

Global Experiences in Land Registration and Titling

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1. Introduction

Throughout the world governments seek social stability and sustainable economic performance for their countries and their people. In market oriented economies countries with different histories, cultures, and environments share common aspirations for certainty and for growth and development that is economically sound, ecologically sustainable, and socially fair. A framework of land and property laws that recognize the rights and duties of the individual, but also the shared concerns of the wider community, is essential if these aspirations are to be realized (UNECE 2005a).

The recognition that land, and its associated resources, is the source of all wealth lies at the heart of good government and effective public administration. No country can sustain stability within its boundaries, nor economic development within the wider world, unless it has a land rights policy that promotes internal confidence between its people, its commercial enterprises, and its government. States that prosper promote widespread and secured private ownership of land as a foundation of social and economic policy.

The inter-relationship of people and land is fundamental to human existence. If nations want to unlock the wealth that exists in their land resources effective systems of land registration, land administration, and land management are required. Land registration makes possible increased levels of security of tenure that promotes productive land use and investment in the land resources for agricultural development, commercial and industrial enterprises, and better housing. An effective land registry also makes possible the development of a mortgage market upon which a functioning economy depends and will support an active land market (*ibid*).

The following parties are interested in an effective land registration system:

- a) *Citizens*: for the security of rights, social stability, access to housing, access to credit through mortgage finance, mobility, and property transfer and improvement;
- b) *Local Government*: for its planning, land valuation, land use, land management, and land information;
- c) *National Government*: in its administration, taxation, economic development, land valuation, and market information; and
- d) *Companies*: for the security of rights, access to loans, market opportunities and potential for development.

Although land records are expensive to compile and to keep up-to-date, a good land administration system should produce benefits, many of which cannot in practice be

quantified in cash terms. According to the UNECE (2005a), the benefits of an effective land registration system are that it will:

- a) *Guarantee ownership and security of tenure:* The compilation of land records and the judicial processes that must be gone through in order to bring land rights information onto the registers should provide formal identification and, in some systems, legal proof of ownership.
- b) *Reduce land disputes:* Disputes over land rights and property boundaries give rise to social unrest, expensive litigation, and can lead to a general breakdown in law and order. In most countries land disputes make up the largest percentage of court cases and the courts spend much of their time in resolving these matters. However, many of these land disputes could be resolved through access to accurate land ownership information.
- c) *Provide security for credit:* Certainty of ownership and knowledge of all the rights that exist in the land give confidence to banks and financial organizations when they provide funds for landowners to invest in new projects. Mortgage banks need up to date land and property information in order to be able to guarantee loans.
- d) *Facilitate the management and protection of State lands:* In many countries the land that is held by the State for the benefit of the community is poorly documented. The State needs to manage its property assets and to ensure their efficient use and upkeep every bit as much as does the private citizen. A system of registration of title to land will facilitate this.
- e) *Facilitate rural land reform:* The distribution of land to the landless, and the consolidation and redistribution of land for more efficient use all require detailed records of the present ownership and use of the land. An effective land records system will facilitate the identification of land with no 'private' ownership that could be allocated to landless individuals. The design of new spatial patterns of land ownership to provide greater productivity from the land can be effective only if the existing pattern is well documented.
- f) *Support for land and property taxation:* Land and property taxes are a potential source of public revenue and are often collected by and used to finance government at the local level. Since the registry should include all land, all properties can be included and none should be omitted. A simple valuation system based on land holding size and land classification can lead to a fair and transparent tax administration system.
- g) *Develop and monitor land markets:* Cheap and secure ways of transferring real property rights allow those dealing in land to do so with speed and certainty while those who do not wish to sell their land can have their rights protected. Anyone wishing to acquire land will be assured that the person from whom he is buying the land is the true owner and has the right to dispose of the land.
- h) *Improve urban planning and infrastructure development:* Urban centres often need redevelopment and effective land-use planning and control. A good land

administration system should permit the integration of records of land ownership, land value and land use with sociological, economic, and environmental data to support urban planning.

