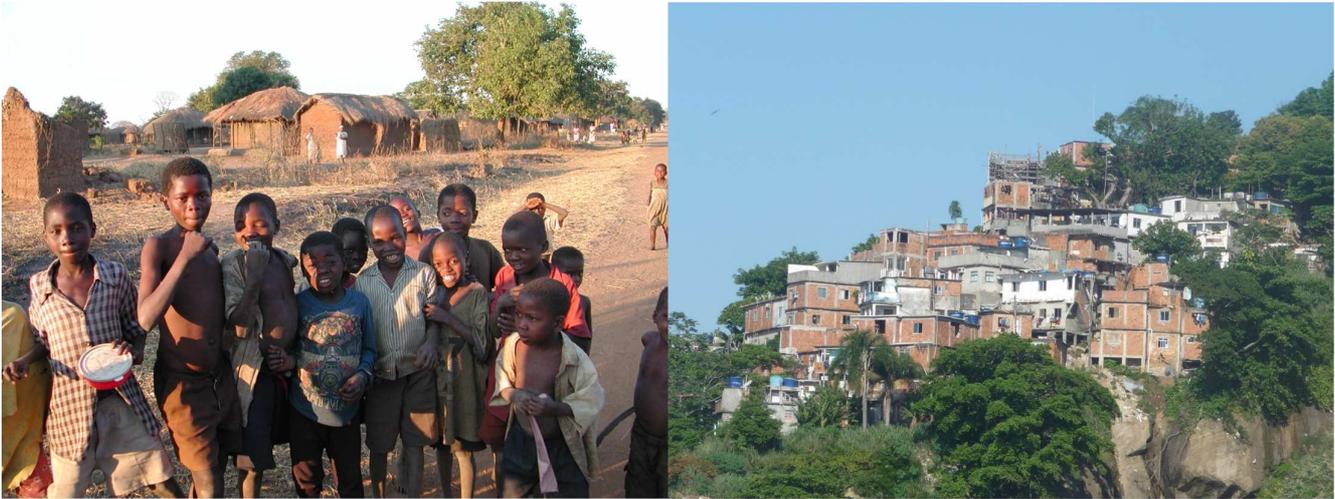


Land Administration Systems: Underpinning the Human Rights Perspective

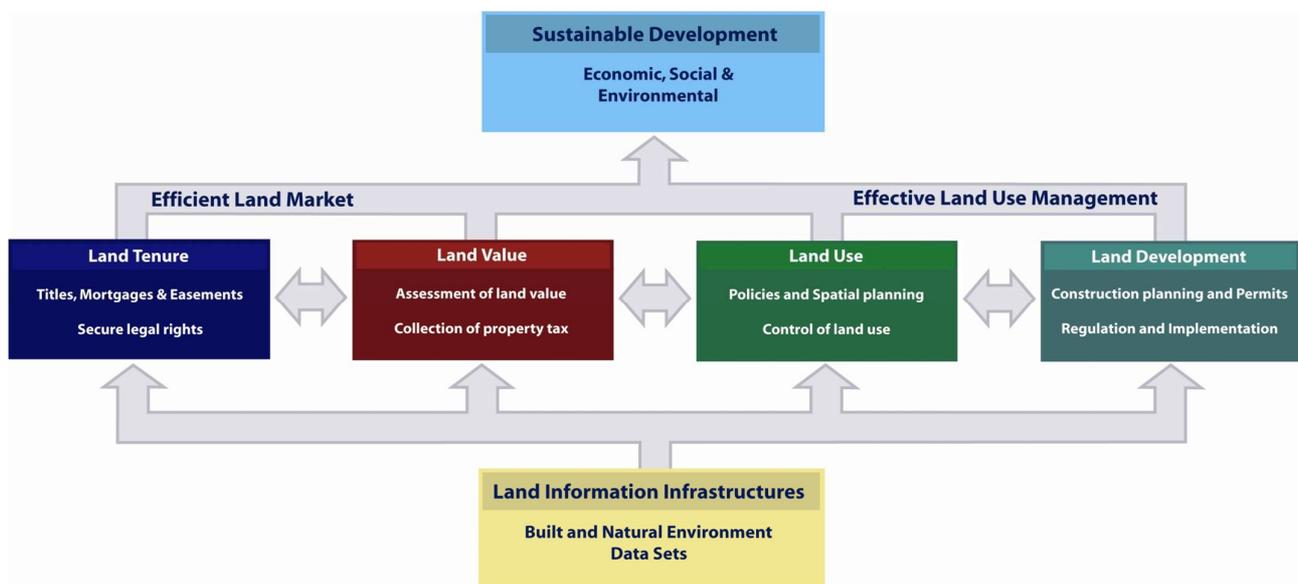


Stig Enemark, FIG Honorary President

ENGAGING THE CHALLENGES, ENHANCING THE RELEVANCE
XXV FIG CONGRESS, KUALA LUMPUR, MALAYSIA, 15-21 JUNE 2014

Land Administration Systems

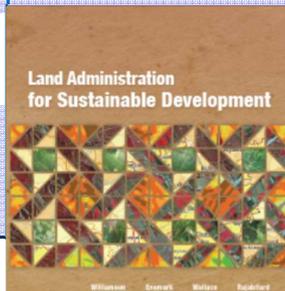
Land Administration Systems provide the infrastructure for implementation of land policies and land management strategies in support of sustainable development.



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

Benefits to Society

<ul style="list-style-type: none"> • Support for governance and the rule of law 		<ul style="list-style-type: none"> • Protection of state lands
<ul style="list-style-type: none"> • Alleviation of poverty 		<ul style="list-style-type: none"> • Management of land disputes
<ul style="list-style-type: none"> • Security of tenure 		<ul style="list-style-type: none"> • Improvement of land use planning
<ul style="list-style-type: none"> • Support for formal land markets 		<ul style="list-style-type: none"> • Development of infrastructure
<ul style="list-style-type: none"> • Security of credit 		<ul style="list-style-type: none"> • Management of resources and environment
