

United Nations
Economic Commission for Europe
Working Party on Land Administration

Social and Economic Benefits of Good Land Administration (Second Edition)

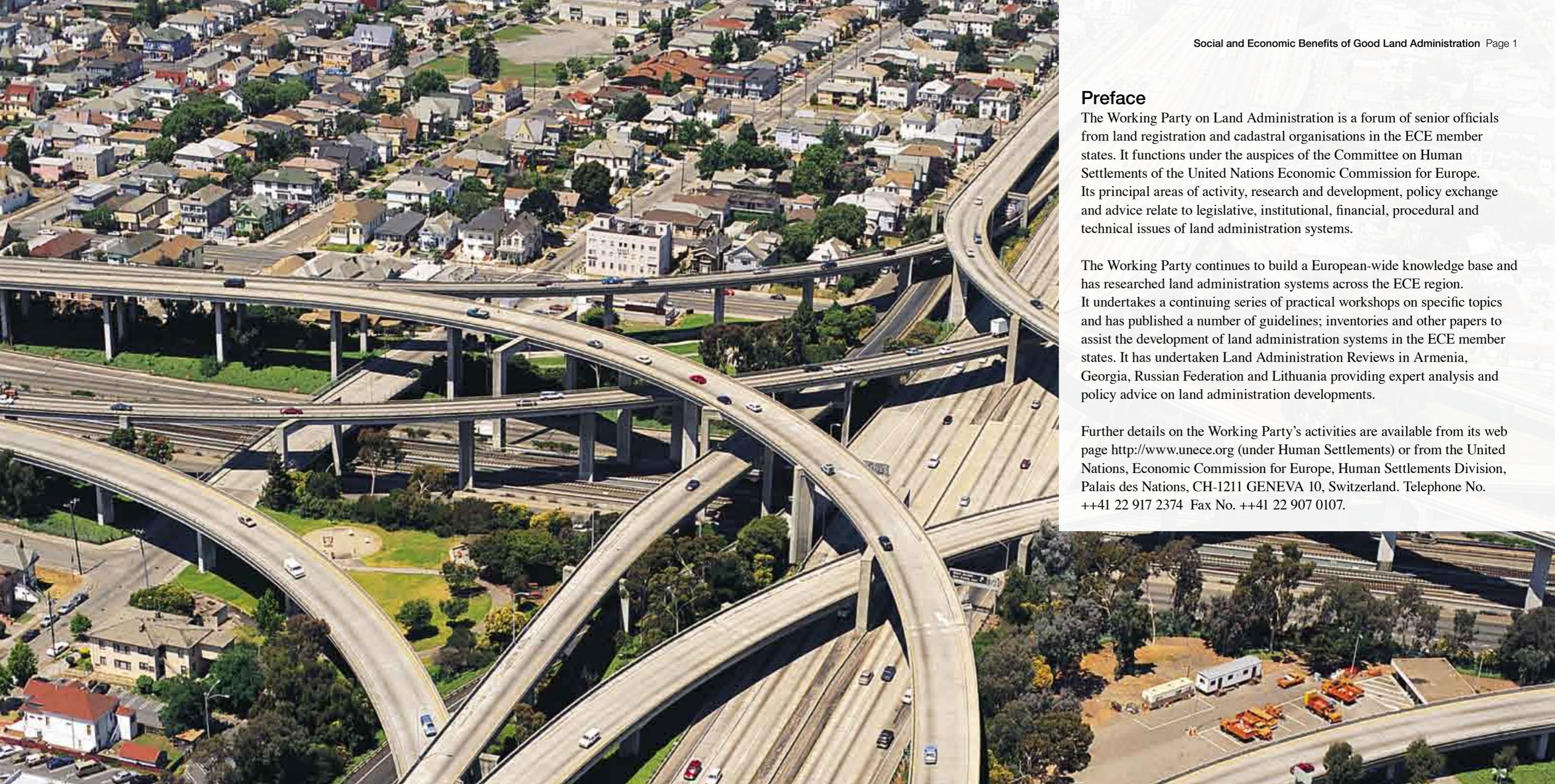
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Preface

The Working Party on Land Administration is a forum of senior officials from land registration and cadastral organisations in the ECE member states. It functions under the auspices of the Committee on Human Settlements of the United Nations Economic Commission for Europe. Its principal areas of activity, research and development, policy exchange and advice relate to legislative, institutional, financial, procedural and technical issues of land administration systems.

