
Need land administration reform? Start a revolution

PENELOPE FIDAS AND JIM MCNICHOLAS

You can bring a horse to the river, but you can't make it drink. This saying describes the futile attempts of development agencies to convince the government of President Shevardnadze on the need to reform land administration. The United Nation's Development Program first organized a seminar in Tbilisi in 1996 to discuss the need for improvement. Other donors soon joined. After numerous study tours, seminars, conferences and papers, the government was presented with a reform proposal in early 2003. In July the proposal was shelved.

Enter a reform-minded government in January 2004. Four months later major reforms are implemented.

Private lands, public problems before 2004

Until the land-privatization program that began in 1992, most Georgian farms were state-run collectives averaging 428 hectares in size. Even under Soviet rule, however, Georgia had a vigorous private agricultural sector. In 1990, the private sector contributed 46 percent of gross agricultural output, and private productivity averaged about twice that of the state farms. Under the state system, designated plots were leased to farmers and town dwellers for private crop and livestock raising. As during the Soviet era, more than half of Georgia's meat and milk and nearly half of its eggs come from private producers.

The Gamsakhurdia government (1991-1992) postponed systematic land reform because he feared that local mafias would dominate the redistribution process. But within weeks of his ouster in early 1992, the new government issued a land reform resolution providing land grants of one-half hectare to individuals with the stipulation that the land be farmed. Commissions were established in each village to inventory land parcels and identify those to be privatized. Limitations were placed on what the new "owners" could do with their land, and would-be private farmers faced serious problems in obtaining seeds, fertilizer, and equipment. By the end of 1993, over half the cultivated land was in private hands. Small plots were given free to city dwellers to relieve the acute food shortage that year.

The Law on Private Ownership of Agricultural Land was passed in 1996. By then, nearly 4 million land parcels covering 930,000 hectares had been allocated to 1.4 million households. But because of the high fee—26 lari for each parcel, or about \$20—most new owners did not obtain sale-purchase acts. Land management fell to the State Department of Land Management, along with several other agencies whose responsibilities overlapped and sometimes contradicted each other. Decisions on land management, disposition, and registration were often delayed, confused, and swayed by bribes.

In 1996 Parliament issued the Law on Land Registration. But the law had a major flaw: the registry recorded only initial owners, not subsequent transactions. The State Department of Land Management tried to solve the problem but was overwhelmed with other tasks. Its mandate was too broad: design and implement programs for land valuation, land statistics, land registration and the cadastre, state control over land use and natural resources, development of state land management policies and legislation, and land reform, land arrangement, and disputes over property.

Other agencies further complicated matters. The Ministry of Agriculture and Food was responsible for agrarian reform, and the Ministry of State Property Management auctioned public lands. The Ministry of Urbanization and Construction shared responsibility for land-use planning and policy formulation. The Bureau of Technical Inventory kept records on real estate in urban areas. And the State Department of Geodesy and Cartography regulated surveying and mapping. Go figure.

The many functions of the State Department of Land Management created conflicts of interests. Land taxes and land-use conversion charges were based on land categories assigned by department authorities. Local political influence marred land categorization, dispute mediation, and registration, because the department's offices were paid by the local governments. Next, duplicate fees for services and conflicting property registrations discouraged the public. The Bureau of Technical Inventory, responsible for surveying and providing land cadastre sketches under the Soviet system, continued to conduct initial registrations, sometimes becoming a double registration system. Also, the Chamber of Public Notaries continued to be responsible for issuing non-encumbrance certificates, adding an additional step to already confusing procedures. Finally, both the State Department of Land Management and the Bureau of Technical Inventory were dependent on state funding, but they lacked the resources to fulfill all of their responsibilities.

Underfunded and marked by local power fiefdoms, land registration was rife with corruption. Low salaries, political influence, and poorly defined responsibilities and procedures created opportunities and incentives for abuse. Although agencies charged only nominal fees, "the actual price of land registration was determined by the amount of the bribe," explains Irma, a real estate broker familiar with both the old and new systems. Bribes started at \$100.

Unqualified employees made matters worse. One study by the Association for the Protection of Land Owners' Rights, a Georgian nongovernmental organization, suggested that 40% of department staff were unfit for their jobs.

Political will overcomes obstacles

The need for change was pressing. In 2002 the chairman of the State Department of Land Management convened a working group—including department representatives, international organizations, and local groups—to identify priorities. The Association for the Protection of Land Owners' Rights was active in the working group and subsequent reforms.

The working group built support for broad reforms. In early 2003 it submitted a concept paper to the chairman outlining the core objectives: to simplify and clarify registration, to streamline the department's functions, and to establish a transparent, self-financing registry through differentiated user fees. But the department was not ready for reform. Vested interests at local offices and in management feared losing influence over land privatization and administration. And the political environment discouraged risks.

“The starting point, and most important aspect of the discussion, was the political will to initiate reforms,” explains David Egiashvili, then chairman of the State Department of Land Management. In November 2003 a rigged election brought thousands onto the streets of Tbilisi. They demanded change. President Shevardnadze was soon ousted in the “Rose Revolution,” and a reform-minded government sworn in soon after.

