ministry are responsible for property registration. Whereas, MC's responsibility is to guide, regulate and administer real estate and urban construction. Xie, et al.(2002) believe that there is functional overlapping between these two ministries which can hinder efficiency.

5.6 Transparency

In the absence of transparency property market functions hardly well: corruption and nepotism could take over. Transaction cost becomes high and discourages many from engaging in formal land market (Zakout, et al., 2007). It is not easy to know about the real owners with whom potential buyers interact. Land market price and future prospect cannot be simply determined. Next we assess transparency in Chinese urban land market by shading light on the availability of legal provision that seeks transparency in land market, availability of data about land price and information about the State land transfer.

5.6.1 Legal Provision for Making Land Market Information and Transaction Transparent

Real Estate Administration Law (REAL) of the country requires land prices (the standard, the nominal and the appraised land prices) and prices of various buildings to be established and published regularly (Article 33). The same law declares that the state should publish land transaction information on regular basis. Other land related laws (LAL, PRL, and Mortgage Law) have similar provisions. Above all, the Regulation for Public Information Disclosure (RPID) of 2008 makes land market information provision mandatory like any other public sector information. From here we can conclude that, there is legal provision for land market information provision.

Article 5 of the Law of Tenders and Bids (LTB) has provision for the conformity of the tender and bids (includes land transfer) to the principle of openness, fairness, impartiality and faith. According to this law (article 34) the tender must be opened immediately after closing the bidding, in public and in predetermined place. The law provides that all bidders shall be invited to join. The winner, bid price quotations and other important things in the document should be announced. The law requires bidding assessment to be conducted in a confidential manner in order to achieve objectivity and eliminate preferential treatment. Moreover, anyone who feels the transaction process is not fair can file complaints.

5.6.2 Publicly Available Information about Fees Involved and Procedures to be followed

Land transfer through auction and tender is done publicly in a competitive bidding fashion. The law as mentioned earlier requires detail land price and information about buyers to be public. Negotiations, though, the law demands some level of transparency in transaction and the price involved, is still done in an obscured manner. Yet the law makes provides that the negotiated price should not be less than the base price set by the State Council. Compensation price and the associated processes for land taken from farmers have been defined in the LAL. Article 47 of LAL states, *"The land compensation fees are 6-10 times the average output value of the three years preceding the expropriation of the cultivated land [...] The resettlement fees for each agricultural person to be resettled shall be 4-6 times the average annual output value of the three years preceding the*

expropriation of the cultivated land. But the maximum resettlement fee per hectare of land expropriated shall not exceed 15 times of the average annual output value of the three years prior to the expropriation [...] but the combined total of land compensation fees and resettlement fees shall not exceed 30 times the average output value of the three years prior to the expropriation.” Yet the law does not tell who gets much and how gets low and why. Simply because the gap between the lowest possible pay and the highest (30%) is so huge that it can be manipulated and as a result unfair price can be paid.

City	Required tax				Registration fees	Land cadastre survey	Application	Obtain new certificate
	Stamp duty	Deed tax	Transaction Processing	Business tax and surcharges				
Shanghai	0.1%	3%	0.5%		300RMB			
Beijing	0.1%	3%		5.5%		0.27RMB/m ²		5RMB
Guangzhou	0.1%	3%	3RMB/m ²	5.5%	80RMB	50RMB	50RMB	5RMB
Tianjin	0.1%	3%	18RMB/m ²	5.5	0.4%	20RMB		5RMB

Table 5-3 Property registration related fees based on (Doing Business, 2011)

Major fees involved in property transfer registration are publicly available. The type of fees and amount involved are different from municipalities to municipalities. There are also observable similarities. In most of the cases, registration fees, cadastral survey fees and certificate fees are based on fixed amount (table 5.4). According to Shanghai municipality, in case of involuntary information disclosure, a person could be charged 5Yuan/piece search fees; 0.2 Yuan/ page (A4 black) coping fees; 2.0 Yuan for CD-ROM; and market based postage and delivery charges for the required information (<http://www.shgtj.gov.cn/>).

5.6.3 Publication of Detail Data about Property Prices

Article 35 of REAL demands the State to publish scheduled report on real estate transaction price. According to this article real estate owners should provide property transfer price to a designated department. It is prohibited either to conceal real property price or to report untrue property price. According to Jones Land LaSalle's (2010) Real Estate Transparency Index, over the years, China's land or property market has shown momentous improvement in terms of transparency and has moved from opaque to semi-transparent level (these are the scales the organization uses to determine the level of transparency). Yet the country's property market, in terms of transparency, is far behind many nations in Asia Pacific (table 5.4). From the table we can see that I tier cities (Beijing and Shanghai) which rank 45 are doing better than II (Chengdu, Tianjin etc) and III (Wuxi, Zhengzhou etc.) tier cities which rank 54 and 65 respectively. What is promising is the market's direction towards embracing more transparency and showing improvements from time to time. The table below shows the position of Chinese cities (I tier) as compared to the best scorer (Australia) and other countries in the region. The rank is out of 81 countries surveyed whereas 1 and 5 are the highest and the lowest possible scores respectively.

Country	China(I cities)	Japan	S.Korea	Singapore	Malaysia	Thailand	Australia
2010 Score	3.14	2.30	3.11	1.73	2.30	3.02	1.22
Rank	45	26	42	16	25	39	1

Table 5-4 Property market transparency based on (Jones Lang LaSalle, 2010)

5.6.4 Notification of State Land Transfer

Article 13 of PRL requires all state owned land to be transferred in transparent way. This is basically to mean that, if the circumstances allow, all land to be conveyed only through tender and auction. Any transfer which involves state owned land should be done in public, i.e. the public should be informed about the detailed procedures and also the result should be made public at the end.

As indicated on all websites of major cities (Beijing, Shanghai, and Guangzhou etc.), process of state owned land transfer appears to be clear and transparent. These websites carry two main information: announcement/call for state owned land transfer tender or bidding and state land transfer notifications (once the transfer is done) (appendix 6). Call for tender information remains online in most of the cities for fifteen days; which is enough if seen from different perspective. First, those who are usually involved in the bidding process are predominantly big real estate companies which have resources and know how to access information on time. Second, too much waiting time has negative effect both on land administration departments (reduces effectiveness in terms of serving and supplying many plots) and on the developers (makes development projects lag behind). Information at this level, call for tender, carries specific information such as plot location, size, base price, land use type, date of announcing the winner and other conditions attached to the plot (usually related to zoning plan). Public notification after state land transfer carries, in addition to the above mentioned details, information about the buyer and auction land price (final price) (Appendix 6). Open provision of online land transfer improves transparency which would in turn have negative impact on corruption and state resource abuse. Unarguably, the measure has positive action towards addressing bad governance in the areas of land market. However, Cai, et al. (2009) believe that there are still some loopholes for corrupt officials to go through, unrecognized.

Article 11 of the REAL demands approval of either provincial and or the State Council for land transfer related projects to take effect. This is good as far as check and balance is concerned. It may significantly reduce abuses and corruption while it may enhance transparency. However, it might compromise flexibility, efficiency which can increase number of procedures to be followed, cost and time.

5.7 Cases and Prevalence of Corruption

Just like any other countries, China is not immune to corruption (Business Anti-Corruption Portal, 2010). Corruption is prevalent in many public sectors, yet land administration is one of the hardest hit (C. Liu, 2005). Corruption which involves land market (basically land transfer) has become an issue of great concern to the government for the past few years. In 2008 the Discipline and Supervision Authorities of MLR have found out 31,000 cases of, involved 220,000ha of land, land use violation out of which 20,000ha were taken under the banner of leases (Xinhua, 2008). In the same cases, more than 2,700 officials who were allegedly involved in those land related corruption were referred for prosecution. In another separate incident, government officials of Yangzhou sold 60 hectares of land secretly without the knowledge of the owners (China Daily, 2010b). Corruption in the land market is quite rampant; involves top to low level ranking officials. It looks every corruption cases involve land transfer corruption. Apart from what is mentioned above there are also some other investigations done by the MLR over the years. No surprise, in almost all cases land market sector was involved in corrupt practices. Some of these findings are listed by Business Anti-Corruption Portal (2010):

- i. A survey conducted in 2006 revealed 3,067 corruption cases and approximately half were related to land transactions;
- ii. A survey of 2005 in 16 cities by the MLR showed that about half of the land used for development was obtained illegally;
- iii. According to the MLR, more than one million cases of illegal acquisition of land were discovered between 1999 and 2005.
- iv. In 2010 MLR has found 53, 000 cases (27,000ha) of illegal land use (China Daily, 2011).

