

Land Administration in Europe¹

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Key words:

1. CHANGING THE CORE SKILLS OF THE PROFESSION

The surveying profession is rapidly changing. From playing a key role in understanding, exploring and opening the lands and seas of the World; now almost everybody can make real time precise positioning and machines can make accurate maps. The science of geodesy and mapping will not disappear, but far less academics founding their core activities on those skills will be needed. At the same time management of land and waters is coming very much on the agenda as crucial to environmental sustainability as well as to social and economic development. Changing from geodetic engineers to administrators and managers of land and property, the profession has a golden opportunity to maintain its role in society. Particularly this has over the last decade been highlighted by the Peruvian economist and writer **Hernando de Soto**.

2. HERNANDO DE SOTO

In the Time Magazine of April 26 2004 the Peruvian economist Hernando de Soto was nominated one of the 100 most influential people of the World.

"I predict that in the next 150 years the countries in Latin America and elsewhere joining these 25 (countries with a developed economy) will be those that spend their energies ensuring that property rights are widespread and protected by law, rather than those which continue to focus on economic policy.

- *Hernando de Soto*



¹ This article is based on a keynote presentation that the author gave at the FIG Working Week in Athens in May 2004. It presents viewpoints in a popular form. It should not be read as a scientific study.

Hernando de Soto Unlocking the Riches of the Poor

Development schemes for Third World countries rarely benefit the poor, largely because aid is too often squandered by corrupt bureaucracies. That makes fresher, commonsense visions like those of Peruvian economist Hernando de Soto all the more welcome. De Soto has spent years looking deep inside the underground economies where poor people—who make up two-thirds of the world's population—eke out a living. He figures the value of their extralegal property, from cinder-block squatter homes to black-market street-vendor sales, at almost \$10 trillion. De Soto insists that bringing the poor and their assets into the formal economy, which is usually closed to them by oligarchies and epic red tape, would eclipse all previous development efforts.



De Soto's messages, not least through his book "*Mystery of Capital – why capitalism works in the west and nowhere else*" has raised the awareness throughout the World of the role of widespread, secured and tradable property rights in combating poverty. De Soto underlines that registered property is the fundamental resource for capital formation, and not only by being used as collateral for mortgages. It has far wider impacts, such as providing people with recognised addresses to which suppliers of public services can relate their bills – thus facilitating investments in water supply and other basic services. Formalising property rights are not only about freehold titles. As long as the rights are registered and thus made tradable a range of tenures can support capital formation. However, registration of the property objects and the related rights are not enough to achieve the overall objectives. In addition people and businesses must be enabled to act in the property market. Particularly for small and medium size businesses, company registers are essential to enable them to use property as collateral and otherwise act in the property market.

De Soto's message has reached top politicians in developing countries as well as in countries and in international institutions that are aiming at assisting these countries in elevating poverty and related social problems. A recent example from my own country shows this clearly; In an article in the largest newspaper the Norwegian prime minister, **Kjell Bondevik**, stated that formalisation of property rights will be a cornerstone in Norwegian aid to developing countries and to countries with economies in transition:

The Norwegian Prime Minister on 3rd May 2004:

A NEW AGENDA in fighting poverty

Lack of security of tenure has big negative consequences for the individual poor as well as for entire societies.

To reach the UN goal of halving the number of people living in extreme poverty by 2015 we must address this issue.

Establishing good property systems that are accessible for all will be a cornerstone in Norwegian foreign aid

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■ ■ Demokrati, menneskerettigheter og velstand er ikke eie, men resultater av innsats som må respekteres, videreutvikles i hver generasjon. Vi lever i en tid da vi må minne oss selv
Magne Bondevik.

NY AGENDA

i kampen mot fattigdom

VG innlegg
Kjell Magne Bondevik

Vi har nettopp markert 1. mai – dagen for internasjonal solidaritet. Enhver tid har sine kamper, sin strid.

Kampen mot slaveriet, for uavhengighet, for en lønn det går an å leve av, kamp for de grunnleggende menneskerettigheter.

Når vi ser på hvordan vi er kommet dit vi er i dag, tror jeg vi alle gjerne skulle vært med og slås for de gode sakene – vært med der historien ble skrevet og verden ble endret til det bedre. Vært der hvor slaget om verdien sto.