The Working Party continues to build a European-wide knowledge base and has researched land administration systems across the ECE region. It undertakes a continuing series of practical workshops on specific topics and has published a number of guidelines; inventories and other papers to assist the development of land administration systems in the ECE member states. It has undertaken Land Administration Reviews in Armenia, Georgia, Russian Federation and Lithuania providing expert analysis and policy advice on land administration developments.

Further details on the Working Party's activities are available from its web page <http://www.unece.org> (under Human Settlements) or from the United Nations, Economic Commission for Europe, Human Settlements Division, Palais des Nations, CH-1211 GENEVA 10, Switzerland. Telephone No. ++41 22 917 2374 Fax No. ++41 22 907 0107.





Introduction

In September 1998 the UNECE published the Statement on Social and Economic Benefits of Good Land Administration. Its purpose was to draw the attention of the policy makers in the ECE region to the importance of a formal system of land tenure as the basis for economic activities. Significant developments have since taken place in Land Administration in member states.

This publication is the second, revised, edition of the Statement, which has the same purpose, namely to engage the continuing attention of policy makers in the ECE region to the social and economic importance of good land administration in their programmes to improve the wellbeing of citizens. The second edition reflects developments and new trends since 1998.

This Statement, like the first edition, was prepared on behalf of the Working Party on Land Administration by Mr. John Manthorpe, former Chief Land Registrar of England and Wales. It was considered and approved by the Bureau of the Working Party on Land Administration in September 2004.

Land as a Source of Wealth and Economic Success

Throughout the world governments seek social stability and sustainable economic performance for their countries and their people. Countries with different histories, cultures and environments share common aspirations for certainty and for growth. A framework of land and property laws that recognise the rights and duties of the individual, but also the shared concerns of the wider community, is essential if these aspirations are to be realised.

No country can sustain stability within its boundaries, or economic development within the wider world, unless it has a land rights policy that promotes internal confidence between its people, its commercial enterprises, and its government. Recognising that land is the source of all wealth lies at the heart of good government and effective public administration. States that prosper promote widespread and secured private ownership of land as a foundation of social and economic policy.