On 25 January 2004 President Mikhail Saakhashvili took the oath of office, promising sweeping changes to make Georgia prosperous. Land reform and anticorruption measures were key to Saakhashvili's plan. In February Egiashvili became the new chairman of the State Department of Land Management. He convened a management team to oversee changes, including Tea Dabrundashvili, the first deputy chairman, and Nino Bakhtadze, head of the Tbilisi Registry Office. The Association for the Protection of Land Owners' Rights was a strong supporter from the start.

The goal was a new system to guarantee transparency and efficiency. The working group began with legislation and institutional reform. Drafting new legislation took 10 months. In June 2004 the Law on State Registry established the new National Agency of Public Registry, under the Ministry of Justice, to replace the State Department of Land Management and the Bureau of Technical Inventory. The agency was to be independent in its budget. In December 2004 the Law on Registration Fees for Services of the National Agency of Public Registry defined the agency's fees.

The details of reform

The changes were dramatic. The management of the old department was fired. The information of the two previous institutions was transferred to the new agency. Employees moved to the new registry, but they had to apply for their jobs and take an exam to retain their positions. A massive recruitment campaign invited more people to apply. The exams were advertised widely.

The agency conducted more than 3,000 examinations, trimming the agency to about 600 employees, down from 2,100 at the State Department of Land Management and the Bureau of Technical Inventory. Salaries grew 20-fold—from 41 lari a month (\$23) to 740 lari a month (\$411)—which created a keen competition for positions. The Tbilisi Registry Office established an incentive system with performance bonuses, equivalent to 2 monthly wages.

Broad public information campaigns educated people about the benefits of property registration. And people trusted in the community spoke for the reforms. The Association for the Protection of Land Owners' Rights held public meetings, wrote newspaper articles, and distributed flyers. This initiative was important to success. The public responded with more registrations.

The effort drew on the ideas developed by the working group and international partners. No specific models were used. The Georgian system incorporated elements from the reform in Lithuania, and lessons from study tours and international workshops.

Development agencies, led by the German Development Bank, the German Technical Cooperation, and the World Bank, contributed expertise and technical advice, legal drafting, and equipment. The costs included capital, hiring, training, and the time to prepare and implement the transition. Capital costs—renovations, furniture, and computer hardware and software—exceeded \$1.2 million (table 1). The costs of improving cadastre information, which now covers 70%–80% of the country, were fully financed by the German government.

The campaign was not without setbacks. Although begun in December 2004, staff recruitment was not done until August 2005. Frequent changes at the top of the Ministry of Justice also slowed reforms.

Corruption down, registrations up

Everyone agrees that the reform reduced corruption at the registry. Jaba Ebanoidze of the Association for the Protection of Land Owners' Rights explains, "This is a combination of general reforms conducted by the new government, but at the registry agency specifically corruption has been virtually eliminated."

TABLE 1
The costs of reform, 2004–2005

	Cost (\$)	Contribution (% of expenditure by source)	
		National Agency of Public Registry	International sources
Renovations	836,036	36	64
Software	3,673	6	94
Computers	245,226	35	65
Furniture	154,708	100	0
Total	1,239,643	44	56

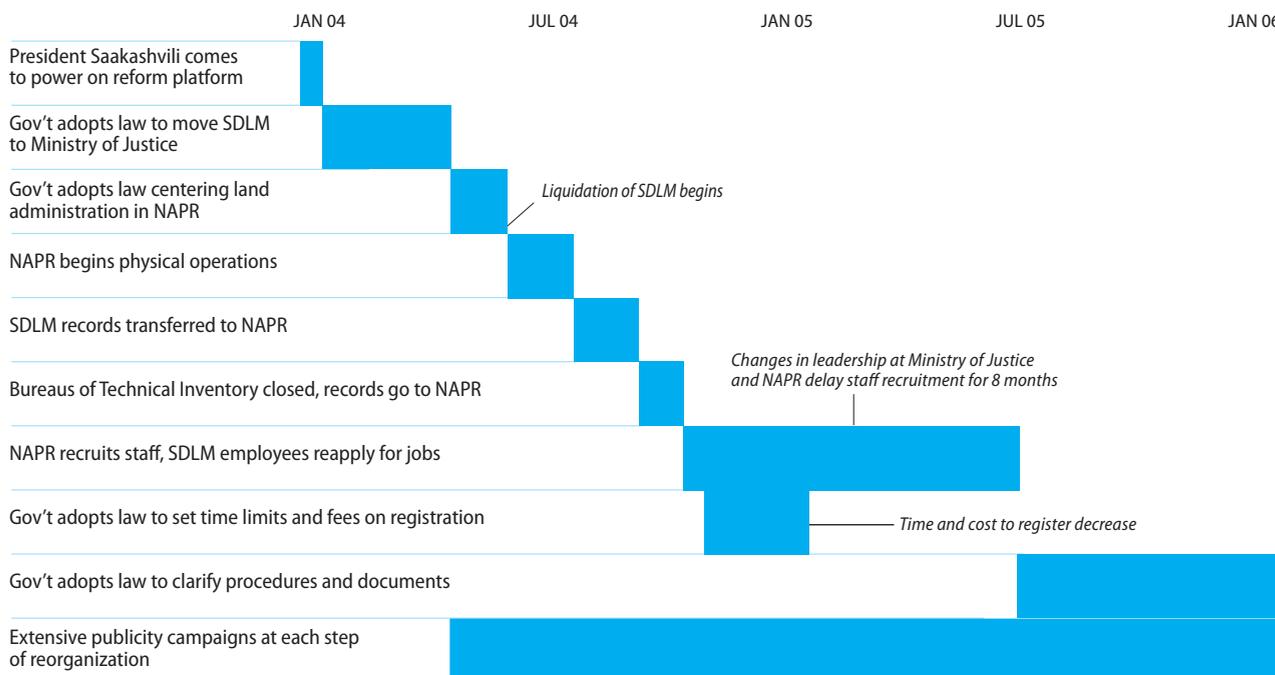
Source: National Agency of Public Registry

