*ENHANCING LAND REGISTRATION AND CADASTRE*

# Land Administration and Social Development

Land and the way governments deal with it are of major importance for the development of any society. The authors present land administration systems as an instrument to support implementation of land policies and deliver the services required for security of tenure, markets, planning and taxation.

In the Global Plan of Action for Sustainable Development adopt-ed by the Rio Conference 1992 (Agenda 21), global objectives of combating poverty, sustainable settlement, sustainable agriculture and forestry are directly relat-ed to the land issue. According to this plan, strengthening legal frameworks for land management and ownership is strongly recommended. The aim is to facilitate access to land for the urban and rural poor, to create efficient and accessible land markets and to establish appropriate forms of land tenure providing security for all land users, especially indigenous people. The McKinsey Global Institute calculated in its report *The Growth Imperative (2001)* that the removal of barriers to the performance of the property market would propel forward economic growth within India by 1.3%.

### Security of Tenure
A Plan of Action adopted by the Habitat II Conference in Istanbul 1996 considered sustainable hous-ing to comprise not only a roof over oneâ€™s head but also enough room, access to land and security of tenure. This plan advocated providing sufficient legal security of land ownership and land use, equal distribution of land to all people, and protection against illegitimate expulsion. Governments should, it says, further aim to provide legal frameworks facil-itating the land market. One new initiative is the Global Campaign for Secure Tenure launched last December by the UN Commission on Human Settlements (Habitat) as a follow-up to the Istanbul Conference. The Campaign states that insecure tenure inhibits investment in housing, hinders good governance, promotes social exclusion, undermines long-term planning, distorts prices of land and services, reinforces poverty, and adversely affects women and children. The priority Action Point is the struggle against forced eviction, as the UN feels that this constitutes a gross violation of human rights, in particular the right to adequate housing.

### Ideologies
The UN defines Land administration as the process of determin-ing, recording and disseminating information on ownership, value and use of land when implementing land-management policies. â€˜Ownershipâ€™ is to be seen in a broad sense: land tenure, as the mode in which rights to land are held, based on statutory law, common law, customary traditions and informal us. Land administration is not a purpose in itself but aims at serving society when implementing land policy through land-management activities. How to deal with land is a matter of government policy in every country. Here we enter a very sensitive field, as land policy will be very much determined by ideology. It makes a world of difference whether capitalists or communists, socialists or liberals are in power: will the land and its benefits be allocated to the rich or the poor, to large-holders or small-holders, to individuals or to the state? There is a growing notion that ideology, history and attitude of a people are important parameters in understanding the role and organisation of land administration in a certain country. From an ICT-architectural point of view, such a tool will materialise in the form of a geospatial data infrastructure, ultimately within a digital environment, as a network of distributed data sources. Within the institutional framework (public administration, good governance, legal framework) land-administration systems will occur in various forms. As far as land tenure is concerned there are deed and title-registration systems, negative and positive systems of legal evidence, general and fixed boundaries, legal status according to private and public law, centralised and decentralised systems, and all forms in between.

### Misunderstanding
Compared to other geo-information systems, a land-information system (LAS) represents more than just physical attributes of spatial objects; namely the relation of human to land in the form of rights, interests and responsibilities. These relationships might be based on statutory and common law, customary traditions or informal use, and are therefore more comprehensive than the traditional western approach to ownership, often called â€˜colonialâ€™. As such, land administration relates directly to the norms and values in society. Without an in-depth understanding of land-tenure arrangements it will be hard, if not impossible, to identify the processes of determining, recording and disseminating information on tenure arrangements which need to be in place to deliver the services required for adequate facilitation of security of tenure, market planning and taxation. The instruments for estab-lishing LAS, the adjudication process and mapping, are focused on the recording of existent land-tenure arrangements: the status quo. Both adjudica-tion and mapping have a static connotation. Land adjudication does not create rights; it only establishes existing rights. Mapping, fixing some kind of geo-reference to the object where rights to land are being exerted, also by its nature reflects the status quo. The mapping component of land administration has to provide sufficient specification of location of the object. It is a misunderstanding that this can only be done by defining a cadastral parcel and by precise boundary survey. Any sort of geo-reference recognised by a community will meet the demands of specifying an object. Indeed, it is a misunderstanding that object definitions without any reference to the Earthâ€™s surface can meet demands of providing

evidence of the location of legally recognised land-objects.

