Land Markets (3rd Edition)
Report for Royal Institution of Chartered Surveyors

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Published by:
RICS, Parliament Square, London SW1P 3AD
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A report for Royal Institution of Chartered Surveyors
commissioned by RICS Land Group

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Land markets exist when and wherever it is possible to exchange rights in land for agreed amounts of money or services rendered. Without an integrated and formalised real property system, a modern economy is not viable since the ability to create national wealth is severely restricted. An efficient land market underpins the capacity of banks and other financial organisations to lend money and for landowners to invest.

The fragmented nature of some property systems severely inhibits the creation of an effective land market, which in turn hinders the emergence and development of an overall equitable distribution of wealth. Less economically developed societies have, for various political and cultural reasons, failed to create an efficient land market, allowing the rich to exploit the poor. As a result, such societies tend to be under-capitalised.

The development and maintenance of land markets involves the interaction of complex political, social and cultural issues, legal frameworks, fiscal policies and environmental controls. Their impact on society and the local economy varies from nation to nation and depends much upon what is happening in other parts of the national and increasingly global economies. The diversity of individual economies and associated legal practices alone makes the concept of a common land market model unrealistic.

In order to benefit from the land market, there must be clear policies and enforceable laws. The institutional framework should provide for consistent, responsible and accountable decision-making within the overall national land policy. There must be a land registration system that is affordable so that all citizens, rich and poor, can have access to it. Such a system must provide value for money for the users, encourage its use, guarantee title, and be open to public scrutiny. This may necessitate capacity building in both the public and private sectors to provide new skills, especially in management, necessary to support the market and to ensure that the public understand how it operates. Public/private sector partnerships can work successfully although the ultimate control must lie with the state when related to the public good.

Land markets should be open to all citizens (in some cases non-citizens) including women and minority groups and consideration should be given to the ownership of land by foreign individuals and legal entities to encourage inward investment. A growth in the globalisation of land markets is to be expected, especially as information technology allows greater access to national land information services. In this context, governments need to consider introducing legislation and policies to provide web-based access to all land information.

In many countries, the immediate pressure is to address the issues surrounding ‘real property rights’ for those living in ‘informal’ settlements. It is also necessary to improve transparency and accessibility to good quality land information, and to reduce the cost of gathering and communicating such information and registering land and property transactions. Open access to good quality information reduces the incidence of corrupt dealings.

Land markets are not a panacea and things can go wrong, as happened in 2008/09 when excessive lending against real property assets and the trading of re-packaged mortgages in asset markets by the banking community contributed to the financial crisis. This reflected the creation of complicated derivative financial products that did not create the appropriate incentives for profit to encourage good banking. Nevertheless, land markets do have a significant role to play in support of economic development, quality of life and the sustainability of one of our most fundamental resources – land.

“Land is the source of all material wealth. From it, we get everything that we use or value, whether food, clothing, fuel, shelter, metal, or precious stones. We live on the land and from the land, and to the land our bodies or our ashes are committed when we die. The availability of land is the key to human existence, and its distribution and use are of vital importance”.

S. Rowton Simpson: Land Law and Registration, 1976
All living creatures need access to food, water and shelter. We are all dependent on the land for our survival. But who should own the land and how should access to it be controlled for the benefit of all?

Some argue that governments should determine who is allowed to own land. Others maintain that, although a regulatory framework should be established by the state, the best way to achieve the optimum form of land use is through the operation of free market forces.

This paper looks at the reasons why buying and selling rights in land are important, and suggests ways in which the efficiency and effectiveness of land markets can be improved.
3.0 What is the land market?

Land is unlike other commodities that can be bought and sold in that it is immovable. Buildings upon it can be dismantled and moved elsewhere but the land on which they stand cannot be moved. From a legal perspective, only the rights can be bought and sold.

“What creates capital in the West … is an implicit process buried in the intricacies of its formal property systems”

Hernando de Soto: The Mystery of Capital, 2000

Whilst it can be argued that Land is not the source of ALL material wealth, it is a significant component. Land is part of the culture and essence of a nation. Both at a national and an individual level, people are prepared to fight to defend it. Throughout history, this territorial imperative has made land issues sensitive and politically controversial. Lawyers have sought to bring order into the management of land by viewing it not as a physical entity, but rather as an abstract set of property rights that govern the use of the land and the ability of the owner to acquire or dispose of these rights. In classical times, these rights were considered to extend ‘from the centre of the Earth to the infinite in the sky’ and to include all things in permanent contact with the soil such as buildings, minerals and vegetation. In practice, there is a limit as to how far below and above the surface one may lay claim to the ownership of the land but especially in cities with high-rise structures, there is increasing concern to see land from a three-dimensional perspective. This is giving rise to the idea of a three-dimensional (3D) cadastre to record the various horizontal layers of information. In some societies, however, land is deemed to exclude buildings and other man-made features and is treated essentially as the surface of the Earth on which these stand. In this paper, ‘land’ will be taken to include all things attached permanently to it, in effect occupying a small volume of space just below and just above the surface. The terms ‘property’, ‘real property’ ‘real estate’ and ‘immovable property’ can also be used.

With a few exceptions (such as Antarctica), the ultimate owner of the land is the state, which retains the right to acquire private property for public purposes and to control the manner in which the land is used, for instance through planning legislation. The state may also retain the rights to minerals and hydrocarbons. Subject to this, many societies permit private land ownership with rights held either in what in Anglo Saxon influenced common law systems1 is known as freehold, which represents the maximum degree of freedom for the landowner, or in leasehold in which there are greater limitations on how and when the land may be used.

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**Figure 1** Examples of Land Rights

- Sell
- Keep animals
- Sub-let
- Cut down trees
- Build
- Draw water
- Take minerals

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In addition to ownership rights, there are use rights. These are often administered at the local government level in the form of physical planning restrictions, for example as to whether or not there is a right to erect a building on the land. A restriction on use is essentially a negative right or put another way, the positive right is retained by the community on the basis of decisions by the planning authority. A traditional view of land rights is as a bundle of sticks (Figure 1) with a label on each stick saying ‘the landowner may do this or do that with the land’ (for instance sell the property or lease it to someone else). The absence of a stick means the right to certain actions does not lie with the landowner. The number of these sticks that are being retained by the community in the interest of environmental sustainability, planned economic development or for community purposes is increasing. Freehold does not mean freedom to do whatever the landowner wishes, only freedom to do a certain number of things.

Where private rights in land are recognised, they may be transacted, that is they are exchanged for a consideration, usually money. Sometimes they are passed to a developer in the form of an obligation such as a requirement to build a certain number of houses suitable for poor people in exchange for permission to build more expensive edifices. Some rights only apply for limited periods of time, as in the time-share of apartments. Some rights stay with the land even though they may appear anachronistic, which is why archiving of data is important. Not all rights are administered by one body, which often means that in practice several different enquiries must be made to ascertain all the rights associated with one piece of land.

Land transactions may take place formally within the law or informally extra-legally. Informal markets typically occur in less economically developed countries or where there are economic factors restricting access to the formal market and are often associated with squatter areas and informal settlements. Formal markets underpin the capacity of banks and other financial organisations to lend money and for landowners to invest. They require an enforceable legal framework and appropriate infrastructure, both organisational and economic. They may operate nationally or across national boundaries. Increasingly more complex commodity markets are being built on the back of simple land markets.
3.1 Sales markets and rental markets

There are two types of market: a sales market in which the freehold or long-term leases may be exchanged; and a rental market in which ‘use rights’ are transferred for a limited period. The sales market may also involve the transfer of certain rights for a limited period, such as when a mortgage agreement is entered into.

