Land Administration Systems

Underpinning the Human Rights Perspective

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ENGAGING THE CHALLENGES, ENHANCING THE RELEVANCE
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Land Administration Systems

Land Administration Systems provide the infrastructure for implementation of land policies and land management strategies in support of sustainable development.

- Land Tenure: Allocation and security of rights in lands; legal surveys of boundaries; transfer of property;
- Land Value: Assessment of the value of land and properties; gathering of revenues through taxation;
- Land-Use: Control of land-use through adoption of planning policies and land-use regulations at various levels;
- Land Develop: Building of new infrastructure; implementation of construction works and the change of land-use

Sustainable Development
Economic, Social & Environmental

Efficient Land Market
- Land Tenure: Titles, Mortgages & Easements; Secure legal rights

Land Value
- Assessment of land value
- Collection of property tax

Land Use
- Policies and Spatial planning
- Control of land use

Land Development
- Construction planning and Permits
- Regulation and implementation

Land Information Infrastructures
Built and Natural Environment Data Sets
Benefits to Society

- Support for governance and the rule of law
- Alleviation of poverty
- Security of tenure
- Support for formal land markets
- Security of credit
- Support for land and property taxation
- Protection of state lands
- Management of land disputes
- Improvement of land use planning
- Development of infrastructure
- Management of resources and environment
- Management of information and statistical data

The book is available for free online at http://www.fig.net/pub/others/index.html


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The Universal Declaration on Human Rights ....

- The Universal Declaration of Human Rights, 1948, states a range of general human rights such Art 1. All human being are born free and equal Art 3. The right to life, liberty and security

- More specific rights relate to freedom of thought and expression, and more social rights relate to the right of democracy, education, and also duty towards other people to enjoy the same rights and freedom.

- Of special interest to land and property is the human rights to own things (Art. 17) and the right of food and adequate housing for all (Art 25).

- These rights cannot be achieved or enforced without well functioning land administration systems. Especially to developing countries struggling to build adequate systems for governing rights, restrictions and responsibilities in land.

- Land professionals must reflect this human rights perspective when undertaking the role of managing the people to land relationship.
Article 17:
- “Everyone has the right to own property as well as in association with others … no one shall be arbitrary deprived his property”
- Article 17 was left out when transforming the Universal declaration into the two international covenants for “Civil and Political Rights”, and “Economic, Social and Cultural Rights”, adopted by the UN 1966. Property is a controversial concept.
- At regional level, however, the article is recognised in the American convention on Human Rights (1948), the African Charter on Human and Peoples Rights (1981) and in the protocol following the European Convention on Human Rights (1950).

Article 25:
- “Everyone has the right to adequate standard of living including housing, food, clothing, medical help and social services.” This is difficult to interpret.
- The ICESCR does speak about the right to adequate standard of living – but merely as the right to “minimal property such as “adequate food, clothing and housing”,
- This should not be interpreted in a strict sense should as the right to shelter as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. (Comment No. 4 adopted by ICESCR, 1991).
- This right to adequate housing has become the basis for the establishing the UN Centre for Human Settlement (1978) now known as UN-HABITAT.

Interests in Land
Human rights are affected by the way access to land and the use of land is managed. Land administration systems are the basis for conceptualising rights, restrictions and responsibilities related to people, policies and places.

Rights:
Registration and security of tenure positions

Responsibilities:
Legal responsibilities and duties as well as a social, ethical commitment to environmental sustainability and good husbandry

Restrictions:
Planning and control of land-use and land development
Formalising land rights through titling in traditional cadastral systems

“Civilised living in market economies is not simply due to greater prosperity but to the order that formalised property rights bring”

Hernando de Soto – 1993

Continuum of land rights (GLTN-agenda)

Recognising informal rights through a continuum of land rights.

“There is an urgent need to build simple and basic systems using a flexible and low cost approach to identifying the way land is occupied and used.”

FIG / World Bank, 2014.

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Responsible Governance of Tenure

International soft law instrument. The Guidelines represent a global consensus on internationally accepted principles and standards for responsible practices. They provide a framework that States can use when developing their own policies, legislation and programmes.

Human rights based approach. The Guidelines place tenure rights in the context of human rights. Tenure rights and their governance are important for the realization of human rights, such as the rights to adequate food and to adequate housing.

Guidance for a variety of actors. With the help of the Guidelines actors can determine whether their proposed actions and the actions of others constitute acceptable practices.
Property Restrictions
- two approaches

- The free market approach (current debate in the US)
  - Land owners should be obligated to no one and should have complete
domain over their land.

- The central planning approach (European perspective)
  - The role of democratic government include planning and regulating
land systematically for public good purposes.

- The human right to adequate housing and decent living (minimal property) relates
very much to planning and land reform. Without secure tenure, slum residents face
a constant risk of forced eviction.

- The UN Commission of Human Rights: “The practice of forced eviction constitutes
a gross violation of human rights, in particular the right to adequate housing”.

- Therefore, informal settlements should be seen as an integrated part of citywide
strategic planning that includes a range of innovative responses to informality.

  (UN-Habitat, 2009, UN-Habitat/GLTN, 2010)
Responsibilities

- A duty of applying with rules for acting in a specific way according to legal provisions
- A duty to apply with more social or ethical rules of related to environmental sustainability and good husbandry

Rights and responsibilities are two sides of a coin. Land rights cannot be enjoyed without some kind of legal or ethical responsibility.

This also applies for human rights, which can only be enjoyed by including responsibility towards others so that they can also enjoy the rights and freedom.

The Global Agenda

The human rights perspective, along with good land governance, should be seen as a means in support of the global agenda
"If we can measure it – we can better it"  (Bill Gates, 2013)

- MDGs: 8 Goals, 18 Targets, 48 Indicators
- LGAF: Land Governance Assessment Framework
- DBR: WB Doing Business Reports
- CPI: Corruption Perception Index.

Indicators are needed for measuring the implementing of human rights especially with regard to the right for adequate housing (UN-HRC, 2007).

A New Global Partnership

The post 2015 agenda

Vision: the future we want for all

- Transformative change towards inclusive, people-centred, sustainable development
- Three fundamental principles
  i. Human rights
  ii. Equity
  iii. Sustainability
- Four core dimensions
  i. Inclusive social development
  ii. Environmental sustainability
  iii. Inclusive economic development
  iv. Peace and security
A Land Governance Vision

Trustable land information and good land administration is fundamental for:

- Responsible governance of tenure
- Coping with climate change
- Meeting the Millennium Development Goals
- Achieving sustainable development
- Enforcing human rights

Land governance to underpin the three core components of the global agenda

Key message

- Land Administration Systems should embed a human rights perspective in support of the global agenda and in pursuit of social justice

- The Human Rights Declaration can be regarded as a global Code of Ethics being enforced through political commitment and societal institutions. Land administration systems are highly instrumental in this regard.

- Simply, the human right to "minimal property" cannot be achieved or enforced without well functioning systems managing the people to land relationship.
And ……

This – in turn - imposes a huge challenge and also ethical and social responsibility on land professionals.

Thank you for your attention