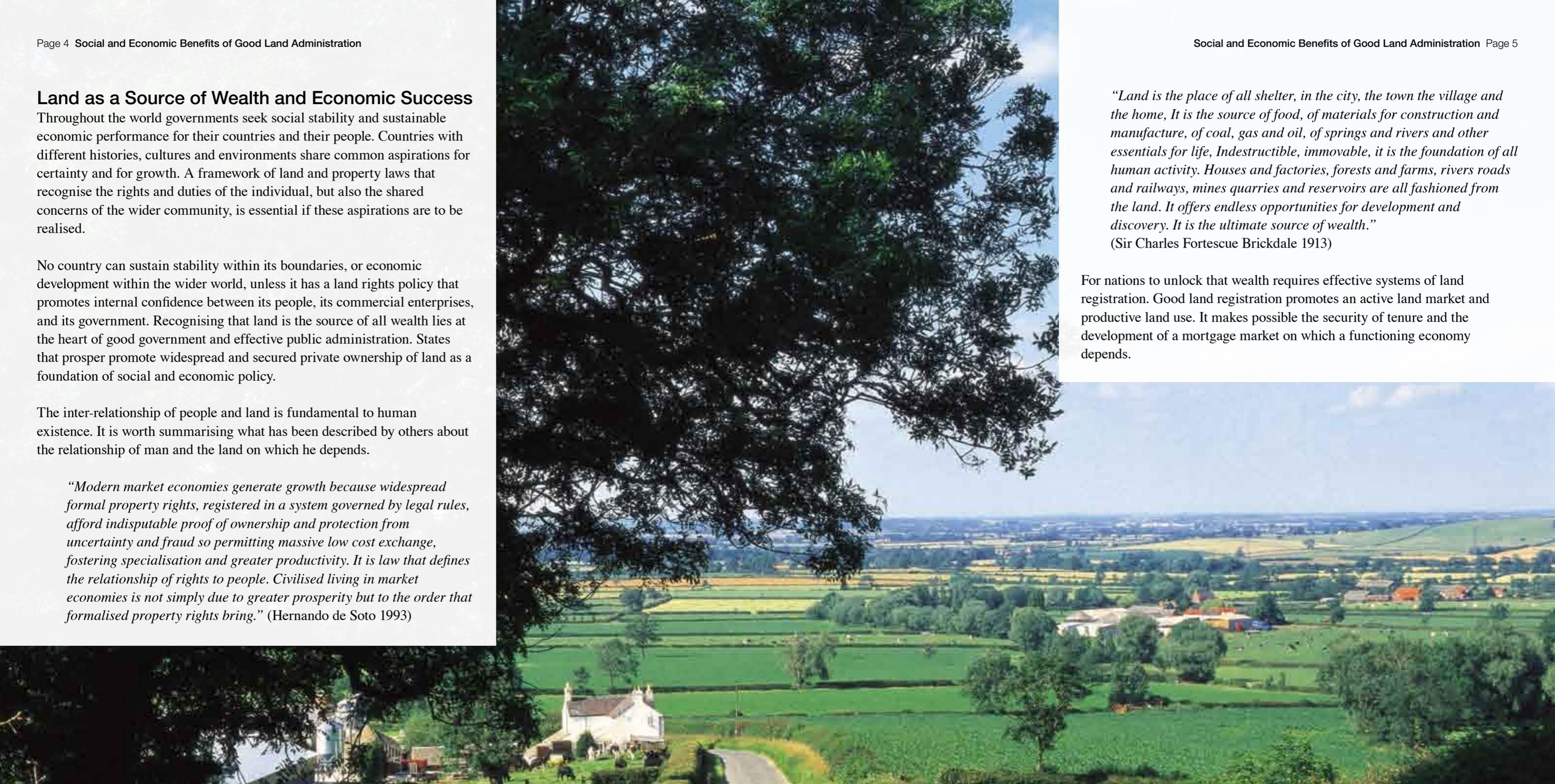
The inter-relationship of people and land is fundamental to human existence. It is worth summarising what has been described by others about the relationship of man and the land on which he depends.

“Modern market economies generate growth because widespread formal property rights, registered in a system governed by legal rules, afford indisputable proof of ownership and protection from uncertainty and fraud so permitting massive low cost exchange, fostering specialisation and greater productivity. It is law that defines the relationship of rights to people. 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)

“Land is the place of all shelter, in the city, the town the village and the home, It is the source of food, of materials for construction and manufacture, of coal, gas and oil, of springs and rivers and other essentials for life, Indestructible, immovable, it is the foundation of all human activity. Houses and factories, forests and farms, rivers roads and railways, mines quarries and reservoirs are all fashioned from the land. It offers endless opportunities for development and discovery. It is the ultimate source of wealth.”

(Sir Charles Fortescue Brickdale 1913)

For nations to unlock that wealth requires effective systems of land registration. Good land registration promotes an active land market and productive land use. It makes possible the security of tenure and the development of a mortgage market on which a functioning economy depends.



Social and Economic Benefits of Securing Rights in Land

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

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

The benefits of an effective land registration system are that it will:

- Guarantee ownership and security of tenure
- Be the basis for land and property taxation
- Provide security for credit
- Guarantee the result of judicial procedures relating to land rights including rights of repossession of land
- Reduce land disputes
- Develop and monitor land and mortgage markets
- Protect State lands
- Facilitate land reform
- Promote improvement of land and buildings
- Facilitate reliable land use records
- Improve urban planning and infrastructure development
- Support environmental management
- Produce statistical data as a base for social and economic development



Facilitating Private Land Ownership and Security of Tenure

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

Land ownership, registered in a guaranteed system, facilitates greater mobility; for those who need to move to alternative employment in a new region, or for those whose family circumstances have changed with the passage of time. It makes possible access to secured credit. The major wealth of families and people is their home, not just in the shelter that security of tenure ensures, but the home as a realisable financial asset. This provides the owner with choices: to sell and buy, to borrow against the collateral that the property represents in order to invest or develop, to make provision for future inheritance by his or her family.

