

The management of state and public sector land

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TS04H Management of State and Public Sector Land

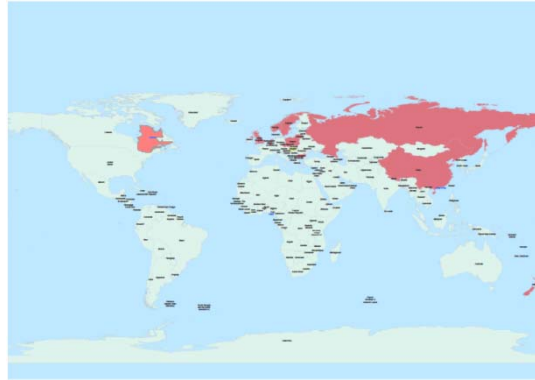
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Methodology

- Based on study of 19 countries by members of Commission 7
- Belgium, Bulgaria, Canada (Québec), China, Cyprus, Czech Republic, FYR Macedonia, Hong Kong Special Administrative Region, Lithuania, Nepal, Netherlands, New Zealand, Nigeria (Delta State), Norway, Poland, Russian Federation, Slovenia, Sweden, and the United Kingdom
- Open ended questionnaire about:
 - about the country itself;
 - the institutional framework of state land management;
 - the relationship between the state and private interests in land;
 - the main issues affecting state land management and examples of good practice

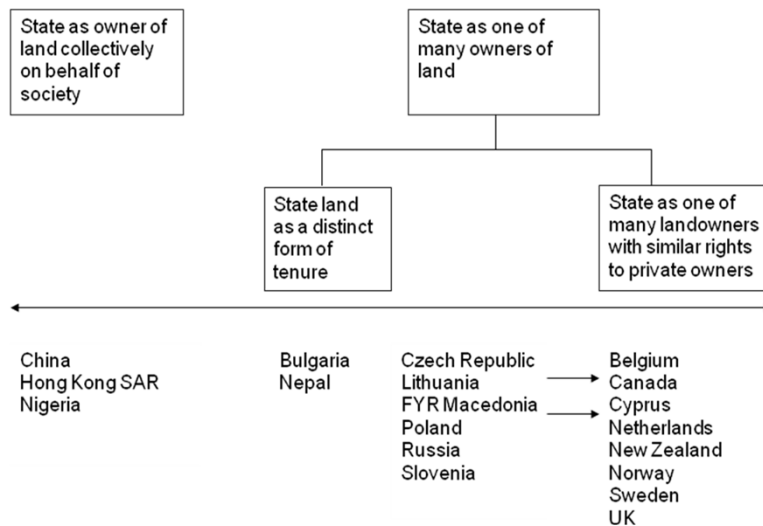
Figure 1 Location of respondents

- Responses cover 27% world population
- 68% responses from Europe
- Mixture of old and “new” European Union
- Good balance between public sector “modernisers” and transitional economies



Issues: Lack of representation from Southern Hemisphere, Especially Africa and South America
 Lack of representation from countries where there are customary occupiers of state-owned land

Figure 2 Continuum of State land rights



Legal context for state land

- No genuine centrally planned economies
- Difference between countries in which state owns land and runs the land market and those with mixed ownership with state one of many owners
- Security of tenure can be compatible with state ownership of land eg Hong Kong SAR where state ownership affects quantum of rights but not security
- Many transitional countries have residual of central planning system eg state land funds, restitution policies
- Mixed ownership countries have significant levels of state ownership eg land required for public operational purposes, land producing income from rents, land held to protect it

Policies and institutions

- Most countries have laws and regulations about state land but not clear formal policies
- Policies tend to be piecemeal, for particular institutions or tiers of government - tactical and operational rather than strategic
- Need to cover when land should be owned and when disposed of
- Need to address whether the state's capital should be tied up in land or released for other purposes – limited use of accruals accounting to look at true cost of ownership
- Outsourcing and sale and leaseback used by only a few countries

The state and the rental market

- In countries where the state owns all the land, the state has to allocate land to users
- This can be running the rental market
- In mixed ownership countries, commercial renting out of state land is an important source of revenue for the budget
- Renting out of state land is also used for social objectives eg social housing, land consolidation
- Issue of the security of tenure of those occupying state land – can be just tenants at will

The state as tenant

- Some countries have no state land, just customary land – state must be tenant of land needed to deliver public services
- Renting passes risk of obsolescence on to landlord
- State can also sub-let – substitute its good covenant for the poor risk of the occupier eg social housing
- Many state facilities are specialised – no other tenant possible so not attractive for landlords to provide on speculative basis
- Growing use of public private partnership – guarantee to private providers of occupancy by state

Acquisition and disposal of state land

- Potential point of conflict between state and private owners and occupiers because of state's powers of expropriation
- Issue of compensation at heart of problem – whether there is fair compensation determines whether there is security of tenure
- Sales of state land are an important source of revenue – but also sales for social purposes not at market price eg to provide access to land
- Most transitional countries have restitution to return land to heirs of those from whom it was expropriated
- Restitution also a feature of countries in which there has been large-scale European settlement eg Canada, New Zealand

Conclusions

- State land is frequently space that the state shares with others as occupiers, tenants, users
- The state often has to expropriate land for private owners or to evict occupiers for public purposes
- How the state behaves towards others with which it shares the space and when it compulsorily acquires land in which others have an interest have profound consequences
- State actions can undermine human rights
- The state can provide the instruments by which corrupt private interests can be furthered
- The state can undermine security of tenure and investment
- BUT the state's powers over its land can also be used to further the interests of society