In either case, the financial worth of a property will depend on a variety of factors: location; size; condition and type of construction; the permitted land use; the general state of the national and global economies; and the form and security of tenure. With regard to tenure, UN-HABITAT proposed a ‘continuum of land rights approach’ in 2003, an idea that was further developed and adopted by the Global Land Tool Network partners (FIG, 2010) as shown in Figure 2, each approach along the continuum resulting in a different value for the property concerned.

Land sales markets influence productivity and efficiency in agriculture and the level of investment in industry, since commercial enterprises and individuals can borrow against their real assets. Land rental markets can facilitate access to land so, for example, increasing the potential income of rural households, while in urban areas they can create opportunities for migration so that people can move to where work is available. Private sector renting helps to supplement the supply of low-cost housing and also to meet the needs of those who either do not have access to the necessary capital to buy a house or who are mobile and unlikely to stay long in an area and therefore do not wish to make a significant capital investment – see Table 1 for levels of home ownership across Europe. The rental market also supports commercial activity with many traders and offices depending on rented property especially when they start up their businesses.

Land markets in general affect income distribution, which is why many members of rural communities, especially the young, move into urban environments. This impacts upon social attitudes and practices, the need for housing, land for development, potable water, transport facilities and the general condition of the physical environment. In turn, these issues affect the priorities in political decision-making, the types of land tenure (especially where unofficial and uncontrolled settlements emerge), fiscal policy and the focus of financial support services.

As with any market, there is a degree of volatility that depends upon the state of the national economy, social and political attitudes and global influences (Figure 3). Involvement in the land market has concomitant risks – property values can for instance go down as well as up and mortgage repayments can become a burden. In general however, the operations of the land market allow individuals to release capital for use in other economic activities.

| Table 1 Percentage of home ownership in European countries |
|-----------------|-----------------|-----------------|
| Romania         | 96              | Cyprus          |
| Lithuania       | 89              | Sweden          |
| Slovakia        | 89              | Denmark         |
| Hungary         | 87              | France          |
| Latvia          | 84              | Poland          |
| Spain           | 83              | Netherlands     |
| Slovenia        | 80              | Austria         |
| Ireland         | 77              | Germany         |
| Greece          | 73              |                |
| Portugal        | 73              |                |
| Italy           | 72              |                |
| Czech Republic  | 72              |                |
| Luxemborg       | 71              |                |
| United Kingdom  | 71              |                |
| Belgium         | 67              |                |
| Finland         | 67              |                |

Source: The Independent, 2011
According to Williamson et al (2010), land markets evolved from an awareness of the importance of land, which gave rise to the recognition of land rights. This in turn led to land trading, which then resulted in the creation of land markets through the ability to convert land rights into tradable commodities. The next evolutionary stage was to create a more sophisticated asset market on top of the simple land market, where complex and derivative financial instruments are invented and land is unbundled into separate commodities of timber, water, carbon etc. These complex and derivative instruments extend opportunities for participation in land markets exponentially and globally and require new systems of management and regulation, as well as understandable trading processes. The global nature of these commodities and their dependence on the financial markets combined with the lack of appropriate good banking management and regulation frameworks to contribute to the sub-prime mortgage problem, which turned into a global financial crisis in 2008-2009. Those buying the derivative instruments knew little about the nature of the underlying assets and the status of the borrowers and the homeowners were unaware that the mortgages on their properties had been packaged as commodities and were being traded independently of the ownership of the properties.
All economic development depends to some degree on the availability of land - even a computer software developer working in ‘virtual reality’ needs an office or other workspace. Industries need sites for factories, distribution or retail centres, while in agrarian societies, the quality of the land is a key factor in creating a livelihood. Every citizen needs somewhere to eat and somewhere to sleep and families require a defendable space in which they can find peace and privacy.

Land is a precious commodity. Human populations are expanding, but the land is a finite resource and hence there is ever-increasing pressure on living space. Such problems are particularly acute in and around the cities of the world, especially in those areas that are less economically favoured and where population levels are growing rapidly. The state needs to facilitate the allocation of rights to use the land in a way that ensures sustainable development, providing optimum social and economic benefit, not only for the present but also for future generations, without damaging the environment. In doing so, there needs to be a balance between free market forces and State intervention that is normally set by political agendas.

In the 1950s and 1960s, there was an assumption that secure tenure for indigenous people was both necessary and sufficient to create a climate for economic development. However, today’s view is that secure tenure alone is not sufficient since there are a number of other socio-economic pre-requisites to enable such development to take place, including stimulation of the demand side especially in areas of customary tenure where ignorance and tradition may inhibit or delay the creation of an effective land market. In addition, there needs to be effective financial, educational and health services. Furthermore, good quality land-related information must be available and readily accessible. Today, in spite of the increased volume and complexity of the information that must be handled and disseminated, there is proven technology available to assist in this process.

Land markets are becoming global phenomena with information and communications technology (ICT) helping to create more open markets and transactions taking place electronically across traditional market and national boundaries. For example, within the European Union, subject to transitional arrangements, any member of the Community can in principal work and purchase land in any of the member states. As a result, the European Land Information Service (EULIS) is being developed to exchange real property data throughout the Union. Its aim is to promote the economy of the European Community by:

- breaking down barriers to cross-border lending;
- enabling more competition in the secured credit and real property markets, giving more choice to borrowers;
- providing links with non-EU countries; and
- encouraging the spread of best practice.

The EULIS project recognises subsidiarity and seeks to retain national differences, for example, with regard to systems of land tenure while allowing for the open exchange of land and property-related data. In many countries, however, opening land markets to foreigners gives rise to concern because national citizens fear that this will adversely affect their culture and that they will not be able to compete with the external economic forces. This appears to be happening for instance in Laos (see case-study Annex A3) and in parts of Africa where the Chinese have been buying land to grow food for their own people. The World Bank has estimated that 50 million hectares of land have been granted to foreign companies in Africa alone, especially in areas where governments have a poor record in land governance. This is cause for concern. Along with the UN-FAO, the World Bank have prepared a code of conduct for responsible agricultural investments in response to concerns about “land grabbing” – what has been described as a form of “neo-colonialism” – but to date, the seven principles they enunciate have not been accepted by the United Nations Committee on Food Security.

Nevertheless, the trend towards globalisation means that land markets should increasingly be seen in an international rather than a national context. Access to land for development is necessary if countries are to attract foreign direct investment. An efficient land market with equal rights for all citizens will enable a country to participate in the global economy and gain acceptance on the world stage as an equal partner. In planning for the future, countries need to understand national and global land markets. To do so, they need to consider a number of associated factors.

2 http://www.eulis.eu/
4.1 Incentive for investment

Land markets underpin economic development since they are mechanisms that, provided there are appropriate institutional checks and balances, allocate ownership and use rights in a manner that allows land and its associated assets to be used in the most economic way. Given secure land rights, land markets can release the value inherent in land into the general economy and thereby raise overall living standards. They increase the incentive for people to invest and for financial institutions to lend, since land can be used as collateral as well as being the basis for production. An efficient and effective land market can improve the performance of a nation’s economy and increase prosperity – in the UK, for example, property related services are estimated to contribute 9% of GDP to the economy (RICS, 2002). Some suggest that for developed economies, the figure is as high as 15% if building construction is included. Such benefits can however only be achieved if land markets are built holistically alongside markets for labour and capital.