- i) *Protect land resources and support environmental management:* The increasing concern to conserve and protect the environment and ensure its sustainability has given rise to increasingly complex environmental regulations. Land registry records provide a source of information of land holders which may be useful for the design of environmentally sound development programs, for the provision of incentives to land holders who practise sound land management, or the imposition of sanctions on those perpetuating environmentally destructive land use activities.
- j) *Produce statistical data:* Data obtained by monitoring the ownership, value, and use of the land can support resource allocations and be used to measure the performance of development programs. Both long-term strategic planning and short-term operational management require data in support of decision-making (Dale, chap 2, in UNECE 2005a).

Although these benefits may be difficult to quantify they are nonetheless real. Citizens should be made aware of their existence through comprehensive and continual public awareness campaigns. Through the use and functioning of the system many of these benefits will become self-evident to the population while others will only accrue directly to the government administration.

2. Objectives

The objective of this paper is to relate these broad philosophies, objectives, and goals to the present situation in Ethiopia. I would like to begin by presenting a broad discussion of land registration and worldwide trends in land registration and then focus on what is happening and planned within the Ethiopian context. This implies a set of observations on what is being planned and implemented here, the possible constraints and opportunities to reach these national objectives and a set of recommendations of issues which must be considered and reflected upon, and which may necessitate some modification of existing program goals and expectations.

3. Current Situation

There is a recognised fundamental relationship between people and land. Land not only contributes to wealth and economic development, it is also part of the social and political fabric that sustains all communities. Almost all societies are currently undergoing rapid change brought about by a diverse range of factors that include growing population pressures on the land, especially in urban areas.

Overall the most serious problems facing the relationship between land and people include:

- lack of security of tenure (which in many societies impacts most severely on women and children);

- inequitable access to land by indigenous peoples and minority groups;
- increasing vulnerability to disaster;
- degradation of land due to unsustainable land use practices;
- impact of market forces on traditional economies and tenures;
- access to land by women;
- lack of adequate planning and of effective land administration;
- lack of land for suitable urban development;
- tensions between environmental conservation and development; and
- destruction of bio-diversity.

Beginning in the early 1990's, the United Nations and the International Federation of Surveyors (FIG) began to cooperate on a number of initiatives relating to land tenure and administration to address these issues. As a result of a resolution at the United Nations Regional Cartographic Conference for Asia and the Pacific in Beijing in 1994, a joint UN-FIG meeting of experts on cadastral reform was held in Bogor, Indonesia in 1996.

The Bogor meeting resulted in the UN-FIG Bogor Declaration on Cadastral Reform which recognised that although each country has different needs and is at a different stage in the development of the relationship between its people and their land, there is much benefit in exchanging ideas and experiences. By examining solutions in other countries one can achieve a better understanding of the problems in one's own region.¹ Central to the Bogor Declaration is a cadastral vision of the future with supporting guidelines and cadastral reform options and principles: "to develop modern cadastral infrastructures that facilitate efficient land and property markets, protect the land rights of all, and support long term sustainable development and land management." (Bogor Declaration 1996).

Arising from the Bogor Declaration, a resolution was passed at the 14th United Nations Regional Cartographic Conference for Asia and the Pacific, held in Bangkok in 1997 that urged the UN, in collaboration with the FIG, to hold a Global Workshop on Land Tenure and Cadastral Infrastructures in Support of Sustainable Development. The workshop was held in Bathurst, Australia in 1999. It was followed by an open International Conference in Melbourne at which the Bathurst Declaration was presented.

The Bathurst Declaration on Land Administration for Sustainable Development calls for a commitment to provide effective legal security of tenure and access to property for all,

¹ The Bogor Declaration described some of the key strengths of a vision as: a) being simple and effective; b) being acceptable to different rates and patterns of population change; c) facilitating access to land, security of tenure, trading in land rights; d) allowing a vast array of cadastral options; e) including all state and private lands; and f) part of a national or state spatial data infrastructure.

including indigenous peoples, those living in poverty, or other disadvantaged groups. It identifies the need for the promotion of institutional reforms to facilitate sustainable development and for investing in the necessary land administration infrastructure.