Despite pressure from central government to combat corruption and increase transparency in the public sectors, officials at various levels themselves are still involved in corrupt practices (Xinhua, 2008). Most frequently, corruption happens between officials and developers (C. Liu, 2005) who are interested in land

purchase. The law of the country allows land to be transferred through negotiations, auction and tender. This flexibility, specifically negotiation, allows the officials to manoeuvre the law and indulge themselves in unacceptable practices. Corruption in the land market happens in various forms and can be summarized as follows:

- Illegal sale of LURs to developers by local or municipal officials;
- Providing favored developers land at very cheap price or sometimes for free (Xinhua, 2008);
- Bribe taking to offer preferential treatment for developers in process of land transfer;
- Deal making between officials and bidders or land purchasers;
- Making decision which favors developers while it is against the interest of the public;
- Putting state owned land for personal or family use.

All of these are serious manifestations of bad governance which hurt public interest. Once deep rooted, it can paralyze land market through killing the confidence of investors. It can increase transaction cost which in turn encourages people to avoid formal market and engage in informal land market. It hurts the prospect of creating well-functioning land market. In general, it is only those who can afford to pay bribe and those who are well connected to officials can benefit from it.

5.7.1 Measures in Place to Combat Corruption

In order to combat corruption surrounding land transfer Chinese government has taken some measures. Some of those measures are targeted at fighting corruption and others at educating the society about corruption (preventive measures). Below we see the laws aimed at reducing corruption and highlight some of the measures taken to fight corruption in land market:

1. In 2009 the government amended the criminal law which has criminalized all kinds of corruption in public sector. According to this law abuse of position or public property by a civil servant is illegal (Business Anti-Corruption Portal, 2010). Land Administration Law of 1998 (article 228) criminalizes any act of involvement in illegal LURs transfer for personal gains. The country has strengthened its fight against corruption and misuse of public property by ratifying the United Nations Convention against Corruption (UNCAC) in 2006. These initiatives show how recently resilient the country is in its fight against corruption which is mainly a major problem in land market sector. These two could be effective tools against corruption if used and applied properly.
2. There are two main fronts through which the country faces battle against corruption: Central Committee of Discipline Inspection (CCDI) and National Bureau of Corruption Prevention (NBCP) (Business Anti-Corruption Portal, 2010). CCDI's principal task is to combat corruption within Chinese Communist Party (CCP) cadres and to ensure the integrity of its members. CCP cadres play indispensable role in the economic and administrative arenas. They are active players at all levels and parts of the country. If CCDI manages to get the result it intends to achieve, this could be great score as far as fight against corruption is concerned. In other way, NBCP was established in 2007. It is the government's anti-corruption bureau under the Ministry of Supervision. The NBCP collect and analyze information including from land sector. It finds and exposes corrupt behaviors in all departments as early as possible. It also sets standards to judge whether an office or an official is corrupt or not (Xinhua, 2007). NBCP, in summary, has three main areas of responsibility.
 - i. Responsible for the orchestration, overall planning, policy formulation and examination and supervision of nationwide corruption prevention work;
 - ii. Coordinates and offer guidance to the corruption prevention work in enterprises, public institutions, social groups, intermediary agencies as well as other social organizations;
 - iii. Responsible for international cooperation and international aid with regard to corruption prevention.

3. Tough supervision, monitoring and punishment of corrupt officials. To reduce corruption the government has taken measures like frequent inspection (Yusuf, et al., 2008) which aimed at preventing or combating corruption at early stages. The government has recently stepped up anti-corruption campaigns and as a result many high profile officials in land transfer scandals have been indicted and convicted (Cai, et al., 2009). Though, corruption issues are very complicated and take time to show a sign of declining, recent initiatives show that the country is making great efforts and determination to fight corruption.

Corruption	Source Organizations	Score	Rank		year
Control corruption	WGI	-0.15			2010
	IPRI	4.1/10	80/125		2010
	HF	36/100			2010
Anti-corruption agency	GII	68			2009
Corruption perception index	TI	3.5	78/178		2010
Bribe payer index	TI	6.5	21/22		2008
Fight against corruption	TI	Decreased	Same	Increased	2010
		25%	29%	46%	
Government fight against corruption	TI	Effective	Neither	Ineffective	2010
		36%	30%	35%	

Table 5-5 Corruption index for China

Despite many efforts land market is still mired by corruption. According to World Bank World Governance Initiative (WGI) the county is still facing big challenges. Overall, it only scored -0.15 (score ranges from -2.5~2.5) which is quite poor in many regards. Global Integrity Index (GII) of 2009 shows China's overall score for putting anti-corruption agency in place is 68; which is categorized as weak. Score of 78 for anti-corruption law by the same organization is regarded as moderate. These show that the country is having good anti-corruption laws while anti-corruption agency is either weak or ineffective in its fight against corruption. Transparency International (TI) reports that corruption perception is one of the highest; which is 3.5 and the country rank 78 out of 178 surveyed countries. In the country, many still believe that corruption is increasing and 35% of those who were surveyed believe government's fight against corruption is ineffective (table 5.5). In general, though corruption still exists, the country has made significant progress regarding establishing anti-corruption safeguards (Global Integrity, 2009). Table 5.5 gives insight into corruption indices composed by WGI of the World Bank, TI, the Heritage Foundation (HF), GII and International Property Rights Index (IPRI) of the De Soto Foundation.

5.8 Summary

Chinese urban land market which is dominated by powerful real estate developers and SoEs is beyond the reach of the urban poor and the low income groups. Land price is very high for the poor people, middle and low income groups. It is raising quickly and constantly more than annual income growth. This makes land unaffordable for most of urban residents. In order to address these challenges, the government has put pro-poor policies which have targeted urban poor and low income families. The government has put policy tools such as subsidies, administrative land allocation, tax exemption and other affirmative action to provide the poor the chance to own property. These policies are being implemented and shown promising results. This market based intervention has given many to purchase relatively affordable houses. These show that, though the market is not equitable, the government is having policies which encourage equity.

There is low level of the stakeholders' participation in the process of land requisition both in urban and rural areas. Once decided by the people's government it is hardly possible to reverse the decision. Victims of eminent domain can negotiate about compensation and seek clarification as to why the expropriation is needed. But recently prepared draft law could improve the position of victims in this regard.

Though the process of land transfer has been showing progresses, a sizeable percentage of land transactions in Chinese land market lack high-quality, reliable and comprehensive pre-sale information. Land market information, in particular how negotiations are taken place, is held away from public by the authorities at various levels. Openly accessible and widely available information is primarily about land transfer through auction and tender. But there are significant improvements in recent years; especially after RDGI. Above all the rest issues raised here, the main challenge remains the immature nature of land administration. Land administration is still a new idea in the country as the country slowly emerges out of socialist system. This has huge impact both on the development of land market and availability of land market information.

There are also remarkable progresses as far as creating efficient, transparent and the market which is less mired by corruption. Land registration is done in speedy fashion particularly in the most developed cities and provinces. Cost of land transfer is also not too high to discourage land transfer. The government is also dealing with informal land transfer. The process of land transfer and registration are also done in semi-transparent way. People can access ownership information easily. The government has also stepped up its fight against corruption in land market which is mainly related to illegal state land transfer and fraudulent authorization of the use. Revoking use rights and taking back illegally owned state land is becoming common.