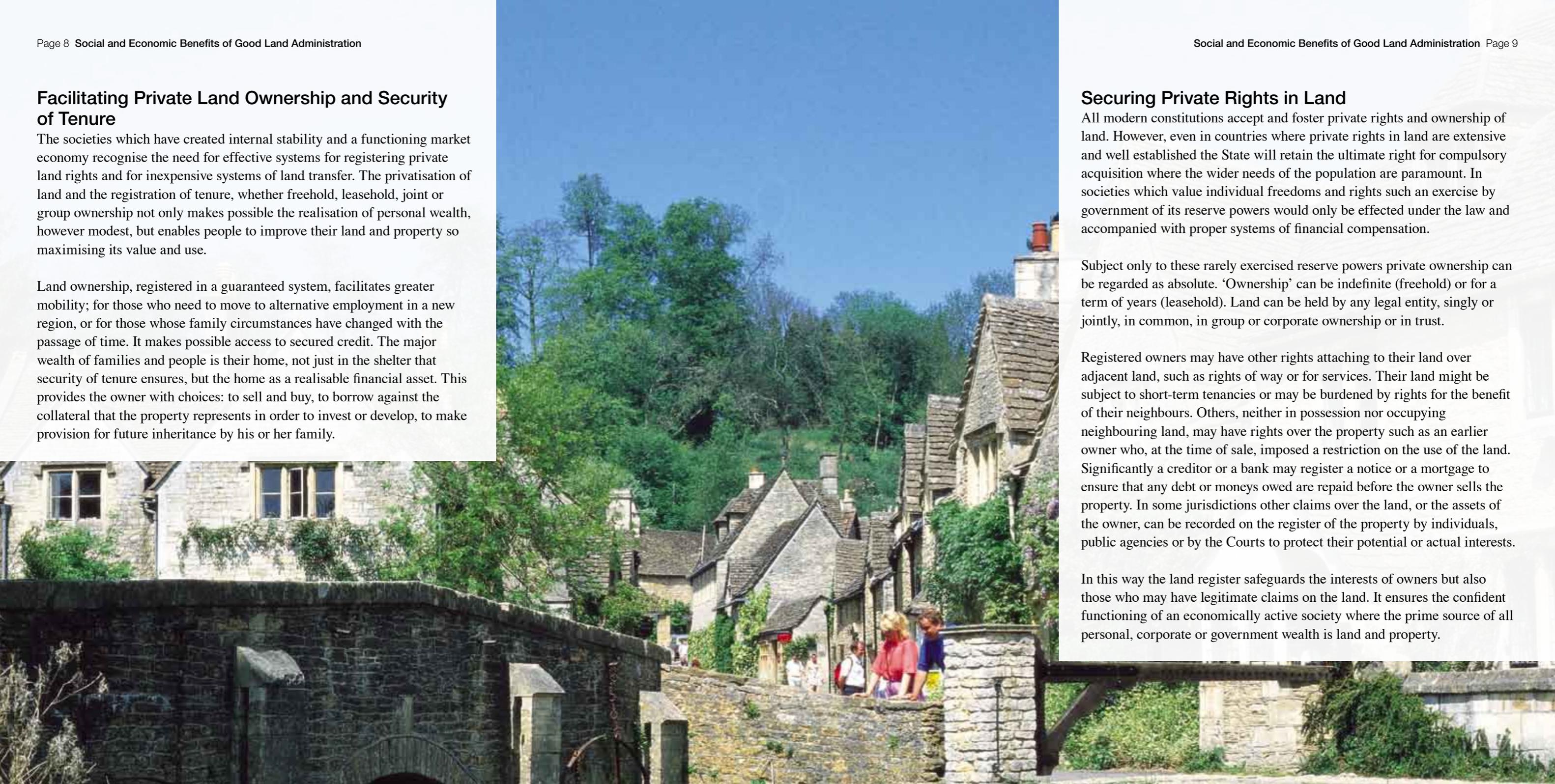
Securing Private Rights in Land

All modern constitutions accept and foster private rights and ownership of land. However, even in countries where private rights in land are extensive and well established the State will retain the ultimate right for compulsory acquisition where the wider needs of the population are paramount. In societies which value individual freedoms and rights such an exercise by government of its reserve powers would only be effected under the law and accompanied with proper systems of financial compensation.