Given that more than half the people in most developing countries currently do not have access to secure property rights in land and given the concerns about the sustainability of development around the globe and the growing urban crisis, the Bathurst Workshop *recommends* a global commitment to:

1. *Providing* effective legal security of tenure and access to property for all men and women, including indigenous peoples, those living in poverty and other disadvantaged groups;
2. *Promoting* the land administration reforms essential for sustainable development and facilitating full and equal access for men and women to land-related economic opportunities, such as credit and natural resources;
3. *Investing* in the necessary land administration infrastructure and in the dissemination of land information required to achieve these reforms;
4. *Halving* the number of people around the world who do not have effective access to secure property rights in land by the year 2010. (Bathurst Declaration 1999).

At the XX FIG Congress 1994 in Melbourne, Australia, Commission 7 decided to initiate three working groups to study different aspects of cadastre and land management. Working group 7.1 was given the task to study cadastral reform projects in developed countries. Two elements had to be considered in detail: the on-going automation of the cadastres and the increasing importance of the cadastre as part of a larger land information system. Based on trend analysis, the working group produced a vision of where cadastral systems might be in twenty years, of the changes that might take place, of the means by which these changes can be achieved, and of the technology to be used to implement these changes.

All countries or states involved in the survey, with the exception of two, have a cadastral reform planned, in progress, or accomplished. Although the purposes of the reforms differ from country to country, there are common aspects. The reform projects want to:

- improve customer services with increased efficiency and an improved cost/benefit ratio;
- involve more of the private sector;
- provide more data in better quality;
- provide data that are sufficiently accurate;
- have data available at the right time.

The development trends of the cadastral systems are the:

- introduction of digital cadastral maps based on national reference systems;

- transformation of land registry information into digital formats;
- introduction of title registration systems instead of deed registration systems;
- embedding of the cadastre into land information systems through the linkage of different agencies' data bases;
- unification of real property and land property registration systems;
- reduction of staff in the cadastral organizations and land management;
- regionalization of and increased involvement by the private sector;
- introduction of cost recovery mechanisms to at least cover the processing costs or to recoup the investment costs.

There is a clear indication that the most obvious trend is the automation of the systems and the digitization of data. Ongoing reforms in Europe are moving toward a cadastre which:

- will show the complete legal situation of land, including public rights and restrictions;
- will eliminate the existing separation between maps and registers;
- will redefine the role of maps in recording property information;
- will increasingly rely on digital rather than paper information;
- will expand the role of the private sector in land information;
- will operate on a cost recovery basis (Kaufmann and Steudler 1998).

4. Land Registration

Land registration is the official recording of legally recognised interests in land. There are two basic components to a land records system: the piece of land and the rights over that piece of land.

The basic unit in a land registry is a parcel and its boundaries. This can be an area of land with a particular type of land use or an area exclusively controlled by an individual or a group. The flexibility of the definition of a parcel makes it possible to adapt the registration system to various circumstances, for instance to include large parcels to represent the interests of land use in traditional tenure systems.

Boundaries of parcels can be defined by physical demarcation on the ground or by a mathematical description usually based on a coordinate system. The accuracy, and consequently the cost, of cadastral surveys are dependent upon the accuracy needed for boundary descriptions for the system to meet a country's objectives. This accuracy should reflect factors such as the value of the land, the risk and cost of land disputes, and the information needs of the users of the Registry.

Good practice will result in laws relating to parcels and their boundaries that:

- Provide a legal definition of a land parcel.
- Recognize that boundaries may be horizontal (for most surface areas) or vertical (for strata titles).
- Differentiate between the legal position of a boundary and the physical position of objects such as fences or hedges.
- Define the priority of evidence, such as survey measurements versus monuments, when re-establishing a boundary line, and indicate whether marks on the ground take precedence over measurements recorded in the registers in the re-establishment of boundaries or whether data on the plans must be followed.
- Avoid getting into detail over the precision with which boundaries should be surveyed for the purposes of land titling (UNECE 2005a).

The second major component of the land registry is the record of property rights. These rights most often are thought of as belonging to an individual, but they may also be recorded as belonging to a husband and wife (joint title), family, a community, or even the State. This record of recorded rights (“ownership”) can be private or public, as the State is a land ‘owner’ for the purpose of land registration as much as a private citizen.