6. DICUSSION

6.1 Introduction

We have, in chapter five, presented data from secondary sources. We have analysed and assessed it from good governance perspectives by employing the framework developed in chapter three. In this chapter, we make thorough discussion by making a link between the evidence obtained in the previous chapter and existing knowledge in the area. Here we highlight the major findings, explain the meaning of the findings, relate the meaning of the findings to other similar or related findings. This chapter is divided into nine sections which are related to the sections in chapter 5. The second section discusses about property rights and tenure security in China. The third section highlights on the efficiency of administrative allocation and transfer through negotiations. The efficiency of modes used to convey land LURs is discussed under section four. Issues related to equitable land market and access to information is discussed in section five and six respectively. Section seven and eight make discussion on registration efficiency and land transfer and information supply transparency respectively. Section nine focuses on the implementation of laws and policies in place to improve land transfer/market.

6.2 Circumstances Surrounding Property Rights and Tenure Security

Chinese tenure security and the initiatives taken by the government over the years to improve the protection of property rights have shown remarkable improvements. In the country access to urban land is gained through LURs which give a holder the rights to use the land for purposes such as construction, transfer, mortgage, and inheritance. In the past this was not possible at all. Gradually, property rights protection is becoming better and the numbers of bundles of rights are increasing. The Constitution and the Property Rights Law (PRL) guarantee protection of property rights. The State shall not take back the rights of land use that the land users have obtained in accordance with the law before the expiration of the agreed term prescribed in the contract except for public interest. LURs upon the ending of the contract can still be extended. The PRL provides lease rights for residential use takes to perpetual use because of LURs' automatic extension. Long investment time in combination with the possibility of extension once it ends, makes lease policy good enough to boost the confidence of those who want to invest in land. Referring to property rights protection in the country, the head of the World Bank in China has told The Sydney Morning Herald (2007) that "China has pretty good private property protection." Property rights in urban areas enjoy relative security (Deininger & Jin, 2009). However, The Economist (2007) argues that the new law will not bring the full ownership the country demands. The CATO Institute (2007) also believes that the Property Law still contains many general provisions which are vague or misguided. These signals that property rights in the country has been showing improvements although what is currently in place cannot be considered as complete which guarantees full security of tenure.

What is transferred is LURs which is a lease system. The study reveals that the system by itself is not problematic. Payne (2001) argues that long term lease is generally considered as a sufficient level of tenure security to stimulate investment for individual occupants. Seen from this point, lease duration for LURs transfer in the country, supplemented by likely extension, in the urban areas can be regarded as relatively safe. The lease right the country provides by itself is not the reflection of weak tenure security. Also UN-HABITAT (2003b) states that for the urban poor and low income groups, free hold tenure is not the best option. The organization advocates, particularly for the urban poor, lease system which provides necessary level of security and it is relatively cheaper as well. This is primarily for the reason that free hold tenure is

expensive for the poor, though highly secure. The basic freehold provides, which is security, can even be guaranteed by well honoured and implemented lease. In this regard, lease tenure in China has to prove that indeed it is better option in terms of giving urban poor access to land cheaply and securely.

To build harmonious community and create conducive environment for investment, tenure reform is imperative. Nevertheless, sweeping tenure reform may not always be the best approach (UN-HABITAT, 2003a). Chinese government has embarked on series of steady tenure reforms since 1988. To create better tenure security in order to engage investors in the land market, the country amended the constitution and enacted new land laws. This tenure reform, as discussed under section 5.4.1, has resulted in massive real estate development. Real Estate Law of 1995 has established the institutional framework for land market development. Land Administration Law of 1998 has improved the position of rural collective owners' and farm land protection. It has also cemented the path towards more protected property rights (article 13 of LAL). PRL of 2007 has come not as a matter of overnight overreaching tenure reform, but it is a result of relentless efforts for years to create fertile ground for secure property rights. This law has granted individuals equal rights to property with the State and collective ownership. It has been ushered as a new dawn of Chinese property rights security and further development of land market (Time, 2007). As one particular example of improved tenure security, some provinces, Shanghai, has stooped forced taking if it fails to convince the owners for the purpose of creating land banking (Xu, Yeh, et al., 2009). This is an indication of overall steady improvement in tenure security: compensation is drastically improving and arbitrary eviction has been reduced.

6.3 Efficiency of Administrative Allocation and Land Transfer Through Negotiation

The research has demonstrated that major means of land transfer such as administrative allocation and negotiation are not allocating urban land to the best users and best use. Hin (1999) has also argued that administrative allocation does not allow full direct market forces to determine the price and location of the land. In contrary, as we have seen from the result, most of urban land goes to administrative allocation (section 5.3.2) for infrastructure development. Administrative allocation, in other way, makes low cost housing projects financially feasible (Hin, 1999). The research has also demonstrated the same. The government for years, as a policy tool, has been extensively using administrative land allocation system as one of possible and preferred tools to engage both private and SoEs developers in the development of affordable housing projects. Recent reports show that administrative allocation for other purposes is diminishing while allocation for affordable housing is increasing. This can be mainly attributed to the government's policy shift towards making affordable houses available in cities.

According to Hin (1999) administrative allocation may not conform with principles of efficiency in resource allocation. Instead of relying on the market in allocating land, allocation may be largely based on social and political variables. This disallows land transfer not to be entirely based on market principles. Inefficiency comes in various ways. Land could be misallocated if supply does not depend on market price. It encourages those who request land to apply for the land in areas where they do not necessarily need it. Administrative allocation encourages potential applicants to request more than what is needed. This is because the land is provided by paying mere compensation. Land market value would have restraint them from seeking prime location and big area. These problems have been experienced in China too. Xu, et al. (2009) have found that some educational institutions requested more land than what is needed and also used the land they got by administrative allocation for profit instead of using it for pure educational purposes. Some SoEs have big areas and seldom transfer vacant and excess land informally which beyond encouraging informal market has an effect on land market performance as well. Administrative allocation, in general, rarely creates best use and best user of land. The government has realized weakness in governance and restricted administrative land allocation only for the land which can

be used for government organs and military use; for urban infrastructure and public welfare; and for building energy, communication and water and other projects supported by the State (LAL article 54).

In another way, land transfer through negotiation provides incentive for developers. They can bargain with local authorities and get land for different projects. This is to say that land price cannot be the main predicament when it comes to project development. As Xu, et al. (2009) put it, negotiation can be effective way of kick-starting development. This incentive enables local officials to attract investment into their areas and earn huge revenue. However, negotiation can encourage resource abuse, corruption and under table negotiations (Cai, et al., 2009). Our study reveals that negotiation has two aspects. First, officials have managed to attract local investment and FDI, and have earned massive revenue. Second, the investment and consequential revenue comes at the cost of transparency and efficiency. In many instances, when negotiation was used, land was transferred at very low price and the deal is hammered in a much obscured way. This findings is in the line with what the research of Cai, et al.(2009) has revealed. According to them negotiated means of land transfer entails hidden processes and nominal land price. Many municipalities have taken initiative to limit negotiated means of land transfer.

6.4 Land Supply and Means of Land Use Rights Transfer

The state has been acting as the sole supplier of urban land and land for construction purposes. But this research has indicated that the trend is gradually shifting and showing signs of diversification. Since 2005, pilot project has been started in rural community (mainly in Guangdong) which allow them to negotiate with developers and transfer their land except for commodity housing (Xu, Yeh, et al., 2009). This has many benefits. First it plays great role in terms of minimizing land expropriation and subsequent displacement. In fact, this has tremendous impact on improving governance through limiting wide speared use of eminent domain power. Second it facilities for the development of strong land market. Previously land supply for urban construction was completely controlled, with the exception of illegal transfers, by the State. Now, if this pilot project is extended to other provinces farmers too can supply land for better benefits and to contribute more as far as balancing demand and supply in the market is concerned. Third it can also reduce the rate of illegal or informal transfer.