The levels of investment and the impact of land markets vary across the globe. In general, the positive economic consequences have been most noticeable in Europe and North America. In much of Africa, market activity is limited – in Southern Africa for example, land sales among smallholders are rare while in East Africa there has been some buying and selling of land. In general, throughout Africa, individuals often acquire formal land rights through the market while land rights that are acquired through traditional forms of gift or inheritance remain under communal or customary tenure. In Latin America, the markets have been biased by the fact that access to capital is easier for the wealthy and this has segmented the market, leaving many people landless and in poverty.

Until recently, land administration systems supported only the management of formal land rights, but a recent initiative between UN-HABITAT and FIG developed a Social Tenure Domain Model to support customary rights that has been tested in Ethiopia and has been used in projects in Senegal, Honduras, Guatemala and Uganda. This is a specialisation of the Land Administration Domain Model, which is in its final stage of reaching the status of a global International Organization for Standardization (ISO) standard (Lemmen and Zevenbergen, 2010). The inclusion of social tenure support in land administration systems will result in more secure tenure for many. It directly supports the UN-HABITAT “continuum of land rights” approach, which advocates registering a range of informal rights rather than formal rights alone.

4.2 Title security

Secure title to land is a key component of a sound and stable land market. Land markets are concerned with the transfer of rights in land, the tangible aspect of which is normally the handing over of a certificate of title that represents those rights. Many governments guarantee, either implicitly or explicitly, the accuracy of state-issued titles to ensure that citizens have confidence in their ownership and can trade safely in the associated land rights.

Security of tenure on its own, without the context of a land market, still brings significant benefits to society, including social cohesion and stability and a willingness to invest in the future. Such security can come through formal land titling systems or through the official recognition of customary rights, as has been built into the law in Uganda and other African countries.

Within the context of a land market, landowners wishing to invest can use their land as credit, provided that the law facilitates this and that the banks or other financial institutions are willing and able to lend money. In many countries, there has been a drive to create land markets and thereby attract inward investment. The collateral raised on land and property through the land market can be used to invest or reinvest in any other sector of the economy. This of course is only possible in countries where the banks and other financial institutions have enough capital available to support the mortgage market. Experiences in countries such as Kyrgyzstan suggest that as soon as international banks see the demand, they respond positively.

There is mounting evidence that whereas secure title can on its own lead to increased land values (Hendriks, 2008) and hence greater individual wealth, access to credit through a land market can lead to investment that raises standards of living (see Figure 4). Thus farmers who are given a secure title will tend to produce more than those on untitled land; but if they can also borrow money to purchase better quality seed, more productive fertiliser, more effective insecticides and more modern equipment, they can increase their earnings even further. A World Bank study by Feder et al. (1988) has shown that in Thailand those farmers without title or tenure security tend to invest less in farm equipment and land improvements: they use fewer inputs and obtain less output per unit of land than those with title. Farmers who have properly registered titles have greater access to formal sources of credit, invest more and achieve higher productivity.
4.3 Clarification of use rights

The actual and potential uses of land are key determining factors in the value of real property. Land for which the permitted use is changed from agriculture to house building will have its value enhanced many-fold. Similarly a location that has the right of access to certain facilities such as transport, quality medical services or good schools will attract a greater market price than one that does not have such a right. Restrictions on use may have negative or positive effects. Thus some people may see noise or traffic restrictions in a positive light while restrictive covenants forbidding certain commercial activities may have a negative impact on proposed development. According to the UNECE in the document ‘Land Administration in the UNECE Region’ (2005)

“Information about the use rights and restrictions that relate to a property should be readily available to anyone undertaking a land transaction;

Land-use rights are becoming increasingly complex as societies become more concerned to protect the environment and reduce the adverse effects of activities such as waste disposal that contaminate the land.”

The land market brings use rights into the public domain and thereby helps to underpin sustainable development.
4.4 Improved valuation of real estate

The land market helps to make the valuation of land and real property more transparent. This transparency is being extended through web-based information services on property values such as Zillow\(^3\) in the USA and Zoopla\(^4\) in the UK.

The estimated value of a property will depend upon on a variety of factors, including the purpose for which the property is being evaluated. The price that people are willing to pay in an open market may differ from the value for insurance purposes, which will be based on the estimated reconstruction costs in case of fire or other disaster. Both these values may differ from the assessed value for taxation purposes, which may use other criteria.

The price paid for a property is a fact; the value of a property is an estimate, sometimes based on criteria such as those contained within the RICS Red Book (RICS, 2011) valuation standards. There are international standards of valuation that may be used to determine the best estimate of the value of real estate. These standards also help to support the growth of cross-border mortgage investment and the growth of secondary mortgaging. The market value of property needs to be known when transactions take place not only to ensure a fair price and underpin the mortgage system but also when compensation needs to be paid for land that is compulsorily acquired by the State, and when taxes are assessed.

An efficient and effective land market will allow landowners to turn their asset into capital that can be used for other purposes. The money released through the mortgage system can be used to finance alternative forms of investment. In Spain, for example it was estimated that at least 56% of the money in circulation had been made available through the real estate market (UNECE, 2005).

4.5 Better land administration

According to the UNECE, land administration is the processes of determining, recording and disseminating information about the ownership, value and use of land when implementing land management policies. In some countries, people include the processes of land management within the definition of land administration while others view them as an addition. From a land market perspective, the key component is good information.

There are significant service-provider and customer costs associated with titling, both in terms of time and money; hence it is important to optimise the benefits. Pressure to improve the land market will drive through improvements to the land administration system, including the processes for determining, recording and disseminating information about the tenure, value and use of land. The World Bank has been supporting reforms to land titling partly because it has found that many development programmes, for instance those providing shelter and support for low income communities, can run into serious difficulties if there is incorrect or inadequate land information available. Good quality land information is essential to support good land management practices (see Figure 5).
4.6 Improved tax collection

One of the benefits of an efficient land market is that it provides access to more reliable information about real property prices. Taxing land means in effect taxing wealth. Most countries impose taxes in one form or another on real estate, either in the form of a transfer tax (such as Stamp Duty) or an annual levy based on an estimate of the worth of a property, or both.

Taxes may be imposed either on the land excluding any developments that have taken place, or on the buildings and other structures, or on a combination of the two. They are generally based on values established by the market. These values are needed for the purposes of land and property taxation but also to calculate fair compensation where private land has to be acquired for public purposes. An efficient and open land market will allow the possibility for fiscal policy to be implemented with fairness and in a manner that citizens can understand. Conversely, incorrect valuations will give rise to dispute and social tension.

Taxes may be raised on the value of land either on an annual basis (for example on the assessed rental value) or on the sale price at the time of a transaction. In most European countries, there is a cadastre or set of land records that has been used to raise revenue through taxing the land and real property. The use of a map based tax system provides a visual check to ensure that the system is being effectively and transparently managed.

In many countries, taxes on land and property provide a significant source of revenue for local government, accounting in some cases for as much as 40% of all sub-national tax revenues. In 2007 in the UK, land and property tax revenues were 4.53% of GDP and 15.43% of all taxes raised (UN Habitat, 2011). According to the RICS, tax on commercial property brings in 5% of the total UK tax revenue.