<ul style="list-style-type: none"> • Support for land and property taxation 		<ul style="list-style-type: none"> • Management of information and statistical data



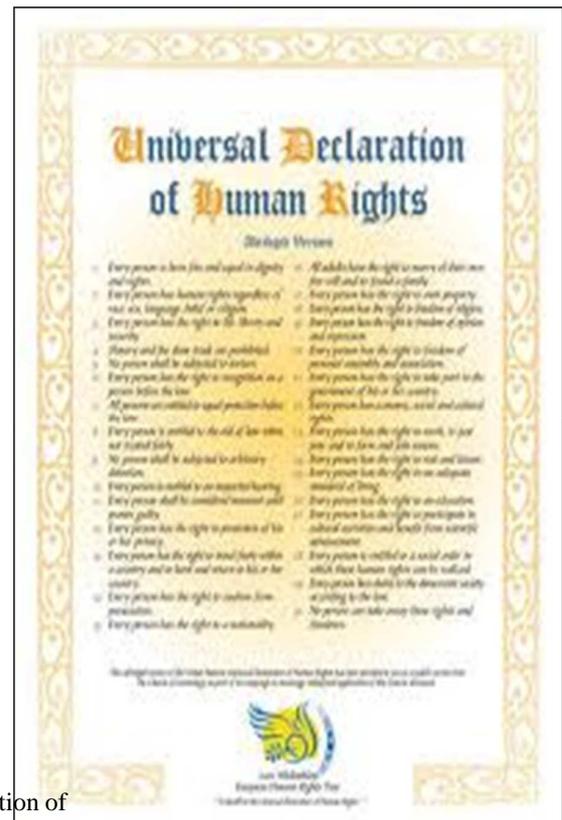
The book is available for free online at <http://www.fig.net/pub/others/index.htm>

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Williamson, Enemark, Wallace, Rajabifard, ESRI Press, 2010, 500 pages.

The Universal Declaration on Human Rights

- The Universal Declaration of Human Rights, 1948, states a range of general human rights such as Art 1. All human beings are born free and equal in dignity and rights. Art 3. The right to life, liberty and security.
- More specific rights relate to freedom of thought and expression, and more social rights relate to the right of democracy, education, and also duty towards other people to enjoy the same rights and freedom.
- Of special interest to land and property is the human rights to own things (Art. 17) and the right of food and adequate housing for all (Art 25).
- These rights cannot be achieved or enforced without well functioning land administration systems. Especially to developing countries struggling to build adequate systems for governing rights, restrictions and responsibilities in land.
- Land professionals must reflect this human rights perspective when undertaking the role of managing the people to land relationship.