The result shows that land transferred through tender and auction has many advantages. First, it plays prominent role in terms of increasing transparency and efficiency of land transfer. This leads to improved land governance. Second, land transfer through tender and auction leads to high price: which means high earning for the owner and high State revenue. It has also multiplier effects; high revenue, more social and infrastructural development and improved city life. Third, it encourages allocation efficiency. Firms or individuals cannot get more that what they actually need and prime areas (Central Business Districts-CBD) only be awarded to the highest bidder. This is in line with the point of Hin (1999) and Ding (2003) who argue that land market based transfer has increased revenue and efficiency in the country. In open economies different land users bid for properties taking the benefit they can expect from the use of a particular site into consideration. The findings have visibly demonstrated positive correlation between land transfers by tender or auction and improved land governance (improved level of transparency regarding price determination and resource allocation). Even though the government is making continuous efforts to create transparent way of land transfer, yet land transfer through tender and auction accounts for smaller share of what is being transferred on annual basis.

6.5 Adminstrative Land Alloaction for Affordable Housing to Creat Equitable Land Market

What this research has found out is that Chinese government has stepped its effort up to create equity that can give access to land mostly to the urban poor. This policy direction is in line with the Istanbul declaration. Pro-poor land polices have got more attention and the government has revitalized its

commitment to supply affordable housing in the midst of galloping property price. As emphasized by UNHABITAT, policy improvements in affordable housing provision and security of tenure seem progressing hand in hand. Chinese government has various policy options to deal with equity issues. Instead of direct land allocation to the urban poor, provision of affordable housing is considered as preferred way of creating equitable land market. The government has engaged developers and implemented market based incentives to materialize ambitious affordable housing projects. Some of the most widely practiced ones are administrative land allocation, tax exemption and financial subsidies for developers participated in the affordable housing projects. Policies which have targeted the urban poor (equity concern) has enabled the government to pull more than 65 million Chinese out of slum like condition between the year 2000 to 2010 (section 5.9.1). This is hailed as one of the major success stories (UN-HABITAT, 2010). Yet, the policies are not far reaching. Many still cannot compete and access property in open and competitive land market; first due to huge economic gap between the urban rich and the poor, and second due to high price-to-income ratio.

Competition among various developers and booming land market have pushed property price high. Let alone when the market is driven around by mega companies, even in perfect competitive land market environment, it is hardly possible for the low income groups to access land. This finding agrees with the findings of Wu, et al.(2010) which show the price of land in the country is very high and constantly increasing. It is long time since it has become clear that market suffers from imperfections which make low income groups' access to land very difficult. Market imperfection is one of the reasons why the need for government intervention is ultimately required (Dowall, 1993b). What the result of this work has shown conforms to the point of Dowall. Providing the poor access to property through government intervention is more of equity concern as it has been advocated by UN-HABITAT (2003b). The organization makes clear that provision of land for basics like shelter is not a matter of choice rather it is matter of upholding human dignity.

6.6 Land Market Information Accessibility and Reliability

According to our findings, China has taken right direction and steps to make land market information accessible. The law of the country calls for speedy information provision; which is at spot. If this cannot be met, the organizations dealing with land matters should make information public within 20 days. Individuals can access any information apart from what is described as the State and economic secrete. Land registry, for owner verification, is open to anyone who has demonstrated his/her interest. Local Land Administration offices are required to cooperate, facilitate and even provide copies of the ownership information. This is in line with what Molen (2007a) has argued for. In case of information refusal, an aggrieved natural/non person may file complaints and seek redress. Officers in charge who are found to be reluctant or refused to provide information can be punished or even sued. There is also a policy directive which requests 50 major cities to release land market information on regular basis. These all have significant impact in terms of making information of land market in the country more accessible and reliable.

Local bodies are best suited to provide access to reliable public registry and update information (UN-HABITAT, 1996). Land registry in China, in accordance with the Istanbul declaration, is at local level and the regulation demands all registration to be done at where the property is located. The mandate of registering property is also given to the local officials at municipal or county level. MLR has also initiated the need to establish land information management databases at provincial levels. Here the idea is not to create fragmented land registry and information provision. Moreover, the need for integration and creating platform for better cooperation is provided in the Property Rights Law of the country.

E-government empowers citizens by providing them with an optional channel for accessing information. The government understands the value of e-governance both for fast access to land market information and better service provision to citizens (Ma et al., 2005). We have discovered that, in China, there is increasingly high level of online access to land transfer information. Both primary and secondary market information can be accessed online. The providers are both official and non-official sites. The main focus of official sites is the provision of information related to the State owned land transfer which is done through tender and auction. Information from nonofficial sites encompasses primary land market and other information related to real estate businesses. However, land market information in economically weaker areas still lacks quality and reliability. In generally, what this work has established is that access to land market information in the country has been considerably improved over years (section 5.9.2) and what is in place right now is by far better than what the researcher anticipated at the initial stages of the research. It cannot be long time, the trend shows, before the country will join the category of those counties which provide high quality and easily accessible land market information.

6.7 Registering Property- Efficiency view point

This research has established that, high percentages of properties in Chinese cities are in the registry and registration in rural areas is underway. Registration is conducted at local level (county) where the property is located. This is supported by UN-HABITAT (2003b) which argues that registering property at local level increase transparency and accessibility. Efficiency of registration concerning the number of procedures involved, time and cost, especially for cities like Shanghai, is quite remarkable (section 5.9.3) even as compared to many developed nations (better than OECD average). Some other big and middle size cities are, interestingly, following the success of Shanghai when it comes to efficiency in property registration. Efficient registration system, fewer procedures, as has been pointed out by (P. Molen, 2007) has considerable positive effect on tackling bribery and power abuses by officials. Current level of efficiency in the country, if reinforced more, might contribute a lot as far as reducing the prevalence of corruption and transaction cost are concerned.

Land registration which facilitates not only property ownership information but also legal protection is mandatory in China. The law is unequivocal in the sense that land transfer without undergoing registration process cannot enjoy legal protection in case dispute arises between parties involved in informal transaction. In order to have effective land market, institutions like land registration is indispensable. In the absence of functional land registration system in place, land market suffers (Zevenbergen, 2002). This study has revealed that in the past there was no uniform approach to property registration. Provinces/municipalities had their own way of dealing with registration. In this manner, number of procedures they follow was different and the level of efficiency was also diverse. So as to create national platform for uniform registration, legal provision has been included in the PRL of 2007. As this research has found out from the World Bank Doing Business survey, this law has yet to be fully implemented.

6.8 Transparency in the Processes of Land Transfer and Information Provision

Most recently China has taken concrete steps in order to improve transparency in the land market. To make this happen, laws and decrees have been passed in the recent years which strongly call for transparent land transfer methods such as tender and auction under public inspection instead of negotiation which is less transparent. Negotiated means of land transfer, which is blamed for corruption and bribery, has been strongly discouraged. Transparent information provision wise, government information disclosure regulation of 2008 has formed legal basis for mandatory transparency in information provision. Similarly other laws, such as Property Rights Law of 2007, have provisions which make land registry and transfer transparent. The registry can be accessed by anybody who is interested and Land Administration bureaus should cooperate; if needed should provide copy of the land ownership

information to interested parties. Molen's (2007a) point is strongly in agreement with this. He believes information should be open to general public and should be provided transparently. He further argues that public interest in information disclosure is important than the individual's interest in holding information secrete. Article 35 of Real Estate Administration Law prohibits both refusal to report land transfer price and untrue reporting of the price. All the sources we touched under chapter 5 show that there is sufficient level of legal provision to create transparent condition for land markets.

Transparency is one of the desired outcomes of good governance in the area of land market. Transparency in regard to land transfer and information provision has shown significant positive changes since the inception of land market in the country. The research findings point at remarkable improvements in this area as well. The government, in particular central, sees the importance of transparent transfer of land and the processes as mechanism of improving resource allocation, revenue maximization and accountability to citizens. There should be transparency in all land related matters (Zevenbergen, 2002) in order to pave the way for the creation of dynamic and vibrant land market.