The process of determining these rights is adjudication: what evidence is acceptable to determine why one person has rights over a piece of land instead of someone else. These rights are established initially by use, by the recognition of neighbours and other community members, and eventually by different forms of written documentation.

Good practice will result in laws on the adjudication of title to land that:

- prescribe rules and procedures for the initial determination of rights in land;
- facilitate the determination of rights to land either sporadically or systematically, encouraging the compulsory registration of such rights in specified circumstances;
- indicate how the ownership of land is to be recorded and made public;
- establish appeals procedures whereby the results of the adjudication can be challenged within a specified period of time (eg., 30 days) and disputes resolved in a cost-effective manner; and
- Permit flexibility in reconciling the possession of land with its ownership (UNECE 2005a).

5. Broad Worldwide Experiences

Europe: Current land registration systems in Western Europe date from the 18th and 19th centuries. The institutions associated with these systems have evolved as the needs of their societies have evolved. Eastern European countries are presently going through a transition from the communist model of collective ownership of land to the re-privatization of land holdings. Old land administration institutions are being re-

established and records updated. A recent survey of 39 European land administration systems summarizes this situation². All countries have a system of recording land rights; nearly every country has a land registry rather than a deeds registry.

Southeast Asia: A number of titling programs are underway in Southeast Asia, most notably Thailand, but also in Cambodia, Laos, Indonesia, the Philippines, and Vietnam. Each of these countries is undertaking systematic titling exercises for a segment of their land area. While Thailand's experience is the most documented and most successful, it remains a paper-based system.

Africa: The African experience with land registration has been more limited. In the former British colonies most of the earlier registration programs concentrated on the settler enclaves leaving the rest of the land in customary tenure regimes. Kenya had one of the earliest attempts to systematically register land, beginning in the 1960's. There is growing concern about the sustainability of that system as new transactions are not being recorded and land subdivisions continue to occur. Uganda also developed a land records system, initially in the mailo areas of central Uganda. Two pilot land registration programs were attempted in the 1960's but were never extended beyond the initial areas. Ghana also has a long history of land records, but in recent years the institutional and land administration structures of the government have resulted in competing authorities and lack of coordination to maintain the existing records, not to mention new transactions coming into the system. South Africa has probably the most developed and best functioning system in sub-Saharan Africa, but the records are limited to land areas which had previously been under white ownership during the apartheid era. Extension of titling into the former Bantustans is only recently getting under way.

6. The Case in Ethiopia

Ethiopian policymakers had been facing the difficult task of balancing the demand for continued redistribution of land to young landless families and returning displaced persons against the need to ensure that current landholders' rights are secure and durable enough to encourage long-term investments in the land. The Ethiopian Government, in its Poverty Reduction Strategy, recognized the importance of tenure security as a necessary component of a plan to increase land productivity. Numerous land reallocation exercises in recent years have led to growing perception of tenure insecurity.

The present effort to improve land administration and security of tenure includes a focus on land certification programs, where regional governments issue land certificates to individual farmers. A major objective of the certification program is to enhance the security of tenure of farmers through the recording of their rights

² UNECE/WPLA. 1998. *Inventory of land administration systems in Europe and North America*. 2nd edition. The inventory gathered information on types of records kept, institutional structures, financing of the system, cadastre standards, etc.

Certification programs are currently under way in Amhara, Oromia, Southern Nation, Nationalities and Peoples, and Tigray Regions. All four regions have issued proclamations for the administration and use of rural lands from which these certification programs have evolved³. These programs include both the measurement of land holdings as well as the recording of the property holder and neighbours. Further information on land use and soil fertility is also documented. Documentation recorded at village level is collected and further recorded at Kebele and Woreda levels. These present certification programs in all regions are seen to be the first of a two-stage process. The first stage is to issue certificates to existing landholders with some limited field identification. This process is proposed to take two to three years. This activity is planned to be followed with a more accurate delineation and recording of property boundaries. This stage is envisioned to take 10 to 20 years to complete. Property rights should not change in this second stage of the process; there should merely be an upgrading of the physical identification of the property. However, there is some question as to the need for this increased level of accuracy in all locations and hence, with experience, the second stage may more realistically be implemented on a need basis - as needed by the farmers or government administration.