Lela Shatirishvili of Tbilisi Title Company highlights the role of differentiated fees and a new management culture: “That the level of service has improved and corruption has been reduced is obvious.” Marina Khatiashvili of the Georgian Real Estate Association agrees, saying “Today, there are no bribes.”

By 2005 revenues had already increased significantly, thanks to higher registrations, a new fee structure, and the retention of funds at the registry. People have become more willing to enter the property market, due in large part to the security of the new registration process. One goal of the reform was for the new agency to be self-financed through internal control of its funds. This was achieved in 2006, and the agency’s fees now fund its operations. The higher salaries were funded by the higher fees collected at the new registry. And funding grew because of efficient services, with time limits and fees set by law.

FIGURE 1
How Georgia reformed property registration

Source: Doing Business database.



Note: SDLM is the Georgian State Department for Land Management, and NAPR the National Agency of Public Registry.

The procedures, time, and costs fell after the introduction of the National Agency of the Public Registry and the new law (figure 1). And optional expedited procedures, combined with lower fees and centralized procedures, put Georgia among the 10 least expensive countries to register property and among the 15 most efficient in the world, according to the World Bank's *Doing Business* report.

The government continued to reform and improve the system. The Law on Registration of Rights over Real Property, passed in February 2006, further simplifies the process and sets limits on the documents needed to register.

How to limit the opposition?

Once the new government took office in 2004 the reform of the land registry faced little opposition. The government deftly minimized opposition by cutting registration fees and taxes and then redirecting them, appeasing both customers and the treasury. Although the 2% transfer tax was eliminated soon after the Rose Revolution, the registry lost no revenue because the tax previously went to the treasury. And because the treasury's losses were offset by increased revenues from other taxes, it did not oppose eliminating the tax either.

Key to the reform was dissolving the old department and creating a new agency. An overhaul of the old institution would have failed. It was too rigid and slow. New institutions with new mandates changed operations and mentalities—the services employees expected to provide and customers expected to receive.

For farmers like Erekle Katamadze, a certificate of registration has led to financial options he didn't have before. With a plan to buy a neighboring plot, Erekle expects to harvest an unprecedented five tons of grapes this season—four of which he will sell to winemakers. More importantly, Erekle and farmers like him are demonstrating an important aspect of land reform in Georgia: owning their own land encourages farmers to take responsibility for their own futures. "We're not just talking about the right to buy and sell land; we're talking about the right to manage our own lives," he explains. "Now we can decide for ourselves what to grow, and the profit gained is our profit. Owning your own land is an incentive to work harder, to live better."

Georgia needed more financial resources, so revenues were key. Its small size promoted a centralized information collection and registry system. Its limited technological resources demanded a simple documentation process. And its poor roads, electricity outages, and inefficient postal system required that services be available locally.

An appetite for further reform

“The situation is better, but it is not enough,” says Egiashvili. Recognizing that conditions and services at local offices are not consistent, the government plans investments in equipment and training. One worry is that increasing flows of registrations will pressure resources and challenge the agency’s ability to provide accurate and timely services.

Recent tax reforms have had a significant benefit on the performance of agribusiness. Property taxes on plots of land less than 5ha have been abolished. The 2005 Tax Code provides also for the abolition of tax on transactions in property, zero percent profit tax and VAT, zero percent VAT on primary supply of agricultural products, and zero percent import duty on agricultural and other equipment.

Further ideas from the Ministry of Justice to implement these changes are expected. Zaza Bibliashvili of BGI Law believes that the system is moving in the right direction. “The laws are manageable,” Bibliashvili says. “Now it is time for society, and members of the business community in particular, to demand improved services in these and other areas of the government.” The Rose Revolution promised prosperity. And this can only be achieved with continuous reforms.