As indicated by other researchers, Jones Lang LaSalle (2010), transparency in Chinese land market has shown notable development. However, it is still far below the success achieved by other countries in the region (section 5.6.3). This could be mainly attributed to the gap between passing laws and policy formulation, and actual implementation. Clear and transparent land transfer and information provision is not only dependent on laws and policies. Moreover, culture plays a role, and human and technical facilities in place as well have great stake as far as realization of legal and policy blueprints are concerned.

6.9 Implementation of Laws and Policies Designed to Improve Land Market

In different section we have seen that Chinese government has put various laws and policies such as pro-poor land polices, decrees on information disclosure, regulation on negotiated means of land transfer and combating corruption. These laws and policies are aimed at increasing equity, access to information, efficiency, effectiveness and transparency. These laws and policies could yield positive results if implemented properly (Deininger & Feder, 2009). Effective implementation requires strong local governments' capacity to do things and necessary institutional arrangements (UN-HABITAT, 2003a). Coordination among various levels of the government also needs due attention for the successful implementation of either policies or projects which might improve the performance of land market.

The interest of central government and local governments have in urban land market does not always coincide (section 5.9.3). Both want to see regulations and the policies which fit into their agenda priorities and interests. This kind of parallel stake in land market inhibits the implementation of laws, policies and projects which are designed to improve land market and have effect on its performance as well. This research has also realized the gap between legal frameworks and its implementation in some cases. Efforts by the central government to end negotiation have not ended or significantly reduced negotiation as initially anticipated. In the areas of information disclosure too, some provinces/municipalities are also lagging behind. There are even some provinces which fail information disclosure tests. The pace of affordable housing projects is not as fast as it should be, mainly because of weak coordination between local and central government in this sphere too. With respect to land, Xu, et al. (2009) believe, the enforcement of central policies are quite challenging if not completely impossible. Land acquisition is not always smooth due to lack of cooperation between the local governments and collective land rights holders. This could lead to heightened tension between the two and subsequent weakness in governance.

7. CONCLUSION AND RECOMMENDATIONS

7.1 Introduction

This research takes the assessment of urban land market from good governance perspectives with special emphasis on urban Land Use Rights (LURs) transfer. The assessment has been done at three levels: input, process and output level. At the input level we have mainly focused on the institutional arrangements which are in place to usher the development of land market within the environment of good governance. At the process and the outcome level we have seen the functionality of these institutions and the results which have been obtained as a result of having these institutions. To assess specifics such as equity, transparency, participation, efficiency and effectiveness, access to land market information and combating corruption in land market we have developed assessment framework based on good governance dimensions. Below we provide the overall conclusion and recommendations of the research.

7.2 Conclusion

We have provided the conclusion of the research based on the three sub-objectives we have developed earlier in chapter one.

Objective one: *To develop good governance indicators that help to assess urban land market.*

Assessment framework has been developed by taking six dimensions of good governance into account. Those dimensions are the one which have direct relevance with land market. Each dimension has indicators which are used to assess land market. Those indicators are developed by asking various questions which could show the nature of governance in the market. Once developed, the framework has been validated depending on expert opinion.

Objective two: *To find out how urban land market operates within the context of LURs.*

Urban land market in China operates solely based on LURs transfer. Primary land market depends on land which comes mainly through land requisitions from collective owners. This way land under collective ownership is converted to state ownership for the purpose of using the land for urban construction. The government pays compensation for expropriations although it is not based on market value. Widely applied use of eminent domain power and absence of proper compensation has created less security and resulted in grievances among the collective owners and urban residents whose properties are taken for redevelopment. Once the process of land takings is completed, municipal governments transfer the land in the primary market to different actors for various urban uses. This could be done through administrative allocation, negotiations, tender and auction. Here in principle land conveyance, except administrative allocation, depends on market value. Process of land transfer in most of the cases is exposed to informal payments.

In China, large volume of annual land transfer is being done every year. The main driving force behind sheer volume of land transfer is rapid urbanization, improved tenure security which has increased investment in land development and economic growth that has created opportunity for many who consume more land for residential, commercial, industrial and infrastructure purposes. The main actors who play prominent roles in LURs transfer are: the state both as the sole urban land supplier and guarantee provider; developers (private, SoEs and foreign) who buy land in bulk and sale it to other

consumers after developing it; financial institutions which make fund available for the developers and provide mortgage for home owners and finally users who are the ultimate consumers.

Objective three: *To assess the level of equity, access to information, participation, efficiency and effectiveness, transparency and combating corruption.*

Urban land for infrastructure and public organizations is supplied through administrative allocation. Land transfer for the rest cases, including residential, are market based. High property price, matched by low income of the urban poor and low income families, makes urban land inaccessible for many. Particularly the case in big cities is severe. There is high price to income ratio in the country. Under the current situations land market does not guarantee equity. It is largely catering for the rich who can afford to purchase property. However, the government, through its pro-poor policies, is making intervention. An effort has been made to create equitable land market which makes the poor and low income groups have access to property. For this to happen the government has been using market mechanisms such as subsidies (for home owners and developers), tax breaks and administrative land allocations for developers who make affordable housing available in the market.

In China recent laws and policies request all public offices to make information easily, quickly and widely accessible to the general public. Land laws make the provision of land ownership information, land price information and the publication of statistical information mandatory. In case of unreliable data provision, the law provides, the government compensates the victims. According to the law, refusal to provide information can be punishable. Most of the municipalities in the country, as a result, carry land market information online. Before transfer and after transfer information can be accessed especially for tender and auction. Nevertheless, information about land transfer through negotiation is still hardly accessible. Generally, access to land market information has been showing remarkable improvements.

Land ownership information is open to public and can be inspected and examined. Copies of the documents can be obtained on request. Land transfer, land laws require, should be done openly; this even includes land transfer through negotiations. Nonetheless, Chinese land market transparency record is still far behind even the regional markets despite significant effort to improve the level of transparency. Though, the effort the government has put in place in this regard has also moved the country's land market to the level of semi-transparent level. However, both the level of access to land market information and transparency in the country reveals big regional variations.

Initial registration in urban areas is mostly completed. Land transfer registration is widely practiced. Previously there was no uniformity throughout the country though the PRL of 2007 has created a platform for uniform registration. Municipalities, so far, have different procedures and level of efficiency. Major Chinese cities have attained significant level of efficiency in terms of registration efficiency: the number of procedures, time and cost involved. Economically weak cities are lagging behind. This perhaps has created an environment for informal land transfer development. Informal transfer is common in the country though according to the law of the country it does not enjoy legal protection. Nevertheless, currently the level of informal transfer has dropped remarkably from what it was in the 1990s.

Land market in the country is susceptible to power abuses and misuses. State land sale, using for personal use and fraudulent authorization of LURs transfer have been reported over years. In order to minimize these kinds of malpractices and state land abuses, the central government has recently stepped up its effort to combat corruption in land transfer. It is strengthening its anti-corruption agencies and making regular land supervisions. There is annual reports of illegal land use and investigation of those who are involved. The government has also taken illegally transferred and abused lands back, and those who are misused

their power are being punished. Though the government's move in terms of rooting out corruption and corrupt practices surrounding land transfer is in the right direction, yet it is far behind in its score as far as creating land market with minimum degree of corruption is concerned.

7.3 Recommendations

Principally, this research has overwhelmingly relied on secondary data from official and non-official sources. Reliance on secondary sources has its own inherent weaknesses. This research would not be free of these kinds of shortcomings despite the researcher's relentless effort to crosscheck the accuracy and reliability of data collected from diverse secondary sources. This research would have reflected better result had it been supported by empirical data. Apart from the need for empirical work, this research recommends the following points for further researches.

It has appeared from this research that there are institutional arrangements, though most of them are newly developed and being institutionalized, which could create fertile ground for the development of land market which adheres to the principles of good governance. Yet there are indications which points at the existence of shortcomings when it comes to the implementation of those laws and policies. In some cases, even local authorities are reluctant to adopt and implement national policies if they conflict with local goals and policy priorities. This gives insight into the need for detailed study into the level of implementation to answer few questions and address the following issues rigorously.