The implications for land administration are extensive. The ability to identify landholders and their plots offers an opportunity to government to develop land information systems which can assist with dispute resolution, land use planning, environmental management programs, and land revenue generation. It also implies the development of related institutions, proper incentives to use the system, and the administrative capacity to maintain the system.

These land use certificates offer an alternative to formal title registration programs by providing evidence and legitimization of occupancy and land use rights without a costly land registration program. Land use certificates can offer some security of tenure to land

³ Amhara National Regional State Proclamation No. 46/2000: "Proclamation Issued to Determine the Administration and Use of the Rural Land in the Amhara National Region." Amhara National Regional State Proclamation No. 47/2000: "Environmental Protection, Land Administration and Use Authority Establishment Proclamation." Oromia Regional State Proclamation No. 56/2002: "Oromia Rural Land Use and Administration Proclamation." Southern Nation Nationalities and Peoples Region Proclamation No. 52/2003: "Rural Land Administration Proclamation." Southern Nation Nationalities and Peoples Region Proclamation No. 53/2003: "Regulations and Procedures for the Implementation of Rural Land Administration and Land Utilization Proclamation," (draft). Tigray National Regional State Proclamation No. 23/1997: "Rural Land Utilization Proclamation of Tigray National Regional State." Tigray Regional State Regulation No. 15/2001/02: "Rural Land, Investment, Agricultural and Natural Resources Development Proclamation."

See also "Federal Democratic Republic of Ethiopia Rural Land Administration and Use Proclamation" Proclamation No 456/2005 and Amhara National Regional State EPLAUA "Directive Issued for the Implementation of Rural Land Administration and Use Proclamation No. 46/2000.

Note also that all Regional Administrations are in the process of revising their respective Land Administration and Use Proclamations in light of the new Federal proclamation.

users without necessarily addressing potential conflicts over land ownership. Land use certificates are sometimes seen as an intermediate step between informal land records and more formal titling programs. This appears to be the approach being taken by Amhara Region at present, and in the proposed programs of Oromia and SNNP Regions.

7. Constraints and Opportunities

A recent review of land administration experience in Europe found that over the last decade, four key lessons have been learned:

- i. The first is that sustainability must be built into the design of any land administration system. Demands from users and opportunities created by the technology and growing volumes of data mean that land administration systems must be dynamic and be continuously reviewed to make sure that they are still fit for modern usage.
- ii. The second lesson is that systems are moving towards a point where all land-related transactions and record keeping will be handled electronically.
- iii. The third lesson is that the successes and failures of land administration reforms are almost entirely attributable to the quality of the management and the calibre of the people who are responsible for the systems.
- iv. The final lesson is that all countries are different and although there is much to learn from the experiences of others, in the end it is a matter of national judgement as to what system is most suitable for any particular country (UNECE 2005a).

The review further recommends that:

- The law should define the nature of land, the form and nature of ownership, the legally recognized forms of tenure and the rights, restrictions and obligations that must be registered.
- The land administration system should be run on business lines with a long-term financial model and an appropriate regulatory framework and management system that focuses on meeting customer demands.
- The operations of the land administration system must be transparent, with safe and easy access to the land market and low cost for all participants.
- The efficiency, integrity and transparency of the land administration system must be constantly measured and monitored, through performance indicators relating for example to the time and cost of each transaction, and consumer satisfaction.
- In order to add value to the basic information, records of ownership, value and use of land should be integrated either by having one organization responsible for their maintenance or through linking data from several organizations by electronic means.

- The textual records and graphical data sets should be linked through a common referencing system (UNECE 2005b).

A land register safeguards the interests of owners, but also those who may have legitimate claims on the land. It ensures the confident functioning of an economically active society where the prime source of all personal, corporate, or government wealth is land and property. This is spelled out in the “Social and Economic Benefits of Good Land Administration” (UNECE 2005b).