4.7 Encouraging better citizenship

Private land ownership encourages entrepreneurship and commitment. It reduces dependency on the state, allowing governments to focus on their other responsibilities. Those who practice good stewardship of the land tend to engage in the whole social and democratic process. An efficient land market that is open to all can create more favourable conditions within a country which, when combined with other economic and social factors, should encourage better citizenship.

Private ownership by individuals or corporations, can of course lead to short-term exploitation of the land and its resources that is unsustainable, as has happened for instance in many tropical forest areas. Community ownership and responsibilities are more likely to lead to sustainable development (Clarke, 2009).
5.0 The downside of land markets

Efficiently functioning land markets – those that have well developed land title, physical planning, valuation, property information and land taxation systems – are a prerequisite for economic development. They help unlock resources that generate economic wealth and so tackle one of the root causes of underdevelopment and poverty. The lack of developed markets in land can have many harmful consequences. There is however a downside. The land market can be volatile with property values going down in the short term resulting in the amount of money borrowed in the form of a mortgage exceeding the current value of the property against which the loan was made. In some countries, there has been reluctance on the part of some citizens to burden themselves with debt, given that negative equity can result from over-inflated property prices.

In the United States in the run-up to the 2008/09 global financial crisis, this was not the case and some loans were 125% of the then estimated property values. This was based on the assumption that property prices would continue to increase but the economic boom came to an abrupt end and many people lost their homes, as they could no longer pay their mortgages, and many others have negative equity. The situation was further aggravated by the complex international interactions in financial markets, turning the crisis into a global issue. The root problem was not however with the land market per se, but with how it was perceived and managed by the financial services sector and how warning signs had been ignored. As pointed out in Williamson et al. (2010), the core ingredient of a complex property market is the cognitive capacity of its participants who must manage complicated sets of inter-related activities and outcomes.

De Soto (2000) in his attempt to unravel what he calls the “mystery of capital” concludes that even in areas of great poverty, there is great potential wealth. The poor cannot convert what he describes as “dead capital” into its real asset value, which is possibly worth trillions of dollars. He suggests that many poor people who do not live in the rich western economies are every bit as intelligent, innately skilled and hardworking as those in successful economies, but remain poor because of what he describes as the “Bell Jar Effect”. This occurs where those inside become rich because they are able to exploit property, but those outside are excluded by invisible barriers such as, according to De Soto (2000), “access to expert lawyers and the ability to navigate the red tape of their property systems.” They have no access to formal land markets and little or no access to credit.

There are conflicting views on how well those who are poor can benefit from the land market and have access to capital since formal systems may not operate very effectively for poorer households and small farms. There is a danger that land markets may lead to more poor people becoming landless with the concentration of land into the hands of the rich. There are also divergent views as to how to prevent land grabbing and asset stripping. Land markets in developing countries tend to flourish best in urban and semi-urban areas where commercial opportunities are high and migration can stimulate land market development.

As land markets develop, there can be winners and losers. Governments have a crucial ongoing role in protecting property rights for all, enforcing contracts and facilitating the operation of the land market to which everyone should have low cost and easy access. There is often a perception – common in much of Africa – that governments need to intervene in land markets to prevent the rich exploiting the poor. The global report on human settlement (UNCHS, 2001) suggests that access to goods and services that are required to meet daily needs should be less dependent on people’s ability to pay and more on basic human rights recognised in international agreements. As such, access to land is a daily need and hence different from many other commodities. There is likewise a perception that the market is too crude a mechanism to bring about effective and equitable land reform. For example, many people in parts of Europe consider that in areas where the pattern of ownership has become fragmented as a result of the system of inheritance, governments need to intervene to facilitate land consolidation; the land market on its own is too crude a mechanism to bring about changes in an acceptable time frame.

In many countries, the State and local government are major landowners. How they manage their assets, for instance in controlling leases of commercial property or housing, has a major impact on the land market. They also have a huge impact on how the land market operates through the way they operate the planning system, which can easily force people into the informal sector. In Serbia, for example, where the cost of getting a building permit has been over 1600 times the per capita income, it is estimated that there are over half a million illegal buildings. In many countries, the lack of urban plans combined with difficult or expensive planning procedures and corruption, effectively forces people into the informal sector. It then becomes more difficult to get credit and people are deterred from moving house or developing businesses. Poor planning systems also discourage foreign investors who will favour those countries where it is not so difficult to get access to land and to build. Obtaining building permits and registering property are two of the key factors affecting the ease of doing business6.

Having a formal structure in place is necessary but not sufficient to trigger the creation of greater wealth for more people. For land markets to work, there must be the political will and the empowerment of all people to permit and encourage them to take part.
6.0 Creating an effective land market

An effective and efficient land market is a crucial component of any successful market economy, bringing a variety of advantages to a nation and its citizens. Land markets do not operate in isolation and their level of impact depends upon a number of external factors including an effective tenure and legal framework; transparent land policies; macroeconomic stability; freer trade; and non-predatory governments. The key to effective land markets is good governance. Land markets will not work in a State that is dysfunctional. If there is no rule of law or the political elites have a vested interest in keeping the land closely controlled then the land market will be distorted and society as a whole will lose out.

Although participation in land markets can lead to improved earnings and standards of living, this will only happen where there is clear recognition of the land rights of all citizens; access to credit; affordable transaction costs; cultural acceptance; appropriate levels of education; and market understanding, especially in the context of complex commodities. There must also be a transparent system of land use controls so that the work of physical planners can complement rather than inhibit investment and beneficial land use development.

Formal markets need political support and where this is weak or lacking, informal markets tend to develop. Illegal developments and informal settlements that are part of this informal market are caused by a range of circumstances including sudden influxes of refugees, rapid migration from rural to urban areas, poorly enforced spatial planning, weak and ineffective Land Administration and Land Management and corruption. In many countries, the extent of illegal development is significant and restrains the growth of and confidence in the formal land market. In Albania, for example, the illegal developments are significant in size, containing up to one-quarter of the population and 40 percent of the built-up area of major cities in which they are located (Stanley et al., 2007).

For land markets to operate effectively, in addition to social and political support, there must be money available and a financial infrastructure to provide mortgaging facilities. This may require external start-up finance that will enable countries in economic transition to develop land markets over time. Tenure must be secure and land policies stable so that investors can have confidence in the ownership of what they buy, while planning controls must not discourage development that is in the interest of the community and the environment. To achieve good practice and a fair and efficient land market, several institutional arrangements need to be in place, as follows.

6.1 There must be an adequate land policy and legal framework

The formal land market must operate within a clear set of policies and laws that are consistent, enforceable and acceptable to the people. Failure to provide such a framework will result in hidden informal markets operating. In Uganda, for example, customary tenure has been formally recognised within the statutory law. Elsewhere, especially in the developing world, it is within urban areas where informal systems and squatter settlements have sprung up that great challenges arise. Land market forces have a role to play in solving the problems of informal settlement but they can only do so if they are integrated within broader social and economic policies and a formal legal framework.

The law also needs to address issues raised by the introduction of electronic government including matters such as electronic access to government-held information and intellectual property rights so that information about the land can lawfully flow easily through the system and all participants in the market can have equal rights of access to land and property-related information.