- How big the gap is between the land market laws/policies which promote well-functioning land market and their implementation?
- Why occasionally disagreements and lack of cooperation exist between the local governments (municipal/city governments) and central government? Is it because the central governments developed national land market policies which do not take local interests into account? Or local authorities fail to implement those policies simply to pursue their local or individual interests through state land sale?
- This research has given more emphasis to the laws and policies which lay foundation for well-functioning land market as far as governance is concerned. The result these laws and policies produced have also been presented. In this regard, however, more has to be studied to see the real impact of some of those progressive laws and policies.
- Validate the framework. It is just part of the indicators in the framework which are used in our study. Those indicators which need empirical data are left out. Exhaustive study is recommended by employing the framework in its entirety and using empirical data.

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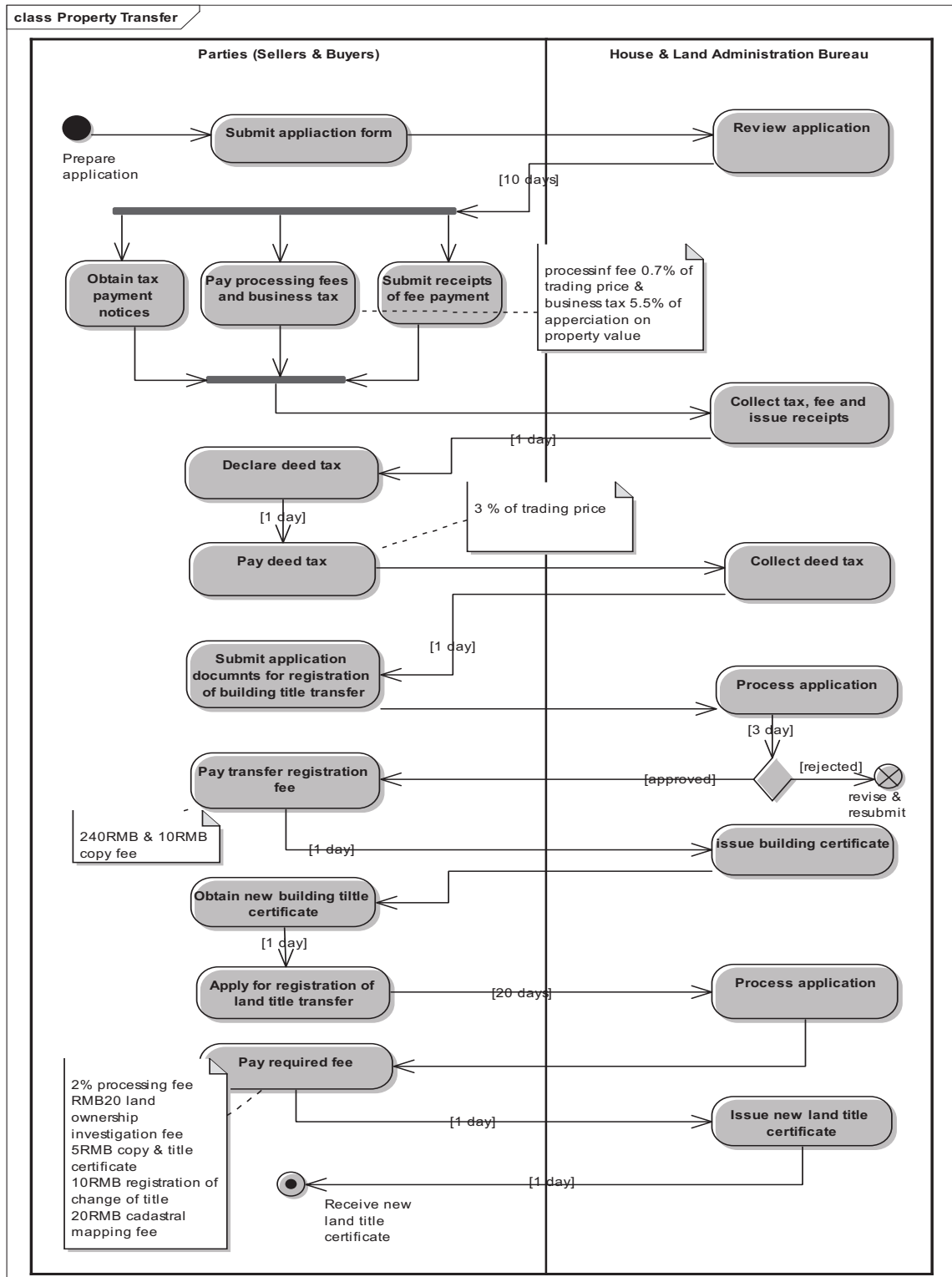
LIST OF APPENDICES: Appendix 1 The assessment framework

ASSESSMENT FRAMEWORK FOR URBAN LAND MARKET (Indicators Based on Good Governance Dimensions)		
Dimensi ons	Market performance (governance) indicators	Means of assessment /method of verification
Equity	Equal opportunity to the poor (fair competition in the market)	Availability of laws and policies and its enforcement mechanism (yes/no)
	Policies and laws of great importance for the poor	Availability of affordable land and housing scheme (yes/no)
	Positive discrimination/affirmative action	Adoption of special/preferential treatment to the poor (women and other vulnerable groups) (yes/no)
	Subsidies for the poor (to buy/rent land and access shelter) or tax break/exemption	Availability of Positive discrimination (yes/no) and the % of the poor who benefited from it (possession of rights)
	Alternative sources of finance (loans and credits) for the poor/Equal opportunity to loan and mortgage	Number (%age) of the poor who access loans and mortgage
		Number of financial institutions (formal) that provide loans to the poor
	Level of down payment and Interest rate	% of down payment and interest rates for those who want to buy land or house
		Perception of people about down payment and interest rate (high or low)
	Affordability of land and housing	Perception about price of land and house (high, low etc.) depending on annual disposable income
	Tax regime (transfer and other taxes)	% of land transfer taxes (capital and stamp)
		Perception of people about tax (high or low)
Participation	Open consultation about the matters (spatial planning) that could affect land market and property value	Level of involvement of the poor (number of poor participants and the role they play (active/passive))
	Engaging in policies that are designed to give the poor access to land through market	Taking part in planning (spatial) (yes/no)
	Involvement of the poor in matters related to takings and subsequent compensation (if driven by market forces)	Ability to influence the decision/outcome (yes/no)
Access to information	Legal provision for making land market information openly available	Availability and perception about its practicality (yes/no)
	Timely market information (sales, rent, mortgage etc.)	Frequency of essential market information in public (daily, weekly, monthly, yearly etc.)
	Volume of market information readily available	Quantity and dimension (cover every important topic)
	Reliable and authentic information (ownership, land use, future development plans, legal encumbrances etc.)	Perception about its reliability and authenticity (+/-)
	Cost involved in accessing market information	Perception (free, cheaply, expensive etc.)
	Level of accessibility of information (geographical and administrative)	Accessibility (local, regional and national level)
	Media used for land market information outlet	Type of media (radio, internet, TV, papers)
	Availability of land market information in	Information in ones' own language