Subject only to these rarely exercised reserve powers private ownership can be regarded as absolute. 'Ownership' can be indefinite (freehold) or for a term of years (leasehold). Land can be held by any legal entity, singly or jointly, in common, in group or corporate ownership or in trust.

Registered owners may have other rights attaching to their land over adjacent land, such as rights of way or for services. Their land might be subject to short-term tenancies or may be burdened by rights for the benefit of their neighbours. Others, neither in possession nor occupying neighbouring land, may have rights over the property such as an earlier owner who, at the time of sale, imposed a restriction on the use of the land. Significantly a creditor or a bank may register a notice or a mortgage to ensure that any debt or moneys owed are repaid before the owner sells the property. In some jurisdictions other claims over the land, or the assets of the owner, can be recorded on the register of the property by individuals, public agencies or by the Courts to protect their potential or actual interests.

In this way the land register safeguards the interests of owners but also those who may have legitimate claims on the land. It ensures the confident functioning of an economically active society where the prime source of all personal, corporate or government wealth is land and property.



Recording Public Rights in Land

For the wider benefit of society government will maintain public rights which can affect privately owned land. Land Registers and other public land records will ensure that this information can be quickly and widely accessed. In its ownership of land public authorities stand in no different position from other private owners. Appropriate recording and publication of public restrictions on use of land and buildings are important for the implementation and sustainability of land use plans.

Developing a Secure Financial Sector

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

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





Providing a Basis for Land Taxation

One of the essential features of maintaining national land records is to enable national governments to establish an efficient and equitable basis for raising taxes from those who own or occupy land and property. Such systems generate public income to provide essential public services for the benefit of the community. Maintaining authoritative information on land use and the attributes of land for all individual land parcels is an important feature of land administration systems, not just as a basis for assessing the value of land but in the wider spheres of land policy and land management particularly for agriculture and the environment. Associating land use and valuation information with other components of an integrated and accessible land administration system contributes to sound decision making for the benefit of all.

Land Information as a Basis for Land Management

Appropriate land information is of vital importance for land management, whether for the development of sustainable agriculture, managing the rapid growth of cities, or for the protection of the environment. Geographic Information Systems (GIS) are useful tools for handling information on the current land use as well as for monitoring changes. Thus such information systems should combine data from different sources, including topographic maps and satellite images. Data about ownership and parcel boundaries are always of fundamental importance in land information systems. The development of GIS systems and on-line access within countries but also across Europe provides the scope for obtaining information quickly either about particular properties or aggregated data relating to property types or regions. A computerised land register enables continuing monitoring of property price movements in the housing market with reports published regularly.

The Land Registration Laws

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

- Define legal forms of land tenure
- Distinguish between real and personal property (immovable and movable property)
- Distinguish between ownership, possession and use of land
- Indicate registrable rights less than ownership (such as a mortgage)
- Define how rights can mature
- Establish, within the public sector, an independent, self financing Land Registry institution with clear statutory powers
- Establish administrative systems for land transfer and mortgage registration
- Ensure quick and simple creation of mortgages and distraint
- Co-ordinate legislation relating to urban planning, land use and the recording of information on the land register
- Ensure that rights registered are guaranteed by the State
- Ensure clarity of Ministerial responsibility and authority
- Specify the administrative role of the agencies responsible for national mapping, land valuation and land use.