Også vår tid har sin strid. Det er ikke slik at alle mål er nådd, alle mennesker er mettet. Tvert imot. Demokrati, menneskerettigheter og velstand er ikke gevinster til odel og eie, men resultater av innsats som må respekteres, videreutvikles og arbeides for i hver generasjon. Vi lever i en tid da vi må minne oss selv om dette.

Tenk deg følgende: Du er en fattig skomaker og alumbeoer. Du jobber lange dager for å breade familien, og det går mot ned og nepp. Du skulle gjerne ha utvidet virksomheten for å finansiere en bedre utdanning for barna. Men ingen bank gir deg lån, for du har ikke gyldige papirer på at virksomheten eller boligen er din.

Det hjelper ikke på økonomien at du stadig må bestikke politiet for å holde butikken i gang. Å skaffe gyldige papirer er knapt mulig. Det krever et utall offentlige tillatelser og koster langt mer enn det er verd.

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3. WHAT IS A GOOD PROPERTY SYSTEM ?

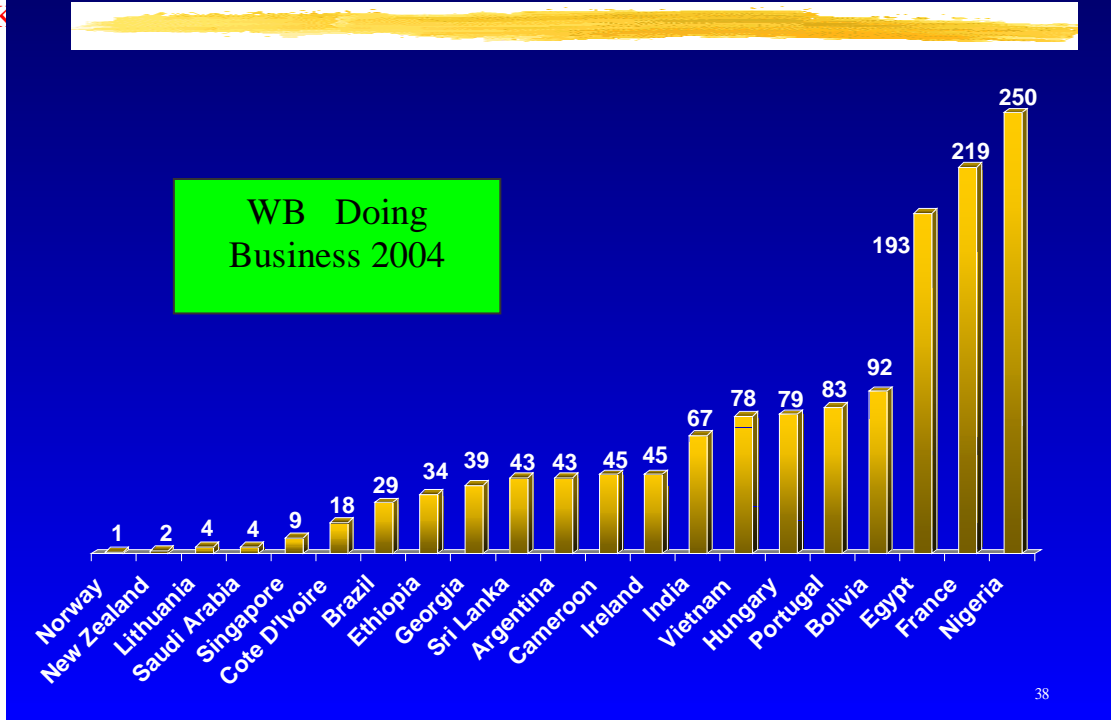
What are the characteristics of a good property system ? Probably it can be summarised in the following points:

- Ownership and other forms of secured rights to real property are widespread
- People in general can participate in the land market
- “All” can transact, “all” have real access to registration

Fair distribution of land is still a big issue in many countries. Almost all countries have some sort of registration system, but in very many countries the poor does not in reality have access to the registration services and are forced to transact outside the formal system. Probably no more than 25 – 30 countries in the World have property systems that fulfil all the above criteria. To join the 25 to 30 countries the infrastructure supporting formalisation of rights and transactions in land and property must be transparent, simple, fast, relatively cheap, reliable and free from corruption.