## Land Markets

The above mentioned global summits expect a free land market to move the key economic resource of land towards the highest and economically most efficient use. Governments are therefore challenged to encourage the creation of efficient and accessible land markets that meet community needs by improving cadastres and streamlining procedures in land transactions. The World Bank Land and Real Estate Initiative urges the reengineering of cadastres, the development of regulatory infrastructures and access for the poor. According to the World Bank, access to land and access to credit, especially for the poor, is to be facilitated by simple, fast and clear procedures, cheap and accessible information on land, clear definitions of land tenure and property rights.

Knowing the inequitable distribution of income across the world, one might wonder what instruments are available to a government wanting to regulate the market in such a way that not only the rich benefit. One recent experience is that some Eastern Europe governments are considering restricting the new, open land market, as the few privatisation-oligarchs will in due course possess the bulk of the land in the country. After all, the effects of a really free open market can be disastrous. Without any doubt, the abolition of moratoria on land transactions, elimination of restrictions on the size of ownership, elimination of price restrictions, elimination of land-use restrictions, and minimisation of preferential rights for government will all be in favour of the rich. We would like governments to consider regulations on:

- maximum size of land holdings, in order to break up large holdings
- minimum size of land, to prevent farmers from being too small
- pre-emptive rights to acquire public land
- approval of land-transfers to prevent undesirable changes in land use
- anti-speculation orders
- moratoria on land transfer
- price restrictions to facilitate access to land by the poor
- credit ceilings with land as collateral, to avoid a boost in foreclosures.

This should be done in a well-balanced manner, as too many restrictions and unnecessary regulations will immediately result in an informal market.

## Move to Cities

Planning and development should be seen as an intervention by the government in existing proprietary structures. Although urbanisation attracts more and more of the attention of international organisations, rural areas should not be forgotten; as the complex of food, water and land is a major prerequisite to solving the problem of 600 million people suffering from hunger. However, the growth of urban and peri-urban areas constitutes a big problem: in 1950 30% of people lived in urban areas; the United Nations estimates that in the year 2030 60% will do so. At the same time, experience shows that governments in 'non-western' countries can by no means cope with the migration of rural people to the cities, resulting in a growing number of informal settlements. It is estimated that up to 80% of urban growth is in informal settlements. Problems accumulate dramatically, resulting in lack of services, no infrastructure, bad hous-ing and, above all, insecurity of land tenure. The World Bank estimates that 25% of all urban dwellers live in poverty.

## Land Taxation

Land administration traditionally serves land-taxation purposes. An international survey showed that of fourteen countries spread around the world, all had some kind of immovable property taxation. All countries used information from cadastres, land registry and land-title offices, except Israel, where they use information extracted from building permits. Normally the land tax is a local tax as a source of autonomous local-government revenue. An UN/ECE inventory shows that of the forty ECE member countries, 95% operate a land-valuation system for assessing land values for taxation. Countries in transition also introduce land taxation, which constitutes a joint challenge to efforts towards privatisation, decentralisation of state power and market development. For example, in the Republic of Estonia the revenue from local land tax is already 3% of the local budget, in the Czech Republic 3%, in the Slovak Republic 11% and even, in Poland, 13%.

In Columbia, as in many other Latin American countries, there is political debate highlighting the difficulty of measuring the land-tax base due to obsolete current cadastres. El Salvador is discussing the introduction of a municipal land tax for the city of San Salvador, starting from a simple tax rate and growing into a more sophisticated system. An up-to-date LAS is essential for levying land taxes. Without knowledge about taxable persons, objects and market values it is hardly possible to enforce land taxation. The Federation of Bosnia Herzegovina, for example, after the signing of the Dayton peace treaty, is currently tying to develop local land tax based on the existing cadastral records combined with local public-housing records and information from utilities. The demands for urban services normally exceed the financial capacity of local governments, which makes land taxation a very popular means of generating revenue. At the same time, a government can regulate the land market by fiscal measures.

## Concluding Remarks

GIS-Development, the Centre for Science, Development and Media Studies and FIG Commission 7 (Cadastre and Land Management) took the initiative of dedic-ating a two-day international conference to discuss enhancing land registration and cadastre in India, see FIG page, this issue.

## Further Reading

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