The law should define:

- the nature of land (whether it includes building and construction);
- the rights that relate to land and the manner in which these are held and can be transferred;
- the restrictions and obligations that may apply to the land (for example as a result of physical planning controls);
- the regulations that govern the way in which land ownership and rights are determined and transferred;
- procedures for settling disputes over land;
- procedures for the state’s compulsory purchase of land and associated compensation;
- the manner in which the transition from informal to formal markets is to be handled; and
- intellectual property rights as they relate to land information and the handling of government-held data.

“Countries must have a clear legal and policy framework within which the land market will operate.”
6.2 There must be an integrated institutional framework

In many countries, the administration of land has become fragmented with different ministries responsible for different areas of the land (for instance rural or urban) and different aspects (such as land value or land use). Decisions by the Minister of Finance on land tax, by the minister responsible for planning and development on land use or by the Minister of Justice on land tenure will all impact on the land market. Professional and political rivalries may stand in the way of any holistic approach. Decisions about the land must be taken from the perspective that land is not only a physical and environmental entity but also a cultural, legal and economic commodity. There must be clear lines of responsibility and accountability for decisions about land and mechanisms in place to ensure that such decisions are consistent with the national land policy as a whole. The relevant guidelines should be formalised in written documents and available for all to see.

There is a growing rural/urban divide resulting from the global trend for people to move out of the rural areas into the urban where the priorities in the allocation of land rights differ from those in the countryside. There is need for consistency between the way in which land markets operate in rural and urban areas and although different rights and obligations may exist, the way in which they are administered should be the same.

Inter-agency co-operation is particularly important in the development of e-government and the need for inter-operable information between government departments and with the public. There has been a tendency in many countries for institutional compartmentalisation, which runs counter to good governance.

“Countries introducing land markets must ensure that their institutional frameworks provide for consistent, responsible and accountable decision making in all matters relating to land and that decisions operate within an overall land policy framework.”

6.3 There must be freedom from corruption

Because of the large sums of money involved in the property market, there is always a danger of corruption (Grover and Elia, 2011). This ranges from the false declaration of property prices in order to reduce tax burdens through the illegal acquisition of property by fraud to the undue influence of powerful individuals and organisations in the decision-making process (see for example Wightman (2010)). The integrity of the land administration system must be paramount. A key element is its transparency, which is best achieved through the use of computerisation and open access to relevant land and property data (see McLaren & Stanley, 2011). A key area for corruption is in the mis-management of public land. Lack of inventories and transparency have left these assets open to corruption in many countries where public land is often handed out as a political favour or on payment of a bribe.

“Countries must guard against corruption in the land market and ensure transparency.”
6.4 The land registration and cadastral systems must be fit for purpose

The most expensive and time-consuming element of the land market is the establishment and maintenance of the land administration system. It is, however, an essential component. There are two main elements: the registration of ownership rights; and the compilation of data about real property that can be used for fiscal and physical planning purposes. Many countries have addressed these components as separate issues, with distinct institutional arrangements. In Europe, this has given rise to the Registration of Title or Deeds or Land Book systems on the one hand and the Cadastre on the other. Every country has its own system based primarily on its history and culture. There is no single method of registering rights in land that applies to all countries; there is no ‘one-size-fits-all’ although many share features in common (see Figure 6).

“Countries introducing a land market must ensure that a map-based and textural system of registration is in place to support the registration of each piece of land. This must provide good value for money for the users (including low transaction costs), guarantee title by providing compensation should errors in the records give rise to loss, be open to public scrutiny and have a single point of access to all the relevant information.”

Figure 6 Systems of land registration around the world (Enemark, 2005).
6.5 The land administration system should support trading in complex commodities

Land administration systems are basically designed for the benefit of individual citizens and businesses. Increasingly, however, they are being used in support of international land markets through participation in projects such as EULIS. The global financial crisis of 2008/09 was in part caused by a failure to monitor the extent to which bank lending was at risk from the volatility of property prices. While it is not the role of land administration to monitor and police bank lending – that is the responsibility of various financial sector regulators – there is an opportunity for relevant data to be provided as a result of computerisation. Each individual land transaction contains information, which when accumulated over an area and over time will indicate how the land market is performing.

“Countries should consider the extent to which the data held by land administration agencies can be used in support of a wider range of services”

All countries require legal documents to prove land ownership. Some countries compile the records of ownership around the land parcel in what has traditionally been referred to as registration of title while others have focused on the paper records by registering Deeds. Modern systems are computerised and the difference between searching for information based on the land or the paper records has become less important. What is important is that each parcel of land can be clearly identified and that the details of who owns it under what conditions can be determined easily, quickly and cheaply. The location and boundaries of each piece of registered land must be recorded at least approximately. Some argue that high precision cadastral surveys are needed while others recognise that in many cases this is neither necessary nor achievable within the resources available and the expectations of the timescale of change. What is crucial is that the mapping is fit for its intended purpose and is kept up to date so that the registers mirror the conditions on the ground.

The system should be integrated so that even if the information about the land and the ownership are kept physically separately, from the user’s perspective there is one system with a ‘one-stop-shop’ method of access. Data relating to urban land may differ in content from that concerned with rural areas but the linkages between the two should be seamless. The system should reflect accurately what is on the ground and be complete and up-to-date so that there is no need to look beyond the current records for necessary information in what Ruoff (1957) called the mirror and curtain principles.

Inevitably, there will be some degree of risk management in compiling records of land ownership and hence the system must operate on the insurance principle: if any error in the records gives rise to loss then compensation will be available, either through the state or from private insurance.

Guidance on optimum systems of land administration is available from organizations such as the UNECE®, FAO® and the Global Land Tool Network®.
6.6 There should be equal rights and access to the land administration system for all citizens including women and minority groups and the poor

Many formal legal systems treat all citizens as equals, but in many societies the customary law is discriminatory, especially with regard to the rights of women and certain minority groups. While an operational land market can exist without the rights of women and minority groups being taken into consideration, the United Nations, the World Bank and national development agencies are increasingly insisting that the gender issue be specifically addressed and pro-poor policies implemented. The UN Habitat document “Secure Land Rights for All” (GLTN, 2008) examines many of the relevant issues and provides examples of good practice. Positive action may be needed to ensure that all citizens can participate on an equal basis in the land market – equality under the law is often not enough. For example, in Palestine, the daughter has a hereditary right by law (and in the Koran), but is pressured by family to hand over those rights to brothers. Statutory law may discriminate against land ownership by foreign nationals, a particular problem that has existed in countries applying for membership of the European Union. Countries seeking the benefit of inward investment may need to facilitate foreigners entering into the land market.

“Countries seeking to introduce a land market should reassess how their current statutory and customary laws impact on ownership by women, minority groups, and poor people and make adjustments and modifications appropriate to local circumstances. They also need to examine barriers to inward investment such as restrictions on the ownership of land by foreign nationals.”

6.7 There is a role for public/private partnerships

Designing and building a land administration system has a substantial cost and a long timeframe. It is essential that when building and operating the system, it can be maintained and sustained. It is also essential that support for the sustainability of the environment be built into the design. Sustainability means that any development meets the needs of the present without compromising the ability of future generations to meet their own needs. Facilities must exist to ensure that all records of land ownership are kept up-to-date and that the technology used to handle such information meets the needs of the users. That means that strategies must be in place to fund technology replacements as and when they are required and that procedures are adopted that automatically detect and record changes in the ownership, value and the use rights associated with real estate.