A. Facilitating private land ownership and security of tenure

The societies which have created internal stability and a functioning market economy recognize the need for effective systems for registering private land rights and for inexpensive systems of land transfer. The privatization of land and the registration of tenure, whether freehold, leasehold, joint or group ownership not only makes possible the realization of personal wealth, however modest, but enables people to improve their land and property and subsequently maximizing its value and use.

Land ownership, registered in a guaranteed system, facilitates greater mobility for those who need to move to alternative employment in a new region, or for those whose family circumstances have changed with the passage of time. It makes possible access to secured credit. The major wealth of families and people is their land and security of tenure ensures that the wealth is a realizable financial asset. This provides the owner with many choices: to protect and preserve the value of the property, to invest in and improve the property, to borrow against the collateral that the property represents in order to invest or develop, to make provision for future inheritance by his or her family, and to sell and buy.

B. Securing private rights in land

Many countries accept and foster private rights and ownership of land. In other cases ownership is vested in the state with a clear recognition of private use rights to land either through formal lease land use certification programs. However, even in countries where private rights in land are extensive and well established, the State will retain the ultimate right for compulsory acquisition where the wider needs of the population are paramount. In societies which value individual freedoms and rights such an exercise by government of its reserve powers would only be effected under the law and accompanied with proper systems of financial compensation.

Ownership can be indefinite (freehold) or for a term of years (leasehold). Land can be held by any legal entity, singly or jointly, in common, in group or corporate ownership or in trust. Registered owners may have other rights attaching to their land over adjacent land, such as rights of way or for services. Their land might be subject to short-term tenancies or may be burdened by rights for the benefit of their neighbors. Others, neither in possession nor occupying neighboring land, may have rights over the property such as an earlier owner who, at the time of sale, imposed a restriction on the use of the land.

Significantly a creditor or a bank may register a notice or a mortgage to ensure that any debt or moneys owed are repaid before the owner sells the property. In some jurisdictions other claims over the land, or the assets of the owner, can be recorded on the register of the property by individuals, public agencies or by the Courts to protect their potential or actual interests.

C. Recording public rights in land

For the wider benefit of society government will maintain public rights over some (or all) land. Land that is publicly owned will include obvious types of land such as roads, public buildings, government offices, streets, roads, hospitals, schools, airports, etc.. It will also include areas for natural resource protection, such as forests, parks, lakes, rivers, etc. It may also include areas of historic significance. And finally areas of land not yet allocated and held in reserve for the use of future generations.

In its ownership of land, public authorities stand in no different position from that of any other private owner. It is therefore important that public rights in land are recorded and protected to prevent encroachment onto public land by private individuals. The state has the obligation to protect its interests as much as any private individuals and to a certain extent the wider public has the right to expect the state to do this.

The state may also have other public rights which affect privately owned land. Appropriate recording and publication of public restrictions on use of land and buildings are important for the implementation and sustainability of land use plans. Land registers and other public land records will ensure that this information can be quickly and widely accessed.

D. Developing a secure financial sector

A system of compulsory registration of private land rights facilitates a far more crucial feature of a successful economy. Land registration makes possible quick and sure procedures for creating and securing mortgages. The evolution of a flourishing financial sector, providing loans for development and investment, comes about where land rights are guaranteed. This is because banks and lending institutions can secure their funds, by registration, across the land and property assets of a large population of private owners and businesses.

Access to mortgage finance makes possible the development and diversification of large and small businesses, so promoting commercial responsiveness to internal and overseas demand. It increases the scope for inward investment. Importantly it generates employment opportunities that might otherwise be constrained or non-existent. For the homeowner, access to finance makes possible decisions about housing that in turn facilitates a fluid housing market. It makes possible the scope to improve and develop existing property so increasing the value of the national housing stock.

E. Providing a basis for land taxation

One of the essential advantages of maintaining national land records is to enable national governments to establish an efficient and equitable basis for raising taxes from those who own or occupy land and property. Such systems generate public income to provide essential public services for the benefit of the entire community. Simple valuation systems and open land records ensure transparency and equity in the administration of such a taxation program.

