

## **Comparisons Among Land Records of the European Colonies and Other Improved Systems Used in Developing Countries**

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Lists five primary land records functions:

1. Determining current rights to land and their boundaries - i.e. ownership

**Juridicial cadastre**

2. Valuation of property for tax purposes

**Fiscal cadastre**

3. Regulating private lands - regulate both development (e.g. subdivision regulations) and use (e.g. environmental regulations)

4. Management of public services, facilities and lands

5. Protection of customary or communal rights (e.g. government retains legal ownership but allocation of land rights delegated to tribe or governor)

Other functions of land records:

Myriad uses - citizens demand access to government land records (through FOIA, open access laws, or otherwise) for purposes such as facilitating statutory purpose of the records, knowing what government is up to, education, commercial enterprise, curiosity, etc.

Barr states:

Most governments have “land record arrangements” rather than “land records systems”

- typically five or more offices to serve the five major functions
- integrated land records systems extremely rare in 1985

### **Barr’s Components of Land Records Arrangements**

- 1 - Records of all deeds or real estate transactions
  - depository for deeds plus index
- 2 - Cadastral maps reflecting the deed interests
- 3 - Fiscal cadastre (register for all parcels - records basic data such as ownership, location, area, land use, improvements and assessed value - typically used for tax purposes)

4 - Field surveys of parcel boundaries  
- typically floating  
(Numerical cadastre - integrated survey of all  
parcel boundaries)

5 - Registration of title  
(Juridicial cadastre - register certifying  
ownership)  
- by this definition, do juridicial  
cadastres exist in the US?

Combinations of above - “multipurpose cadastre”

Typical application of European land record system  
principles to developing countries:

individual land parcels should be surveyed  
before ownership is transferred

Holstein:

- requirement has been extremely burdensome in  
developing country land records improvement  
projects (1) slowed down transfers, (2) stifled  
economic marketplace in land, and (3) caused more  
economic harm than benefit

- expensive procedures more problematic than  
insecurity in land

**Purported Benefits of a Formalized Land Registration/Recording System:** (U.N. Report)

1. Efficient economic allocation of land
  - highest and best use achieved through marketplace
2. Increases incentives to invest in land
3. Increases land and real estate values

4. Increases access to long term credit leading to increased productivity
5. Minimizes land disputes which promotes social cohesion
6. Eases tracking and monitoring by government for development control and environmental management

Does the theory hold true in practice?

Are the claims true **generally**?  
In a **specific** land records improvement  
project?

How would you measure?  
Before and after comparisons?

Are some societies/countries not “ripe” for a  
formal land records system?

- preconditions to reaping benefits?

Other factors besides formal land system  
explaining “before” and “after”?

Read Chap 22 in “The Story of Land”  
What is the bold hypothesis?

**Table 1 (Barr)**  
**Use of the Major Components of Land Records Systems in Each of the Seven Alternative Arrangements**

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	Records of <u>Deeds</u>	Cadastral <u>Maps</u>	Fiscal <u>Cadastre</u>	Boundary <u>Surveys</u>	Registration <u>of Title</u>
<b>Colonial Arrangements (Deed recording systems)</b>					
1. Spanish or Portuguese	Yes	--	--	--	--
2. English	Yes	--	--	--	--
3. French	Yes	Yes	--	--	--
<b>Title Registration Systems</b>					
4. Torrens Title Registration	Yes	--	--	Yes	Yes
5. English Title Registration	Yes	Yes	--	--	Yes
<b>More Complete Systems</b>					
6. Cadastre with Ground Book	Yes	Yes	Yes	Yes	Yes
7. Multipurpose Cadastre without Registration	Yes	Yes	Yes	Yes	--

**French Contribution** - cadastral map for entire jurisdiction

**Australian Contribution** - Torrens title system (used fixed surveyed boundaries - parcel by parcel - Note: control network can trump parcel monuments)

**English Contribution** - merged concept of cadastral map (jurisdiction coverage) with title registration (but used general boundaries)

**Continental European** - progressed from cadastral map (jurisdiction coverage) to numeric cadastre (surveyed boundaries) with title registration

## **U.S. Contribution**

- some jurisdictions moving to multipurpose cadastres without registration
  - integration of land records files in courthouse through automation
  - extensive county government maintained control network to which all surveyors tie surveys and copies of all private surveys required to be filed with county (some counties in Wisconsin)
  
- more difficult in Eastern U.S. where records split between towns and counties