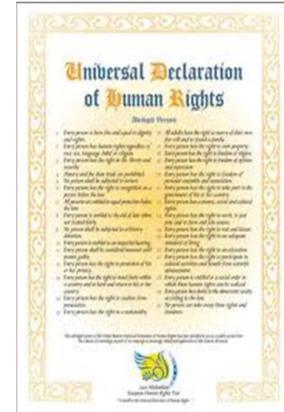


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... The Universal Declaration on Human Rights

Article 17:

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



Article 25:

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

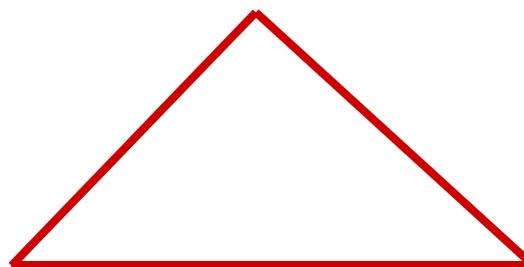
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Malaysia 16 – 21 June 2014

Interests in Land

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

Rights:

Registration and security of
tenure positions



Responsibilities:

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

Restrictions:

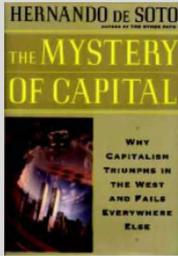
Planning and control of land-use and land development

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Property Rights

- two approaches

Formalising land rights through titling in traditional cadastral systems

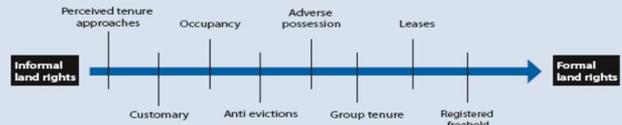


"Civilised living in market economies is not simply due to greater prosperity but to the order that formalised property rights bring"

Hernando de Soto – 1993

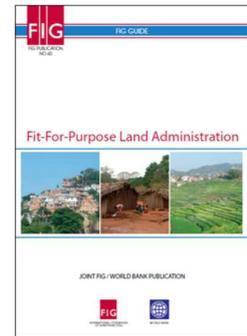
Continuum of land rights (GLTN-agenda)

Recognising informal rights through a continuum of land rights.



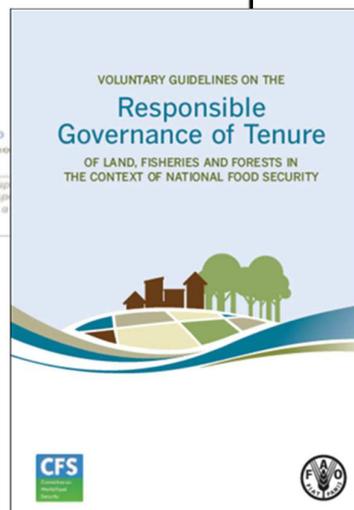
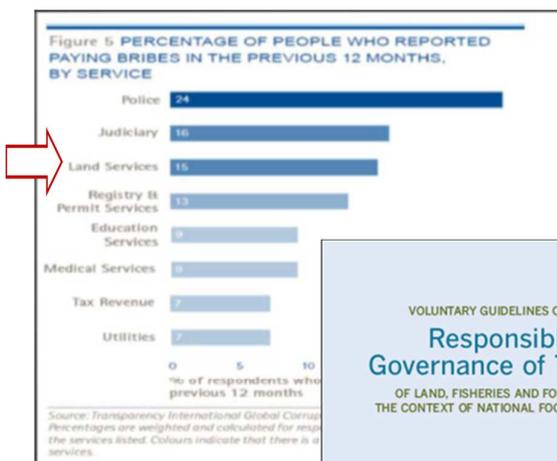
"There is an urgent need to build simple and basic systems using a flexible and low cost approach to identifying the way land is occupied and used."

FIG / World Bank, 2014.



