



LAND AND PROPERTY REGISTRATION AT THE CROSS ROADS: A TIME FOR MORE RELEVANT APPROACHES

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Land registration and cadastral surveying in much of the developing world has reached a crossroads. It is not possible to continue with business as usual in the face of massive informality within the world's cities, and new more relevant approaches have to be developed. A critical review of land registration has started both inside and outside the professions. Conferences held by the United Nations and the Federation of International Surveyors produced Declarations (Bogor (1996) and Bathurst (1999)) that facilitate the adoption of new approaches.

Why land and property registration is criticised

Conventional land registration does not supply urban tenure security and access to land for the majority of city dwellers. They do not benefit from the land registration system and instead often lose their land because of the system. Land registration is generally seen as centralized and expensive to the user, as the systems are designed for use by the middle class and/or previous settler population. Also, the system is only capable of recording legal land parcels and not the 30-80 percent of illegal urban land parcels of most developing countries. In addition to this, registration systems are based on colonial laws in regard to inheritance, forms of evidence, administrative procedures etc., and therefore not relevant to local conditions. Finally, they are based on individual rights and unable to accommodate group and/or family rights, and they are not transparent and user friendly, especially to women.

In addition to this, there are extremely serious equity and governance issues associated with present systems. Conventional cadastral and land information systems do not serve the vast majority of most developing countries' populations. A review of land registration, cadastral and land information systems indicates that there is likely to be no documentary evidence of title for the majority of parcels in developing countries. For example, best estimates indicate that in South American countries 70 percent of parcels are undocumented. That is, in general the majority of people's land rights are not protected through any form of land registration in developing countries.

Also, most developing countries only have about 10 percent of their parcels surveyed, with this dropping to less than 1 percent for sub Saharan Africa. Surveying creates land information for land management. Often the only land information available for this purpose comes from this 10 percent and relates to that part of the city where formal legal procedures were used for planning. Despite numerous initiatives during the last decade to improve land information systems, limited results have been achieved. Many countries are still battling to create land information systems that supply sufficient coverage, at large scale, that are up to date and have integrity, and to integrate diverse data sets held by a wide range of government departments and utilities. Relatively few of these data sets also contain information about informal urban land use and settlement -i.e. the illegal part of the city.

Developing relevant approaches

Capacity needs to be developed to undertake land management/administration by addressing the development of systems and products that can be used by the majority of people -this includes both tenure and information products. Also, these products should accommodate local tenure rules (informal and/or customary) and bottom up public participation approaches. In addition to this they should facilitate group (including family) approaches, and not just individual. Also, they should contribute to poverty alleviation and to supplying tenure security and land for the urban poor. The products should be affordable, decentralized, transparent and user friendly, especially to women and other vulnerable groups, thereby increasing good governance. Finally, the products should supply evidence to protect people from eviction and to strengthen their right of possession.

We therefore need to develop a range of new approaches such as firstly decentralised technical processes that are transparent and easily understood by local people. Secondly, we need to create land information management systems that can accommodate both

cadastral parcels and non cadastral land information. Thirdly, we need to find new ways to supply tenure security to the majority, by the documentation of rights and boundaries for informal settlements and/or customary areas, without using cadastral surveys, centralised planning and conveyancing undertaken by property lawyers.

Fourthly, we also need to develop accessible records, both in terms of their location and user-friendly products, as well as new approaches so that technicians, para-professionals and local land management institutions undertake most of the work for low value land, and land professionals are involved only in policy development and management. In most developing countries land professionals are in short supply and they are the only people who are allowed to perform, or supervise the performance of, cadastral surveys, thereby creating the legal evidence for the boundary of a land right. By comparison, technicians are more numerous, are locally based, and are cheaper to train, but colonial based laws, regulatory frameworks, licensing procedures etc do not allow them to perform cadastral surveys in their own right.

Fifthly, we need to develop new tools for this new paradigm -technical, administrative, legal and conceptual. For example, instead of focusing on accurately surveyed cadastral parcels only, we need to develop Spatial Data Infrastructures (SDI) to include poorly surveyed tax parcels and/or data bases used for billing electricity -these latter forms of information often serve as the first evidence of land rights. Also, the legal framework has to be adjusted, to enable the steps involved in land delivery to be driven at the local level by local land administrators/surveyors, rather than requiring administrative procedures and information flows constantly between the central and local levels.

Finally, new approaches to education, training and research need to be developed to facilitate this. For example, instead of focusing on supplying sufficient content to the learner for them to pass the technical exams only, learners should be able to understand that technical, legal, social, political and economic aspects are all integral parts of land management/administration, and that they cannot fix problems using technical solutions on their own. The real world with its multitude of over-lapping rights, contradictory land legislation, conflict over land, inappropriate legal frameworks etc, is much more complex than the world for which they are presently being trained. This in turn requires the development of holistic conceptual frameworks, as well as a teaching approach that enshrines problem solving by the learners. Also, to be able to problem solve the learners will need to learn how to partner communities, other professionals and local level technicians.

Some land managers, both academics and leaders in the profession, have acknowledged the problems and started work on more relevant approaches, such as:-

- Using cheaper technology and approaches for use by local level people undertaking land administration;
- Emphasising the creation of comprehensive land information for decision makers, rather than focusing on a few well surveyed cadastral parcels;
- Undertaking rigorous research linking the technical, institutional and governance issues associated with land registration;
- Developing a technical research agenda to facilitate a new generation of more appropriate technical and legal approaches;
- Developing participatory, decentralised and/or community based approaches for the management of land information systems and land management/administration;
- Partnering with other land professionals (land economists, land lawyers, planners, valuers) to develop integrated products;
- Designing appropriate education and training systems;
- Interpreting/reviewing national law to better fit with local government land management/administration needs, also for informal settlements.

Finally, many existing national regulatory frameworks create illegal cities. They also often prevent land professionals, such as land surveyors/managers who work on the ground, from actively addressing these issues. Therefore these frameworks need to be reformed as a priority.

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