

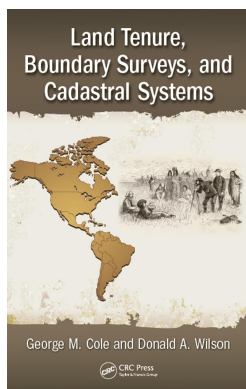
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Land Tenure, Boundary Surveys, and Cadastral Systems

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Introduction

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1

Introduction

Since the dawn of history, land has been the primary source from which Man has taken the things that he needs for existence and for progress, for life in the lower margin and for luxury. Land still brings forth the grain, fruit and meat that feed him; the flax, cotton and wool that clothe him; the wood, stone and iron that house him. It supplies the fuels that warm him—the fuels that, transformed by his arts into energy, serve him in a thousand ways.

Charles Abrams (1979)

Mankind has always had a special relationship with the land, and with good reason, since it is a primary key to our existence. As suggested in the previous quote, land serves as the basic platform for life and source of nourishment, shelter, and energy for mankind. It also serves as the basis of income for humans. Reflecting that essential nurturing role, land has often been called “Mother Earth.”

As a result of the special relationship with and dependence on land, humans have long had a tendency to claim exclusive rights over tracts of land that they occupy, either jointly with other members of a tribe or community or as individuals. That tendency to claim a parcel of land as one’s own and to defend it from others appears to be a natural tendency since it may also be observed with many other animal species. As an example, most people have observed a dog marking its territory. As another example, persons living in some parts of the United States have possibly experienced being threatened by mockingbirds defending the territory around their nest. Such actions are really not that far-removed from that of marking the corners of a land parcel with concrete monuments or the filing of a deed to the land at the county land records office. Both involve methods of defending a claim to land.

Early in recorded history, humans refined the process of defining and marking the limits of claimed lands by use of boundary surveys and landmarks. Based on such surveys, methods have been developed to uniquely describe parcels of land, which provides the basis for land being used as a commodity that can be bought, sold, traded, or used as equity. In addition, humans have refined the process of defending land claims by use of a legal system in lieu of a physical defense. This was eloquently recognized by philosopher John Locke (1698/1952) as follows:

I cannot count upon the enjoyment of that which I regard as mine, except through the promise of the law which guarantees it to me. It is law alone

which permits me to forget my natural weakness. Tis only through protection of law that I am able to enclose a field, and to give myself up to its cultivation with the sure though distant hope of harvest.

In most advanced societies today, a key element of that legal defense is the recordation or registration of land claims in a central database, or cadastral system. That recordation process provides public notice of a claim to a specific parcel of land and thus allows utilization of the legal system for defense of the claim.

Together, the processes of how land parcels are held; how they are defined, measured, and described to allow economic transactions; how they are marked to allow their use and defense; and how they are legally protected have allowed for the orderly possession and use of land. In doing so, these processes have also provided the basis for the advanced economy of most developed nations. For those living in societies with such property systems, those processes are often taken for granted and have become an almost invisible part of the landscape. Nevertheless, because of the importance of land to all aspects of human life, as well as the key role that it has in the economic system, the processes are essential to the orderly operation and economic well-being of society and therefore deserve careful study. That is the objective of this writing.

Very often, these processes—land tenure, boundary surveying, and cadastral systems—are considered separately. Nevertheless, they are very much interrelated, and none of these processes may be completely understood without an understanding of the others. This is especially true considering the advent of georeferenced cadastral maps reflecting the location of land parcels relative to many other components of the physical and legal infrastructure. Therefore, the interrelationship of these processes is a central concept that will be found throughout this writing.

The objective of this book is to provide an introduction to land tenure, cadastral systems, and boundary surveying, including an understanding of the interrelationship of these areas and their role in land tenure and real property law. Although intended as a basic text for college-level surveying courses, this book should also be of significant value to cadastral mappers, real property attorneys, land title professionals, and others involved with land transactions.

When used as a text for a course in the subject matter, it is suggested that the course instruction include several practical exercises to supplement the text material. For example, students should perform a title search for a parcel of land. In addition, information should be obtained using a fiscal cadastre. Other exercises should include obtaining and using Public Land Survey plats and field notes from a state repository. Practical exercises in writing and interpretation of legal descriptions and the actual participation in boundary surveys should also be included for a complete learning experience. Recommended additional reading in that chapter's topic is provided at the end of each chapter.