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Responsible Governance of Tenure



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

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

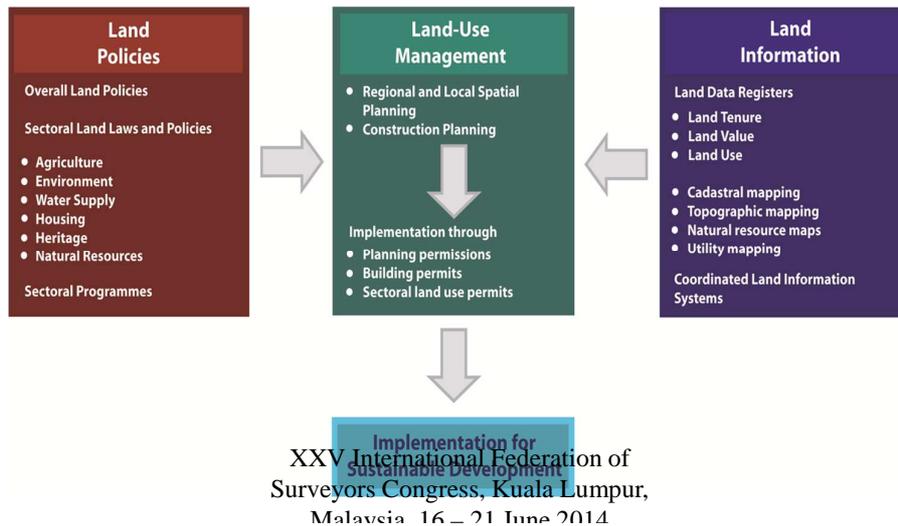
Guidance for a variety of actors. With the help of the Guidelines actors can determine whether their proposed actions and the actions of others constitute acceptable practices.

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Property Restrictions

- two approaches

- **The free market approach** (current debate in the US)
 - Land owners should be obligated to no one and should have complete domain over their land.
- **The central planning approach** (European perspective)
 - The role of democratic government include planning and regulating land systematically for public good purposes.



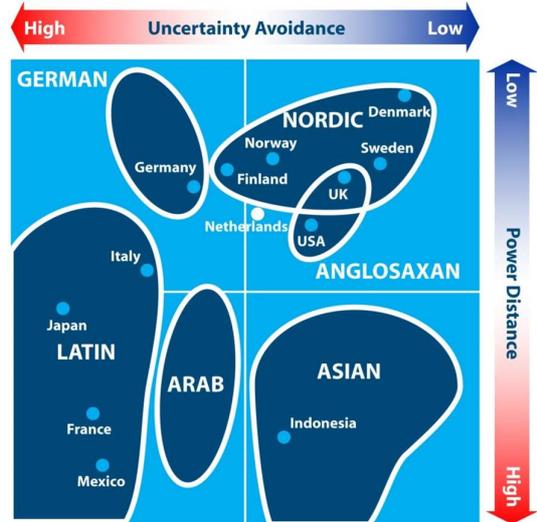
- The human right to adequate housing and decent living (minimal property) relates very much to planning and land reform. Without secure tenure, slum residents face a constant risk of forced eviction.
- The UN Commission of Human Rights: "The practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing".
- Therefore, informal settlements should be seen as an integrated part of citywide strategic planning that includes a range of innovative responses to informality.

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



Responsibilities

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



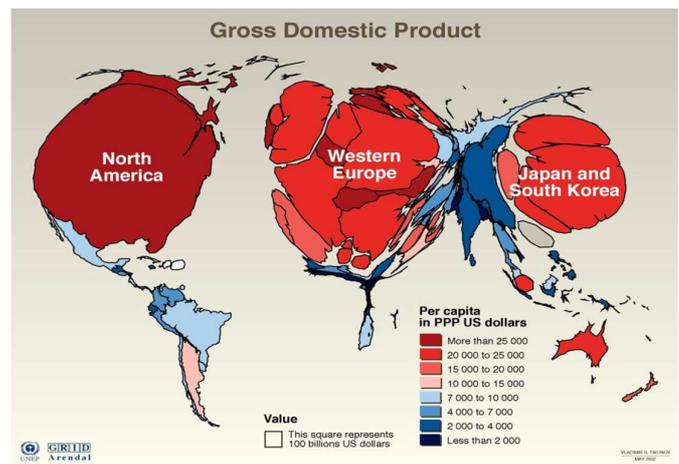
A cultural map of the world, Get Hofstede, 2001

- Rights and responsibilities are two sides of a coin. Land rights cannot be enjoyed without some kind of legal or ethical responsibility.
- This also applies for **human rights**, which can only be enjoyed by including responsibility towards others so that they can also enjoy the rights and freedom.