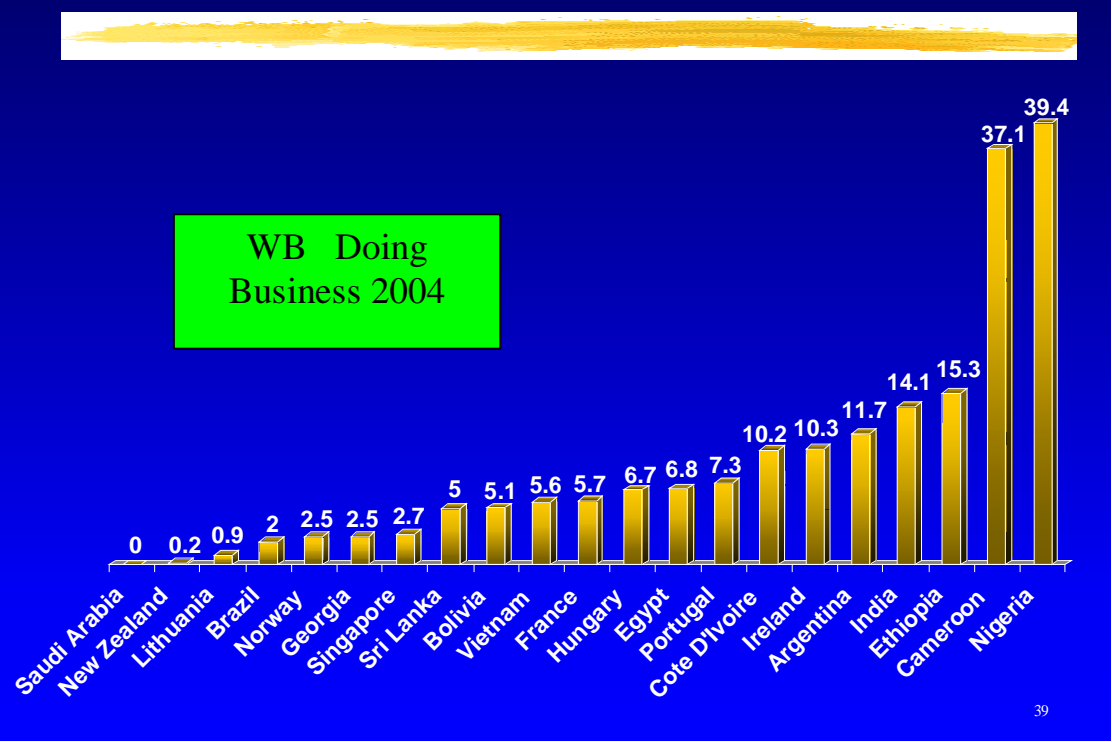
The World Bank has recently made a World-wide survey of the public services that underpin a viable market economy; “*Doing Business 2004*”. It does not show to what extent the poor have access to the services, but it still shows some remarkable differences:

Pilot results: time to transfer title



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Pilot results: cost to transfer title (% value)



39

Most *West-European* countries have well functioning property systems, but not all existing systems are optimal. Most countries have completed electronic registers and digital cadastral maps. Further modernisation is possible and desirable, but it seems difficult to break with old traditions. There are some examples of introducing a single agency responsible for the cadastre as well as the land register. In addition to UK and the Netherlands who have had an integrated registration service for many years, Italy has made a corresponding and impressive reform, and Norway and Iceland has recently started to transfer the land register from the courts to unify it with the cadastre authority. The other Nordic countries are currently all considering reforms in the same direction. On the other side, there are no examples of removing the monopolies of notaries in West-European countries that have a notarial system.

Little is implemented so far in respect to electronic documents, but it will certainly be introduced during the next 5 - 10 years. It will have a big impact on the organisation of the cadastre as well as on the land register. Countries that decide to maintain the land register with the courts and to keep the notarial monopolies will face most problems in reforming their registration services to keep pace with the technological possibilities of e-commerce and e-government. Inclusion of 3D properties is also an upcoming issue.

In a somewhat longer perspective the European single market will have a significant impact on the laws and systems supporting the land market. An open mortgage market may be the first to push towards harmonising the registration services.

Former socialist countries in *East and Southeast Europe* have undertaken or are still undertaking huge projects for restitution of private ownership and in building registration services for the emerging land market. Most of the transition countries return to old pre-socialist systems - including re-establishing a monopoly for notaries to prepare documents for registration. In these countries the notarial fees add considerably costs to property transactions. A number of transition countries made more radical changes establishing from the beginning a single agency for the cadastre and the land register, and Romania has just decided to transfer the land register from the courts to unify it with the National Cadastre Agency. Experience show that the juridical sector has more problems in adapting to modern user service standards and register technologies.