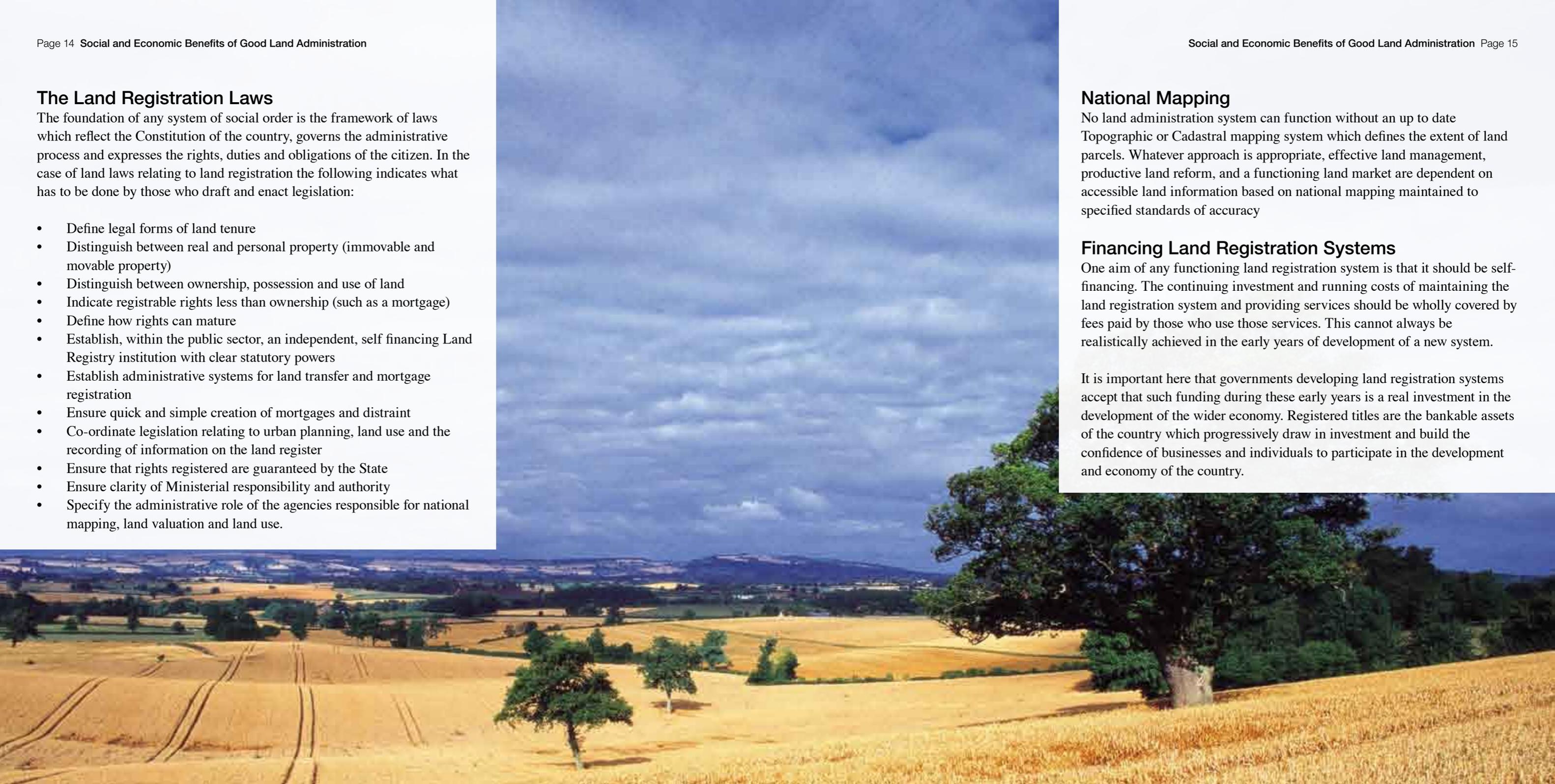
National Mapping

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

Financing Land Registration Systems

One aim of any functioning land registration system is that it should be self-financing. The continuing investment and running costs of maintaining the land registration system and providing services should be wholly covered by fees paid by those who use those services. This cannot always be realistically achieved in the early years of development of a new system.

It is important here that governments developing land registration systems accept that such funding during these early years is a real investment in the development of the wider economy. Registered titles are the bankable assets of the country which progressively draw in investment and build the confidence of businesses and individuals to participate in the development and economy of the country.



The UNECE Land Administration Guidelines

In 1996 the United Nations Economic Commission for Europe published its “*Land Administration Guidelines*”. These Guidelines were produced to meet what was then a recognised and urgent need to provide authoritative guidance to the ECE member states, with particular reference to the countries in transition of Eastern and Central Europe. The Guidelines encompassed institutional, technical, legal and financial issues. They are recognised as one of the most informative and comprehensive documents to have contributed to the development of land administration systems in Europe over the eight years since publication. A new publication, similar to the Guidelines will be produced and published by the UNECE in 2005 to take account of changes over the period since 1996.

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