For those starting out on building land markets, the initial take-up may be slow, though once a critical threshold is reached, the number of transactions can be expected to increase significantly (Figure 7). This transition happened surprisingly quickly in Kyrgyzstan as detailed in the case study in Annex A2.

![Figure 7: Transitions in Lifecycle of Land Markets](image-url)
Many land administration agencies now operate as businesses with a business plan and partial or complete cost recovery – not for profit but not for loss. It is usually easier for title registration authorities to recover all their operating costs from the users than for mapping authorities to do so; although this is more difficult to achieve after the downturn in the property market following the global financial crisis. The use of service level agreements is one way to fund those parts of the service that are of more direct benefit to the government than to individual members of the general public.

In the creation and operation of land administration systems and development programmes, governments often do not have the capacity to deal with all the operations on their own. Almost every government is under pressure to achieve value for money and minimise the number of staff that it employs. A number of innovative business models are emerging for Land Administration agencies to sustain the investment in computer technology and share the associated risks and rewards with the private sector. These range from forging long-term partnerships with technology providers through to outsourcing land administration services with the private sector contracted to design, build and operate the system. Public/private partnerships have become common although some private finance initiatives (PFI) have become less popular in part because of high running costs. In many countries, work, such as cadastral surveying, is in whole or in part undertaken by the private sector while increasingly the maintenance of disaster copies of the registers and the operation of computer systems have been privatised.

Secure land markets are dependent on co-operation and partnerships between the public and private sectors, though the overall responsibility for land administration should ultimately be retained by the state.

“Countries introducing a land market should ensure long-term provision is made for capacity building to provide and sustain the new skills necessary to support the market, including general management skills.”

6.8 There needs to be capacity building to ensure adequate human resources and appropriate professional skills

The effectiveness of a land market depends upon the knowledge, skills and attitudes of all those involved in its design and operation. These include the politicians who set the policy framework through to the senior and junior staff who manage the information systems and deal with the public. In many countries, professional bodies that represent land professionals – lawyers, planners, surveyors and valuers – provide these resources. Whereas not all aspects of the land market require professional input, the system as a whole requires integrity and competence. Appropriate technical and management skills must be developed to support the land market for which there may need to be substantial investment in capacity building and continuing professional development.

“Countries seeking to introduce a land market or improve support for an existing market should consider public/private partnerships as a method of providing sufficient capacity to support the underlying land administration system whilst ensuring that ultimate control is retained by the state.”
6.9 There should be equal access for all systems to relevant land information

The market operates on the basis of information. In developed countries, the trend is towards electronic government and electronic services, including property conveyancing using web-based access for users, although traditional channels of communication are being retained for the present. Legislation needs to be in place, together with appropriate technology, to allow open access at a reasonable price to relevant land-related information and procedures for its handling, including, for example, the use of electronic signatures. On the one hand, this may require a large network of local offices at which landowners can have access to a manual record system, and on the other, it may mean a fully computerised land information system with web based and mobile phone access.

“Countries seeking to introduce a land market should look towards establishing legislation and policies that provide for web-based access to all land information. Where web-based access is not possible, appropriate conventional systems must be provided that allow open and timely access to the information at affordable prices.”

6.10 Future trends

Although technology is not a magic bullet that solves all problems relating to the land market, there are three major trends in ICT that are supporting more effective land administration services and land markets. The first involves new efficient approaches to land information capture. The cost of surveying (and the time it takes) has in the past prevented many poor communities from having their land surveyed since the costs surpassed the value of the land. Fortunately, this situation is changing. Advances in global positioning, mapping, and imaging technology present some of the most promising opportunities to lower these costs: National mapping agencies are introducing Continuously Operating Reference Stations (CORS), networks of geodetic quality GNSS receivers that make data available for precise positioning for cadastral surveying; a new generation of ground-based LIDAR, mounted on vehicles, are being used to capture boundary features just by driving around; and finally, the availability of reasonably priced orthophotos, are providing prospects for more rapid, cost-effective, efficient, and participatory ways of registering the boundaries of land rights. These new technologies in combination with mobile phones are providing an opportunity for land professionals to establish a partnership with citizens that would encourage and support citizens to involve themselves in directly capturing and maintaining information about their land rights – this is called crowdsourcing (McLaren, 2011).

The second trend involves Land Administration Systems becoming cheaper to implement through the adoption of Free and Open Source Software, cloud computing and standards like the Land Administration Domain Model.

Finally, policies and web services are making it easier to access land information. Public-sector information policies are changing in favour of greater transparency, accountability, and public participation, leading to open data policies. This is encouraging the development of new, innovative web based land information services, such as Zillow® in the USA and Zopla® in the UK that provide national coverage of residential property information, including market values recalculated every 24 hours. The five billion mobile phones worldwide are fast becoming the preferred channel to access land information and are opening up the possibility of crowdsourcing in land administration with citizens directly capturing their own property rights information.

“Countries seeking to extend citizen access to the land market should consider these new technologies as a way of lowering costs and making the services more affordable and inclusive.”
Conclusions

Within the worldwide diversity of approaches to land markets, a number of common themes emerge that are present when a thriving and efficient land market exists. There must be a sound land administration system, good land policy and a legal framework in place to underpin the land market.

The land market and its associated land administration system should provide:

- guaranteed security of land rights;
- low transaction costs for all users;
- access to credit;
- transparency, openness and ease of access to all;
- protection of minorities;
- opportunities to raise revenues through land and property taxes;
- support for social, economic and environmental sustainability; and
- public/private partnerships to provide value-for-money services.

To encourage and support the land market, it may be necessary for governments/donors to provide start up finance that will lead towards a self-financing status. Capacity building will be necessary to ensure that the appropriate skill sets are available as the market develops.

As societies become more complex, the range of interests in land and the types of transaction that may take place become more complicated. In addition to simple sales and rental transactions, there may be first and secondary mortgages, environmental obligations, agricultural quotas etc., all of which may be bought or sold in the market place. Increasingly, cadastral records are not only used to support land transfers or land taxation, but as an information base for the marketing of non-landownership-related goods and services such as selling insurance policies or household effects. Future trends in such a complex area are difficult to predict. However, it is clear that globalisation will mean that land markets will be seen in an international context and that governments will be encouraged to see land markets in a holistic way that includes social, economic and environmental policy. Today, there is pressure from a number of sources to address the issue of firstly tenure then other property rights of those living in informal and unplanned settlements. In addition, there is a need to improve the openness and accessibility of good quality land information for the benefit of all and to reduce the cost of both information and registration of land and property transactions.

Developments in these areas must occur in the short to medium term. Hundreds of billion of dollars are wasted around the world because those who own or occupy property do not use it effectively. All too often, aid to developing countries is wasted and resources are not efficiently directed in part because of the absence of basic property data. Without secure title to land and a properly regulated market in land, investors tend to look elsewhere. Equally, those who occupy land are unable to raise money to improve their businesses or their economic circumstances because they cannot use their land as collateral for loans.

Furthermore, a concomitant of a poorly functioning land market is an uncoordinated and chaotic planning system. This can lead to massive economic inefficiency with developments being constructed without any thought as to how they relate to each other or to such matters as transport links. When combined with poor systems for valuing property assets, foreign investment is limited because investors do not have confidence in the underlying value of their investment or have the ability to compare its performance with similar investments in other countries.