The land markets, particularly in apartments are evolving quite rapidly, and so do the mortgage markets in many of these countries. However, in some countries, or rather at some courts, it may still take several years to register a deed.

Some few transition countries have completed the cadastral maps and maintain them in digital form, but the majority of the transition countries still have to undertake large works to complete first cadastre maps. The cost and the time to complete the cadastral maps depend heavily on the technical requirements for precision and completeness. A few countries have adopted a concept of index maps, accepting that the first generation maps will be upgraded over time as a result of individual transactions. Those countries that stick to very high geodetic precision for the massive registration of parcels will face big financial problems. Many countries would benefit from identifying the urgent users needs and adopt standards that support these needs and as well can be achieved with the most cost effective surveying methods (like identifying corner points visually in ortophotos without additional field

surveying). The following table may illustrate the need for precise cadastral maps, where “low” accuracy” could be 0,5 millimetre in the appropriate display scale, which would mean from 0,5 meter in urban areas to 2 - 3 meters in agricultural areas:

:

Use	Geometric precision needed		
	High	medium	low
Ownership protection		(x) →	x
Taxation			x
Land management			x
Data integration	X →		

Many transition countries in Europe have still to sort out and distribute ownership to land in urban areas. Another big issue is the management of multi-apartment blocks where the apartments are privatised without ensuring a proper system for maintaining the common parts of the buildings. That may potentially result in big social problems in these countries. It seems to be a trend that the countries prioritise rural areas rather than the cities, where indeed the most active land markets are. The IACS and INSPIRE initiatives of the European Union, very much linked to the agricultural and environmental policies, could further lead to prioritising rural areas before areas where an active land market could contribute most efficiently to economic growth.

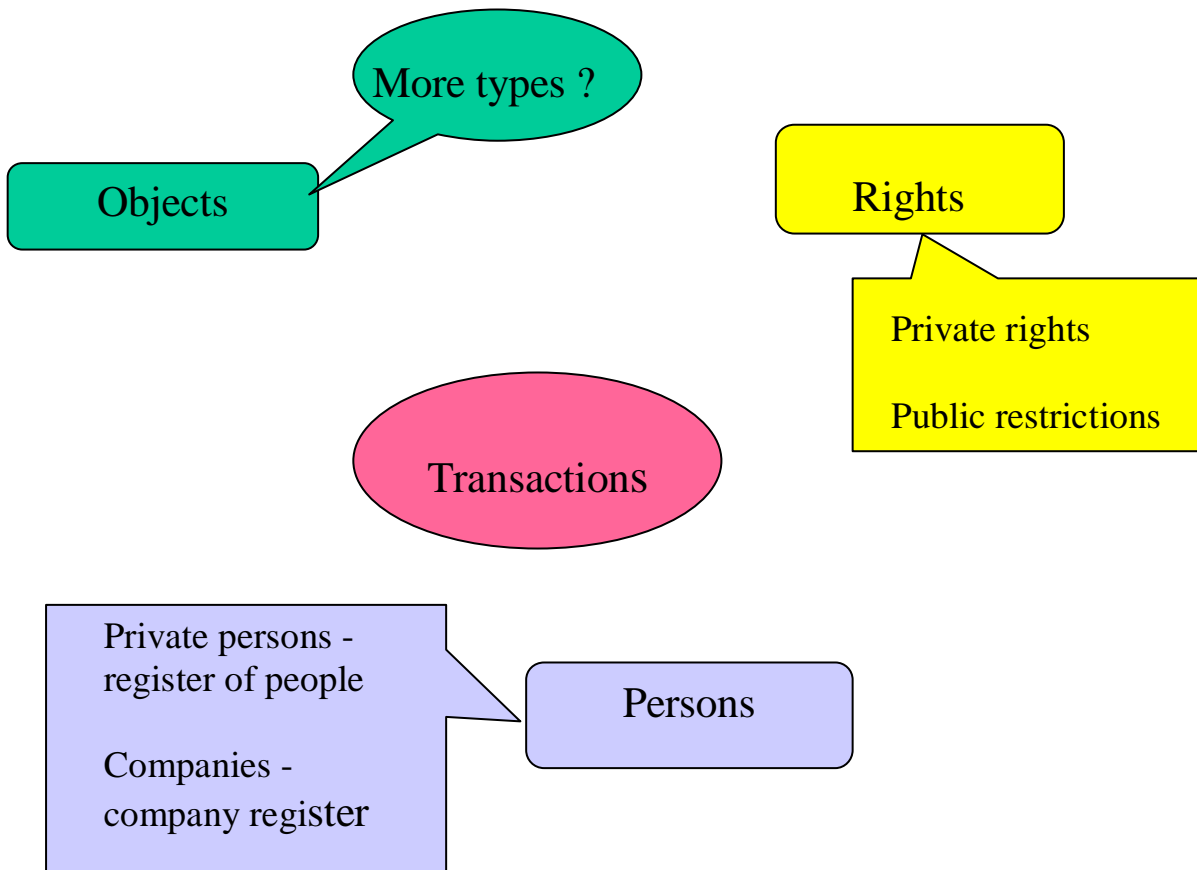
In *developing countries* customary tenure systems calls for special solutions, including registration of different types of right to land, group rights, gradually improving tenure rights, etc. However in the cities and in the fast growing informal urban settlements, individualised ownership rights or long leases are appropriate tenure systems. Formalising property rights in developing countries calls for solutions that are tailored to the needs of the poor dwellers and small businesses, also to keep their property inside the formal system once registered. Fundamental reforms to the property system are needed in many countries, including distributing land from a rich elite or the state to the poor.