	local languages	
Accountability	Answerability of leaders/authorities to local people	Possibility of removing/fire them from office
	Leaders can be held responsible for market decision they make that would affect livelihood of the poor	Availability of inspection and appraisal (yes/no)
	Authorities can be held liable for inappropriate behaviour and practices	Existence of strong civic organization or watch dogs (yes/no)
	The poor have voice in electing and removing their leaders	The power is in the hands of people (yes/no)
	Code of conduct	Strictly followed or routinely violated (yes/no)
	Assessment of services and civil servants	Audit of service level (high/low)
Efficiency & Effectiveness	Time needed to access market information and do transaction	Minimum time (hours) required to complete tasks
	Cost of transaction	Amount of transaction cost involved
	Procedures involved	Number of steps and paper works involved from the beginning till the end of transaction
		Stakeholders' perception (many, easy, complex etc.)
	Engaging the poor(vulnerable groups) in the formal land market	Number and/or % of low income people involved in land transfer (formal market)
	Affordability of land and housing	Perception about price of land and house (high/low) depending on annual disposable income
	Annual volume of land transaction	Total transaction and share of low income people (% of the poor)
	Recognition of informal market	Strategies for incorporating informal market (yes/no)
	Capacity to implement/enforce laws and policies	Perception about the authorities/institutions contract enforcement capabilities (+/-)
	Coordination among offices at various levels	Availability of clear mandate and strong commitment for cooperation (+/- or yes/no)
	Barriers and legal hurdles on supply and demand (regulations, procedures and condition) in land transfer	Perception about availability of legal barriers and hurdles that inhibit the poor from participating in land market (yes/no or high/low)
	Service standard	Measure of perception about level of satisfaction (high/low) by assessing time, processes and cost involved
	Impartial, speedy and affordable court proceedings	Perception about courts independence (not under local authorities or not give verdict in favour of the authorities in case of expropriations and dispute over contract) (+/-)
		Assess courts track record (+/-)
		Number of backlog cases (high/low)
		Number and experience of legal professionals (high/low)
		Amount and number of legal fees (stamp, lawyer etc.) or availability of legal aid
	Land administration professionals	Number (adequacy) of professionals and their skills/expertise
	Customer satisfaction	% of the customers who have positive view about the service provided (satisfied) or general perception

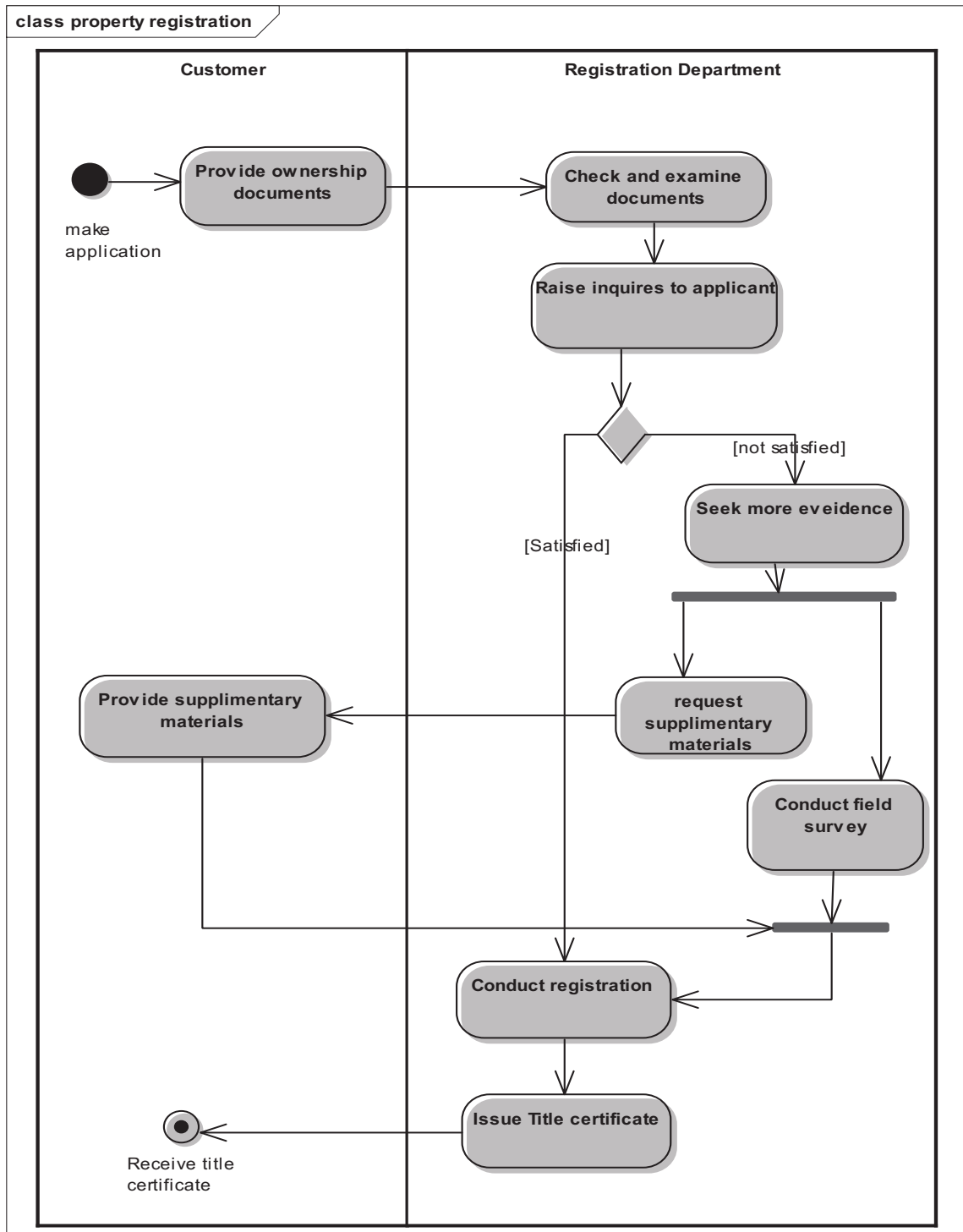
Transparency	Legal provision for making land market information openly available	Availability of a law(yes/no)
	Publicly available information about fees involved and procedures to be followed	Awareness about fees involved and all steps to be followed (by making a survey) (high/low)
	Notification of state land sale (tender, auction and negotiations)	Enough and timely aforementioned notification i.e. make a survey (yes/no)
	Publication of detail data about land prices	Availability of land price data (yes/no)
	Clear procedures about land valuations	Perception about land valuation (+/-)
	Timely publication of detail land market and land use regulations	Awareness of policy changes (yes/no)
	Public inspection of the procedures and land prices (sale, lease, rent etc.)	Access to detail procedures and price determination (yes/no)
	Application of E-governance (for participation, consultation, complaints, decision making)	Access of E-governance to the wider public for service delivery and improvement-accessible/not i.e. make a survey
Combating Corruption	Anti-corruption laws and policies	Their existence (yes/no)
	Anti-corruption agencies	Existence of whistle-blowers (yes/no)
	Strategies formulated to combat corruption	Availability of the strategies (yes/no)
	Reported cases of corruption	Cases of grand and petty corruption (yes/no and number)
	Prevalence of bribery	% of people who pay bribe to access service
Rule of law	Enforcement of land transfer contract and ownership rights	Perception about resolution of contested transactions (+/-)
	Legal protection/security (de jure and de facto) during and after transfer (sale, lease, mortgage) without discrimination	Confidence in legal system (+/-)
		Availability of grievance redress mechanism (Ombudsman) (yes/no)
		Perception about legal system or profession-partial/not partial (+/-) i.e. make a survey
	Impartial court (dispute resolution) despite people's economic status	Number of those who aggrieved by the court decision
		Chance to appeal and re-appeal- (check for availability of legal provision and make survey)
		Likely chance of winning petition(low, high)...make survey
	The poor can reject undesirable decision(eviction, unfair compensation, high land and housing prices, high tax rates)	
	Handling corruption cases	Per cent of alleged corrupt leaders (local and national) brought to justice (prosecuted)

Appendix 2 property transfer registration Activity Diagram (based on data from Doing Business-2008)



*This typically explains the situation in the city of Chengdu

Appendix 3 General property registration Activity Diagram (based on PRL of 2007)



Appendix 4 Synthesis of the secondary data (data sources and types of data collected)