F. Land Information as a basis for land management

Maintaining authoritative information on land use and the attributes of land for all individual land parcels is an important feature of land administration systems, not just as a basis for assessing the value of land but in the wider spheres of land policy and land management particularly for agriculture and the environment. Associating land use and valuation information with other components of an integrated and accessible land administration system contributes to sound decision making for the benefit of all.

Appropriate land information is of vital importance for land management, whether for the development of sustainable agriculture, managing the rapid growth of cities, or for the protection of the environment. Geographic Information Systems (GIS) are useful tools for handling information on the current land use as well as for monitoring changes. Thus such information systems should combine data from different sources, including topographic maps and satellite images. Data about ownership and parcel boundaries are always of fundamental importance in land information systems.

G. The land registration laws

The foundation of any system of social order is the framework of laws which reflect the Constitution of the country, governs the administrative process and expresses the rights, duties and obligations of the citizen. In the case of laws relating to land registration the following indicates what has to be done by those who draft and enact legislation:

- Distinguish between real and personal property (immovable and movable property);
- Distinguish between ownership, possession, and use of land;
- Indicate registerable rights less than ownership (such as use rights or a mortgage);
- Define how rights can mature;
- Establish, within the public sector, an independent, self-financing land registry institution with clear statutory powers;
- Establish administrative systems for land transfer and mortgage registration;

- Co-ordinate legislation relating to urban planning, land use, and the recording of information on the land register;
- Ensure that rights registered are guaranteed by the State;
- Ensure clarity of Ministerial responsibilities and authority;
- Specify the administrative role of the agencies responsible for national mapping, land valuation, and land use.

H. National mapping

No land administration system can function without an up-to-date topographic or cadastral mapping system which defines the extent of land parcels. Whatever approach is appropriate, effective land management, productive land reform, and a functioning land market are dependent on accessible land information based on national mapping maintained to specified standards of accuracy

I. Financing land registration systems

One aim of any functioning land registration system is that it should be self-financing. The continuing investment and running costs of maintaining the land registration system and providing services should be wholly covered by fees paid by those who use those services. This cannot always be realistically achieved in the early years of development of a new system, but should be seen as a long-term goal. Fees should be levied for the service provided.

It is important here that governments developing land registration systems accept that such funding to create these land record systems during the early years is an investment in the long-term development of the wider economy. Registered titles are bankable assets of the country that progressively draw in investment and build the confidence of businesses and individuals to participate in the development and economy of the country. As people gain trust in the system and recognize the value to them that it offers the number of transactions recorded will increase significantly, easily covering the costs of administering the system.

8. Recommendations

What does this mean for Ethiopia?

An ideal system would reflect perfectly the legal position on the ground (the mirror principle), draw a curtain over all previous dealings so that only the present entries on the register need be consulted (the curtain principle), and guarantee the accuracy of what is shown on the registers (the insurance principle) (UNECE 1996).

A system for recording land ownership or use rights should:

- Meet local needs;

- Reflect the position on the ground. What is recorded in the register should be what is present on the ground. (the mirror principle)
- Be supported by legislation that requires it to be kept up-to-date at all times, for example when mutations occur;
- Eliminate the need for extensive searching for a chain of titles (the curtain principle);
- Contain a legal definition of real property units that accurately reflects conditions on the ground; (the insurance principle);
- Record specific real property rights, ownership and restrictions on ownership that are not otherwise transparent;
- Cover all land, including that held by the State as well as by individual private citizens or institutions;
- Facilitate land transfer through a system that is simple, secure, and cheap to operate (*ibid*);

There are a number of issues related to the development of a land registration system that needs to be identified, recognized, and addressed in a systematic and continuous manner. It is important that these be recognized at the start of the development of these systems for invariably they will have a direct impact on the long-term success of the endeavour. These are the challenges for Ethiopia as it embarks on this critical activity.

a) Administrative capacity

Land registries are most effective when they are accessible to the public. While this implies the establishment of offices at district and local levels there are obvious costs involved in this process. These include, but are not limited to the construction and maintenance of buildings, the provision and retention of adequate trained staff, the development of a system of record keeping and archiving of records to ensure that information is protected, development of procedures for handling information and updating records.