4. CHALLENGES TO THE SURVEYING PROFESSION

To respond to the challenges coming from the increasing awareness of the importance of good property systems, the surveying profession should:

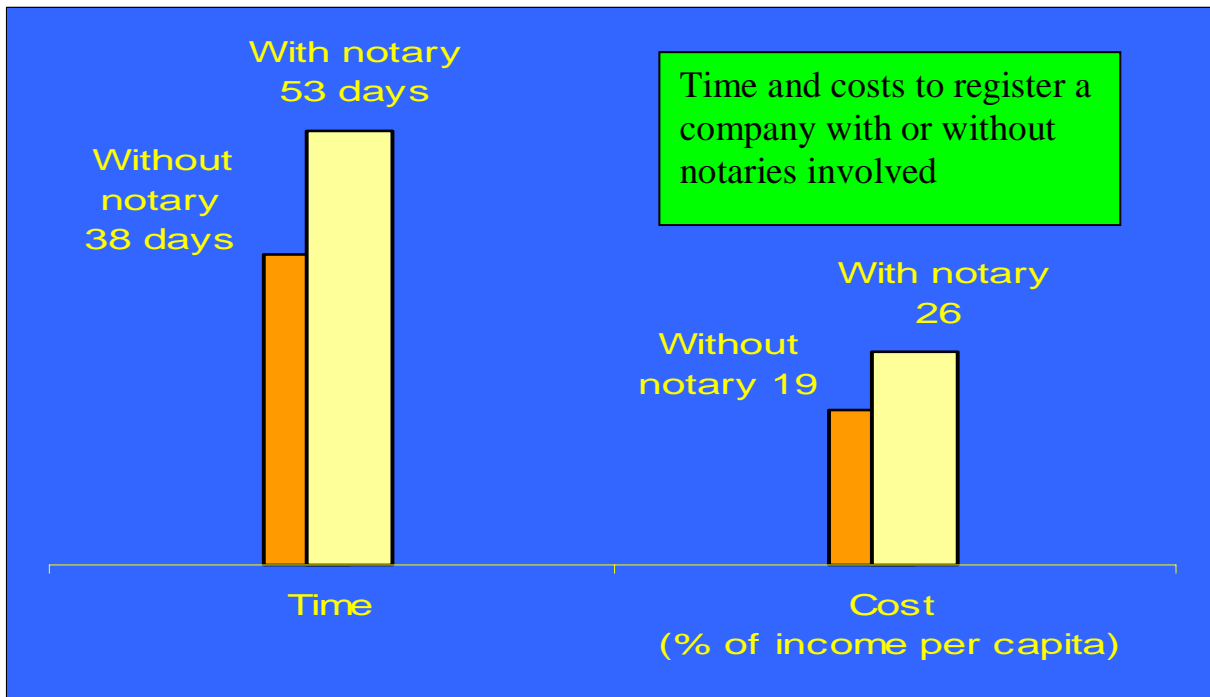
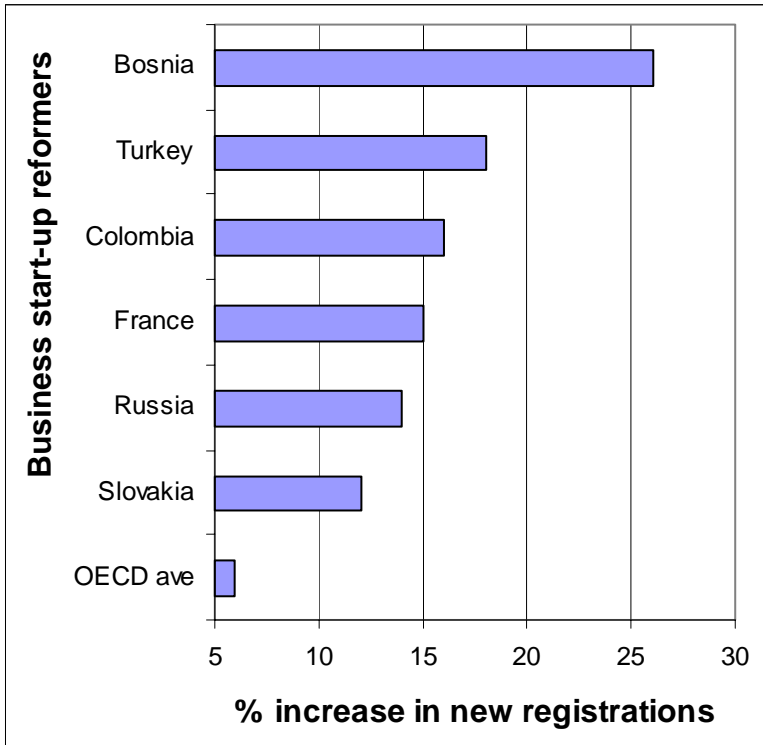
- Understand the wider importance of good property systems
- Recognise that we must engage in a wider range of land market related issues
- Recognise that we are in a service business - moving the focus from products to services
- Accept that the land market is continuously changing