Data sources and organization		Data sources	Data type
Literatures		Journal articles Books	Background on land market Laws and policies Land transfer Governance
Official documents	National	Websites Statistical yearbooks	Land and real estate laws , policies and regulations
	Regional	Books	Land market statistics (sale, price, transfer types, affordability figures)
	Municipal	Journals Other publications	Procedures and forms
UN agencies	UN DATA	Websites	Population (facts on urban residents)
	UN HABITAT	Books Reports	Urbanization Living standard
	UNDP	Publications (annual and monthly)	Low income groups Housing condition
BANKS	World Bank	Websites (WB Data)	Population data
	Asia Development Bank	Reports Publications	Urbanization Governance data Registering property
Other organizations	Transparency International	Websites	Property rights/ tenure security
	World Governance Assessment	Reports	Governance rankings (this includes governance situation in all sectors in general and in the land market in particular)
	Heritage Foundation	Database	
	Public Institutions Database	Books	
	Global Integrity Index		
	International Property Rights Index		
Real estate agencies	Real estate transparency index	Websites	Land market rankings (transparency, land price, price ratio etc.)
	Global Property Guide		
Media	Xinhua	Websites	Reports on various issues ranging from land price, land supply, land demand, governance, land laws, policies, current developments etc.
	China Daily		
	Global times		
	Bloomberg		

Appendix 5 Call for tender to transfer Land Use Rights

Beijing Municipal Land Resources Bureau tender to sell state-owned land use right notice (Beijing soil move the whole reservoir (notice) Zi [2010] No. 166)

Beijing, the entire reservoir of soil trick (notice) the word [2010] No. 166 Published :2010-12-1

By the Beijing Municipal People's Government, Beijing Municipal Land Resources Bureau has decided to tender way to sell 3 (increase) the right to use state-owned land plots. The announcement is as follows:

First, the basic situation of tender to sell land and planning the indicator:

Parcel Number:	Move the entire reservoir of soil in Beijing (Chang) [2010] 167	Parcel Area:	156,531 square meters	Were located:	Village, Shahe Town, Changping District, a residential land for the project
Transfer period:	70 years	FAR:	Equal to 2	Building density (%):	
Green Rate (%):		Building height limit (m):		Land use:	Other ordinary commodity housing land
Investment intensity:		Margin:	150 million yuan		
Starting price:		Bid Increment:			
Notes:	70 residential, commercial 40, consolidated 50				
Parcel Number:	Beijing, the entire reservoir of soil move (on) [2010] 166	Parcel Area:	107,835 square meters	Were located:	Song Town, Tongzhou District, Beijing, second-class residential and commercial and financial sites
Transfer period:	70 years	FAR:	1.5-1.6	Building density (%):	
Green Rate (%):		Building height limit (m):		Land use:	In the low-cost, small and medium size apartment land
Investment intensity:		Margin:	130 million yuan		
Starting price:		Bid Increment:			
Notes:	70 residential, commercial 40, consolidated 50				

Second, the People's Republic of domestic and foreign legal persons, natural persons and other organizations may apply to join, the applicant may apply individually, or you can joint application.

Third, the second tender to sell state-owned land use right in accordance with the principles of the highest bidder determine the winning bidder [in this tender to sell state-owned land use right in accordance with the tender documents to satisfy the provisions of the comprehensive evaluation of the prospective bidder is not the principles set the winning bidder].

Fourth, transfer of the tender details and specific requirements, see the tender to sell documents. Applicant may, at December 1, 2010 to December 20, 2010 to the land market in Beijing to sell access to the tender documents.

The applicant may at December 20, 2010 to December 22, 2010 to the land market in Beijing bureau a written application to me. The deadline to pay the bid bond is at 15:30 on December 20, 2010 . Upon examination, the applicant required to pay the bid bond, with the eligibility criteria, I will in at 3:30 p.m. on December 20, 2010 prior to confirm their qualification.

Sixth, the state-owned land use rights in this tender is scheduled for November 30, 2010 to December 22, 2010 in Beijing land market for December 22, 2010 in Beijing land market opening.

Seven other matters required to be announced:

VIII, contact and bank account

Address:
Contact:
Phone:
Recipient:
Bank:
Bank account number:

Beijing Municipal Land Resources Bureau

Appendix 6 Online land transfer information

List of 2009 turnover

No.	Parcel Name	Parcel Location	Auction Start Time	Starting price (million)	Land area (square meters)			Planning, building area (square meters)	Trading	Planning applications	Completion Date	Transaction price (million)	Transferee unit	Degree of development	The number of live auction
					Total	Construction area	Collected in area								
1	Beijing Economic and Technological Development Zone in southern New X19-1F2 plot of industrial land in the project of state-owned construction land use right transfer notice	Beijing Economic and Technological Development Zone in southern New X19-1F2 block	December 23, 2008	1378.8421	25069.86	25069.86	0	50140	Transfer notice listing	Industrial land	January 8, 2009	1378.8421	Henderson State Power Technology Co., Ltd. Beijing	Qi Tong Yi Ping	0
31	Xicheng District, living outside the project (former German Foreign dilapidated building block F1)	Guan Xiang, Xicheng District, Tak	February 12, 2009	18103	6360.407	6360.407	0	15901.02	Transfer notice listing	Live support	February 26, 2009	21200	Infrastructure Beijing Huarong Investment Co., Ltd.	Qi Tong Yi Ping	26
73	Tongzhou District, Beijing, No. 70 Juan Street, residential, commercial projects of state-owned construction land use right transfer	Tongzhou District, Beijing, No. 70 Juan Avenue	May 5, 2009	38000	90063	63394	26669	136,587	Transfer notice listing	Land for housing and public service facilities, commercial and financial sites	May 19, 2009	62400	McKinley Real Estate Development Co., Ltd. Beijing	Leveling	80
74	Chaoyang District, Beijing residential land on the 10th Guangqumen	Chaoyang District, Beijing Guangqumen 10	May 7, 2009	29925	42549.96	32299.95	10250.01	72500	Transfer notice listing	Housing and public services	May 21, 2009	102200	Beijing R & F Real Estate Development Co., Ltd.	Qi Tong Yi Ping	89
75	Sha Yu, Shunyi District, Beijing, the town of construction of public infrastructure projects in the state-owned land use right transfer	Sha Yu, Shunyi District, northeast of the town center	May 11, 2009	16054.1627	107,805.4	89236.8	18368.6	178,473.6	Transfer notice listing	Multi-function (except for residential purposes other facilities mix)	May 25, 2009	40500	Beijing Shun Feng Flower Logistics Xinmao	A flat six-way	241

Source: Beijing Municipal Bureau of Land and Resources -2009

Appendix 7 After transfer information

Hui Xian City Land Resources Bureau state-owned land use right auction and sell transactions publicity

In accordance with the "Land Management Law," "Urban Real Estate Administration Law," "bidding auction to sell state-owned land use rights provisions" and "bidding auction to sell state-owned land use rights norms" and other relevant laws and regulations, principles of openness, impartiality and fairness principles. I Bureau on 8 October 2010 to October 18, 2010 listing to sell nine cases of state-owned land use rights. Publicity about the situation now is as follows:

First, the basic situation of land:

Lot No	2010-11A1	Block location	Total City Avenue to the north, after the street south of the city, build a road west of the military and civilian	Land use	Other ordinary commodity housing land
Land Area (hectares)	3.667041	Transfer period	70	Transaction price (million)	2075.32
Transferee unit	Real Estate Development Co., Ltd. Huayi Huixian				
Lot No	2010-11A2	Block location	Total City Avenue to the north, after the street south of the city, build a road west of the military and civilian	Land use	Other ordinary commodity housing land
Land Area (hectares)	4.156129	Transfer period	70	Transaction price (million)	2309.88
Transferee unit	Real Estate Development Co., Ltd. Huayi Huixian				

Second, the public notice period: October 25, 2010 to November 5, 2010

Third, the case to the two sides have signed a sales confirmation, signed the grant contract within 30 days, the relevant issues in the contract

Fourth, contact

Contact: Hui Xian City Land Resources Bureau
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 Postal Code: 453600
 Tel :0373 -6,233,928
 Contact: Han Zhigang
 E-mail: hxlyk@126.com

Hui Xian City Land Resources Bureau
 October 25, 2010