The experience in Uganda presents an interesting relevant example of the need to balance the desire of taking the land administration offices as close to the people as possible while considering the ability of the government to adequately staff those offices.

b) Sustainability

The success of the system is dependent on the ability to sustain the system. In a sense the creation of the system is a relatively simple exercise. The system works if it is able to continue to provide accurate information to all users of the system, both the private citizen property 'owners' as well as government institutions who need to use the information contained in the registry.

If there is no mechanism to keep the records up-to-date there is little value in creating the system in the first place. As was discussed earlier a functioning registration system is a record of rights to land. These records are important for access to credit, transaction, taxation, land use planning, etc. If the records are out of date both the government and the citizenry will not be able to depend on the system to provide accurate information when it is needed.

There are a number of events which will require the records to be updated: transactions resulting in a change in land use rights (purchases and sales, leases, mortgages, inheritances) and changes in boundaries (divisions of landholdings as a result of inheritances as well as consolidation of land holdings as a result of acquisition of land and mutually agreed upon exchanges) are the most obvious and common. However, there may also be restrictions placed on properties through court decisions or changes in land use and zoning ordinances

At present the most likely occurrence will be inheritances with the resulting changes in land use rights and potential changes in boundaries as land is subdivided amongst the heirs of the deceased land holder. However, if there is no perceived benefit to the public to updating their records (nor sanctions for not doing so) and a substantial cost involved in doing the updating in terms of time or fees, the tendency will be not to record these transactions and the registry records will quickly go out of date

c) ***Public awareness***

It is a prerequisite in a land registration system that landowners and the general public understand the process sufficiently to have confidence in it. There is often a fear that as Government introduces a system it may seek to take land away from people rather than confirm and protect the rights that they have in their land. This building of confidence in the system is not something that happens in the short run, but rather is something that develops over time through use, access to information, and experience of individuals, their neighbours, and institutions that need this land record information.

Once data are on the registers, the records must at all times be kept up-to-date. The value of the system lies in the accuracy of the information that is contained in the system. In some countries the system of inheritance makes this difficult, especially where the land-use right is to be shared between heirs. The relatives of a deceased landowner may also not record their inheritance, either through ignorance, a misunderstanding of the procedures, or a wish to avoid payment of death duties or taxes.

Investments must be made in providing the public with information about the system, the benefits to having property registered, the types of services that that system provides (including the fees involved, documentation required, and times it takes), and the duties and obligations that the property holder has regarding his

or her property. Such public awareness campaigns could include posters, brochures, radio and television programs, newspaper articles, etc.

d) Demonstrable benefit

There must be a demonstrable benefit of the system to the public. The system will only be able to be kept up-to-date if there is seen to be a benefit to the public for the system. What does the system do for the individual? Does it protect him from the claims of others or the State over his property? Does it protect him in resolving disputes over borders or use? Does it offer the sure documentation of tenure rights that may be needed to facilitate access to credit? Do the financial institutions trust the system enough to allow land to be used for collateral for credit? Do people wishing to lease land use the system to verify the land use right of the person willing to transact his property?

Or are there only perceived costs to the system? Governments often see land registry fees as a significant source of government revenue and thence set fees at a level that discourages people from using the system to register transactions or update records. The costs to the property owner are not only the fees levied, but also the costs in terms of time, informal fees, and corruption that often surrounds land record systems.

There are other 'costs' that the public might see as being associated with the system or derived from the system: property taxes, control over land use, suspicions about the possible corrupt practices of officials handling the records, suspicions about the security of the information in the system.

However, it must be obvious to the public that the benefits of the system outweigh the costs. This, as well as the confidence in the system, will only become evident over time. Thus, a concerted effort needs to be made from the start to demonstrably produce the benefits while making every effort to justify, restrict, or eliminate the perceived costs.

9. Conclusion

This paper has presented a summary of global perspectives on land registration. It has laid out the broad objectives and processes for land registration, enumerated worldwide trends in land and property registration, and finally related these to the opportunities and constraints that must be acknowledged and addressed within the Ethiopian context. This undertaking is both a challenge to the government as well as a commitment by the government to the people of Ethiopia. The process beginning now will pay dividends for all future generations and must be undertaken with this understanding.

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