Surveyors have traditionally engaged in the definition of the property objects only – in the green box.



To make a better contribution to the overall objective – a well functioning land market for all – surveyors have to engage in all the services that support the land market, including registration of rights in property (land register) and in ensuring that the subjects – persons and companies - really can act in the land market. In addition we need to respond to the continuously changing demands from the land market, such as “producing” the types of property objects that the market would like to make transactions in at any time. Our success will be measured by such data showed in the below figure from the World Bank report on Doing Business 2004. The increase in registration of new companies is obviously related to a number of factors outside the functioning of the land market, but it illustrates the performance indicators surveyors need to respond to. The illustration concerning registration of companies shows that notaries add cost and time – the same could certainly be said in relation to land transactions.

Reforms encourage business start-up



5. KEY ISSUES FOR LAND ADMINISTRATION REFORMS

It is no best system that fits all countries, but we should learn more from best practises and do benchmarking. Some of the more clear issues that can be observed from experiences and comparisons between countries are:

- Move focus from products to *services*
- Remove the land registry from courts
- Make a single and *self financed* land and property agency
- Remove the monopoly of notaries - it works fine without
- Involve private sector when private sector can do the job
- Change the education of land surveyors - much less time geodesy and mapping , much more time to land law, land management

In addition it is relevant to consider:

- Should private investors be welcomed to take part in cadastre and land registration, could private companies operate registers?

Preparing for the future we should:

- Take account of the growing number of public restrictions on land and buildings and ensure that the parties in the land market have easy access to the related information
- Look for one stop shopping of land and property registration and information services
- Prepare for electronic conveyancing, real time mortgaging and direct registration by authorised agents
- Prepare for additional types of property; 3 D etc
- Prepare for international land markets and harmonisation of property systems across borders

For transition and developing countries:

- Accept that *major reforms* may be needed to service *all* including the poor
- Service individual user driven transactions *throughout the country* before doing systematic completion of maps and registers
- Prioritise urban issues
- Sort out ownership to land in urban areas
- Resolve land issues in informal settlements
- Resolve problems with multi-apartment blocks
- Take more risks in preparing cadastral maps, it works fine without 100 % completeness and very high precision. High precision in establishing cadastral maps costs a lot of money and takes a lot of time
 - Accept that boundaries mainly are features in the field
 - Make a first acceptable map as quickly as possible - users are queuing up for digital data
 - Accept gradual improvements over time and where it is needed
 - Let people buy property with uncertain boundaries if they so want, let users pay for high precision

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