For these and other reasons it is imperative that the creation of efficient markets in land and property becomes a high priority. All countries should develop an integrated strategy that identifies deficiencies in their land management structures and puts in place policies to remedy them. After all, it can be no coincidence that the countries with the lowest gross national income per capita all have defective land markets while the world’s richest all have effective land markets.
8.0 References


See the RICS web site at www.rics.org for other papers in this series and to seek advice from RICS on issues relating to land market.
Peter Dale retired as Professor in Land Information Management at University College London in 2001. Since then he has retained his interest in land administration, helping to produce two important documents for the UNECE Working Party on Land Administration. He has been an international figure in the world of the cadastre for many years having studied and published widely in the field. He served as President of the International Federation of Surveyors from 1995-1999 when he was made an Honorary President.

Rob Mahoney is the Honorary Secretary of RICS and was formerly principal of MahGeo, an independent consulting company formed in February 2006, having been a director Business Information Management for 17 years. Rob is acknowledged as one of the most experienced Geographic Information Systems application experts in Europe, with extensive knowledge of the requirements of Local Authorities, and the Utilities, together with experience in major International Land Registration projects. Rob has played a key role in many of the initiatives to develop awareness of Geographic Information (GI) in the UK.

Robin McLaren is director of Know Edge Ltd, a UK based, independent management consulting company formed in 1986. The company supports organisations to innovate and generate business benefits from their geospatial information. Robin has supported national governments in formulating National Spatial Data Infrastructure (NSDI) strategies. He led the formulation of the UK Location Strategy and has supported similar initiatives in Africa, Europe and the Far-East. He has also supported the implementation of the EU INSPIRE Directive in the UK and was a founding member of the UK Location Council. Robin is also recognised as a world expert in Land Information Management and has worked extensively with the United Nations, EU and World Bank on land policy / land reform programmes to strengthen security of tenure and support economic reforms in Eastern and Central Europe, Africa, Middle-East and the Far-East.
A1 Bulgaria

The World Bank has provided support to Bulgaria to “improve the coverage, completeness, accuracy and responsiveness of the cadastre and real property registration systems and, therefore, contribute to the development of secure tenure of real estate (and hence investments in housing, agriculture, commerce, manufacturing, and services), and of an efficient real property market”.

Bulgaria is an example of a country in which tensions had existed between those responsible for legal records and those responsible for the cadastre. The country now has a more stable and efficient land administration system, which in combination with accession into the EU, has helped in attracting real estate investments, particularly for foreign investors. In 2007, for example, some 38% of the Foreign Direct Investment was concerned with real estate, renting and business activities. Building construction also significantly increased. In 2007, the total number of building permits went up by 8.1%, reaching 18,224 and although there was a small decline in permits for dwellings, there was an increase in permits for office buildings and other construction projects.

The value of outstanding residential mortgage loans grew by 64.4% between 2006 and 2007. Booming mortgage demand was also reflected in housing market developments: according to the provisional estimates released by the Bulgarian National Institute of Statistics, house prices rose by 23.2% on a year-on-year basis during this period. 2007 was the fourth consecutive year whereby house prices had grown, but with the global financial problems that arose in 2008, there was an inevitable slowdown and Bulgaria’s mortgage market still remains small compared to its GDP.

In 2007, the International Monetary Fund Bulgaria Report noted that the Bulgarian household sector is relatively less exposed to the collapse of international mortgage markets since household debt is 37 percent of GDP, only a third of which is for mortgages. Foreign currency loans from banks are only 8 percent of GDP.

How much of this performance is due to the World Bank project is difficult to say, but even a very modest impact would more than suffice to justify the use of the project’s investment funds in upgrading the cadastre and registration services in the country. Below are some statistics comparing Bulgaria with the rest of the EU, as at the end of 2007.

Residential property prices have been badly affected by the economic slowdown, especially holiday homes, which previously had attracted many foreign buyers. Demand for residential property has been affected mainly by the lack of financing and prices dropped by around 8.4% in 2009. Prices remain highest in the city of Varna, a port and seaside resort that has attracted foreign investors, followed by the capital city of Sofia.

<table>
<thead>
<tr>
<th>Parameter</th>
<th>EU 27</th>
<th>Bulgaria</th>
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<tbody>
<tr>
<td>GDP growth</td>
<td>2.9%</td>
<td>6.2%</td>
</tr>
<tr>
<td>Unemployment rate</td>
<td>7.1%</td>
<td>6.9%</td>
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<tr>
<td>Inflation</td>
<td>2.4%</td>
<td>7.6%</td>
</tr>
<tr>
<td>% owner occupied</td>
<td>70.4%</td>
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<tr>
<td>Residential Mortgage loans as % GDP</td>
<td>50.1%</td>
<td>9.9%</td>
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<tr>
<td>Residential Mortgage loans per capita (in €1,000)</td>
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<td>0.37</td>
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<tr>
<td>Total value of residential loans, € million</td>
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<td>Annual % house price growth</td>
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<td>Typical mortgage rate (Euro area)</td>
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</table>

Source: EMF, EUROSTAT, ECB, National Institute of Statistics, Bulgarian National Bank, SeeNews.com

A2 Kyrgyz Republic

The Kyrgyz Republic is an example of a country that was able to learn from the experiences in east and central Europe during the 1990s. In the early 1990s, the Kyrgyz Republic suffered a period of economic contraction following its independence and initial moves towards a market-based economy. The country lacked both the legal and institutional basis for the hoped-for reforms. In the case of land and property, there were multiple agencies involved in maintaining relevant data, such as the Bureau of Technical Inventory, Land Agency offices, city and regional Architects’ Offices, the State Property Fund, the State Cartographic Agency, and others. There was a lack of inter-agency coordination that hindered Government efforts at upgrading its land administration system. As with the case history for Bulgaria, the World Bank stepped in to help fund the Kyrgyz Republic Land and Real Estate Registration Project “to support development of markets for land and real estate and the more intensive and effective use of land and real estate through the introduction of a reliable and well-functioning system for registration of rights in immovable property”.

The intended beneficiaries included (a) the poor, who would gain Government protection of their property rights; (b) professionals involved in real estate markets, such as real estate agents and banks; (c) those interested in utilizing their property as collateral for loans; and (d) municipal and higher levels of government in need of a unified information base on immovable property. The project had three components: institutional development, operational services, and training.

The project included a very effective systematic registration programme and managed to register the majority of the 2.5 million urban properties nationwide and 1.25 million rural land parcels. This quickly created a critical mass of registered properties that helped to successfully stimulate and accelerate the creation of a formal land market.

To quote the Implementation Completion report: “the Project achieved its development objective of supporting development of markets for land and real estate and the more intensive and effective use of land and real estate. The number of mortgages, which were virtually nil prior to the Project, reached a cumulative annual total of 22,400 in the year 2002, the first year when most of the registration offices were operational, and doubled to 45,300 in the year 2007. The cumulative value of mortgages registered within a one period increased by more than 10 times between 2002 and 2007 to reach US$1.1 billion, roughly one-third the value of annual Gross Domestic Product (GDP) for the country. Most of these mortgages were short-term loans backed by immovable property as collateral. In 2007, outstanding (longer-term) residential mortgages were valued at US$87 million, or roughly 2.6% of GDP compared with virtually nothing prior to the Project. Underlying this growth in mortgage market activity was the growth in average property values, which increased from slightly less than US$5,000 in 2002 to over US$30,000 in 2007. Sales markets also roughly doubled between 2002 and 2007, going from 25,900 sales at the beginning of the period to 48,100 at the end”.