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The Global Agenda

The human rights perspective, along with good land governance, should be seen as a means in support of the global agenda



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The Global Agenda: Monitoring Progress

Goal 1

Eradicate extreme poverty and hunger

TARGET 1.A

Halve, between 1990 and 2015, the proportion of people whose income is less than \$1 a day

The MDG target has been met, but 1.2 billion people still live in extreme poverty

Proportion of people living on less than \$1.25 a day, 1990, 2005 and 2010 (Percentage)



Quick facts

- Poverty rates have been halved, and about 700 million fewer people lived in conditions of extreme poverty in 2010 than in 1990.
- The economic and financial crisis has widened the global jobs gap by 67 million people.
- One in eight people still go to bed hungry, despite major progress.
- Globally, nearly one in six children under age five are underweight; one in four are stunted.
- An estimated 7 per cent of children under age five worldwide are now overweight, another aspect of malnutrition; one quarter of these children live in sub-Saharan Africa.

"If we can measure it – we can better it" (Bill Gates, 2013)

- MDGs: 8 Goals, 18 Targets, 48 Indicators
- LGAF: Land Governance Assessment Framework
- DBR: WB Doing Business Reports
- CPI: Corruption Perception Index.
- Indicators are needed for measuring the implementing of **human rights** especially with regard to the right for adequate **housing** (UN-HRC, 2007).

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A New Global Partnership The post 2015 agenda



Vision: the future we want for all

- **Transformative change towards inclusive, people-centred, sustainable development**
- **Three fundamental principles**
 - Human rights
 - Equity
 - Sustainability
- **Four core dimensions**
 - Inclusive social development
 - Environmental sustainability
 - Inclusive economic development
 - Peace and security

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www.un.org/millenniumgoals/pdf/Post_2015_UNTTreport.pdf

A Land Governance Vision



Trustable land information and good land administration is fundamental for:

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

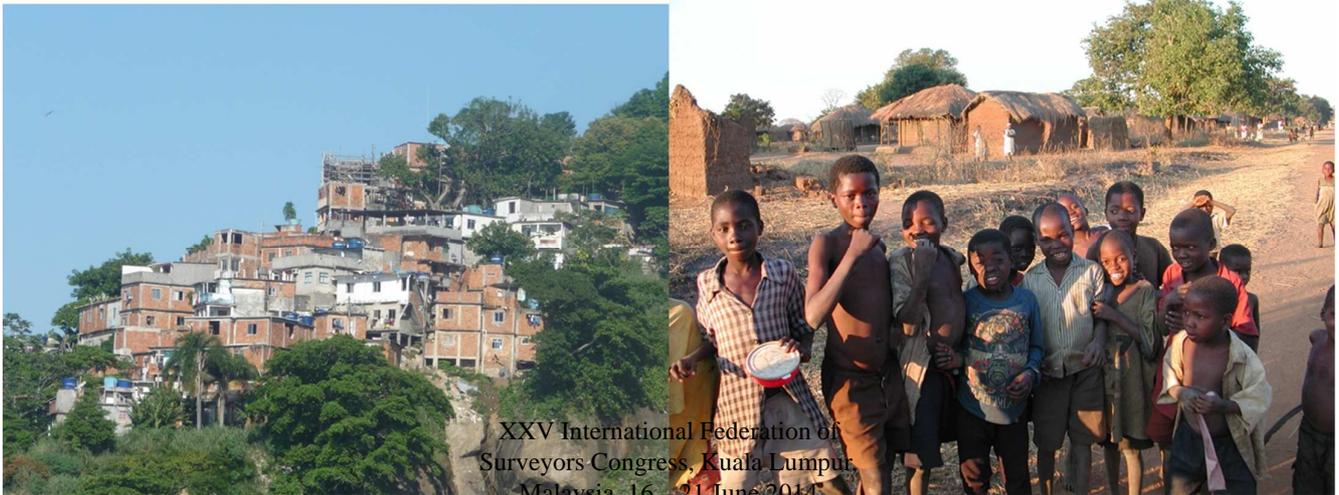
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Key message

- Land Administration Systems should embed a **human rights** perspective in support of the global agenda and in pursuit of social justice
- The **Human Rights** Declaration can be regarded as a global Code of Ethics being enforced through political commitment and societal institutions. Land administration systems are highly instrumental in this regard.
- Simply, the **human right** to "minimal property" cannot be achieved or enforced without well functioning systems managing the people to land relationship.

And

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



**Thank you
for your attention**