During the calendar year 2009, in spite of the economic recession, the number of mortgages grew by 10%, and sales transactions declined by only 1.5%. Most of the growth in the land market has been concentrated in urban areas. This is in part because the government had restricted the sale of agricultural land until recently because of concerns about possible distress sales and a fear that individuals might accumulate agricultural land holdings, which in consequence would have a negative social impact on rural areas.
A3 Lao PDR

Lao is an example of a country where until recently there has been a lack of institutional capacity in the field of land management. The country is relatively sparsely populated with a population of some 6 million, a land area of some 23.7 million hectares, of which only about 4% are cultivated. More than 50% of GDP is derived directly from agriculture, forestry, livestock and fisheries.

After a communist takeover in 1975, all rural lands became vested in the state although traditional attitudes to land tenure lay dormant. During the 1990s, the country moved back to a market economy and old customs re-emerged. While these vary across the country, in general village heads and administrative committees are responsible for planning and monitoring land and forest uses in their areas and for mediating land disputes. There are few title deeds to back up land use claims and very little control over the use or misuse of the land by outsiders. Today, almost 60% of Foreign Direct Investment is land-intensive and related to the country’s environment and natural resources.

In 2006, the Government set up the National Land Management Authority (NLMA) as the implementing agency of the revised Land Law 2003. The NLMA is developing an integrated policy aimed at generating maximum revenue whilst ensuring effective and sustainable management of the Country’s land and related resources. This policy has led directly to the granting of concessions to overseas investors particularly for plantation agriculture, mines and hydroelectric stations. To date some 1.5 million hectares have been conceded to foreign companies, mostly Chinese.

There remains a lack of capacity in land management hence the present approach to the land markets in Laos has resulted in:

- A disorganised approach to the granting of concessions;
- Loss of habitat and environmental degradation for instance through illegal logging;
- Food insecurity for the many due to granting of concessions for plantation agriculture, especially for foreigners;
- Need for resettlement of villages and compensation resulting concessions to what was traditionally their land;
- Increasing numbers of land conflicts resulting from these concessions and the restitution of pre-1975 land rights;
- The court system struggling to cope; and
- Corruption of some government officials.
A4 Paraguay

Paraguay, like most of its neighbours, suffers from extreme inequality when it comes to access to land with 2% of the farms, or about 6,400 estates, occupying 82% of the agriculturally exploitable land. There are particularly large holdings in the arid Chaco region, which covers two-thirds of the country but has only two percent of the population. The pattern of land ownership dates from the second half of the 19th Century when vast tracts of land were opened up to foreign investors as part of an effort to attract more people and capital into the country. Many large holdings were established, some in excess of one million hectares. As a result, the remaining 98% of farms in Paraguay are relatively small with over half being less than five hectares in size.

In the second half of the 20th century, in common with other Latin American countries, Paraguay implemented a series of "agrarian reforms" that were intended to distribute land to many more farmers. About 12 million hectares were distributed but 74 percent of the area went to only 2.5 percent of the beneficiaries, most of whom were not farmers but were closely associated with the then President Stroessner. The aim of the redistribution was to increase social welfare and boost overall food production since smaller farms tend to be far more productive per hectare than the large farms, which have less incentive to invest. The fact that redistribution had to be driven by special legislation and did not come about through market forces is largely due to the imperfections in the land market, such as high transactions costs, unclear property rights, rationing of credit, limitations on the access to land and property information and the power and influence of those owning large estates.

Furthermore, there has been a lack of a well-functioning credit market and this has had a detrimental effect both on the land sales and rental markets. There is inevitably a long period of time between incurring the costs of inputs and receiving the revenues from sales of the output. Hence, without access to credit, there is little incentive to increase land holdings either by buying or renting more land. In theory, land rental markets have several advantages over land sales markets, allowing more people to access land and providing greater flexibility and lower transaction costs when land use is transferred to more efficient producers. Also they are less vulnerable to the volatilities of the credit market. Peasant farmers do not need as much credit to rent land as they do to buy it. However, tenant farmers do need secure land rights and unless they have a profit sharing deal with the owner, they may not invest in their land and property. Throughout much of Latin American, renting land especially from the big estates has often been seen as a component of the old hacienda system and associated with the exploitation of the poor. Hence, renting can be unpopular.

In 1991, almost half of those farms that had less than 1 hectare rented additional land but by 2001 this figure had reduced to around one in ten. During this period, most farms that were larger than one hectare increased their levels of renting. Most of the purchases and sales of land were concentrated among farms with less than fifty hectares, with the larger farms being more active in the land market. A study by Masterson (2007) drew the conclusion that “it is hard to see from the evidence presented here how the land rental market could be contributing significantly to land redistribution. However, it is worth noting that the smallest farmers are four times as likely to rent in land as purchase it.”

Uganda is an example of a country where informal land markets have thrived alongside formal. This is especially the case in Kampala, the capital city of Uganda, which has like many other cities in Africa, been experiencing unprecedented growth that is much faster than can be accommodated within its Master Plan, which was adopted in 1980. The city is the centre for approximately 80% of the country’s commercial and industrial activity and responsible for generating 50% of its GDP. The current population of the country is approaching 35 million of whom just under 2 million live in and around Kampala.

Across the country there are two distinct land markets – a formal market for officially registered land where transactions comply with government regulations and an informal market where property and land use rights may be purchased and sold without being formally recorded. Both land markets are very active, with a considerable amount of buying and selling especially in Kampala. In general, the informal market caters for the needs of the less well off who cannot afford to pay for registered land or for the transaction costs involved in the formal market. Approximately 85% of the population of Kampala live in what are described as slum areas.

Although the formal market is fairly robust, it has to operate within a number of constraints including shortcomings in land policy, the costs and complexities resulting from the existing land tenure and land registration systems, weaknesses in urban planning, deficiencies in the land taxation regime, land speculation and corruption. A traditional form of land tenure, known as the mailo system, exists throughout the central area of Uganda and in Kampala this has lead to a myriad of small parcels in individual ownership. This makes it difficult and expensive to assemble land for housing schemes. This is further aggravated by the high price of land in the formal areas and inadequacies of the road network. These tend to discourage investment in residential housing.

Where cheaper land is available for housing development, there is usually a lack of infrastructure. The provision of utilities such as water and sewerage disposal adds significantly to the development costs, by around 40 per cent. Such land tends to be far from centres of employment, creating significant transportation costs, in effect putting the price well beyond what many workers can afford. Serviced land closer to the city centre and commercial and industrial areas is often so expensive as to preclude its use by those with low or moderate levels of income. As a result, the construction of new housing has lagged behind population growth and it is estimated that there is currently a need to build at least 100,000 new homes in and around Kampala. If present growth rates are maintained then a million new homes will be needed by 2025. As in many African cities, there is a shortage of public resources to provide decent infrastructure. Kampala lacks an adequate property taxation system and hence is dependent on the national government or foreign aid for financing infrastructure projects.

As a result of population pressure, the cost of serviced land in Kampala has risen significantly, increasing four-fold in parts of the city during the five years 2002-2007. Even land without services more than doubled in value. This has resulted in a fairly robust formal land market as well as “a great deal of informal purchasing and selling of land and land rights, especially in the mailo areas where land use patterns are irregular, housing is of poor quality, services are minimal and ownership rights can at times be murky”(IHC, 2009).
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