

Workshop
International perspective on property right regimes

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International perspective on property right regimes and urban challenges

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- The foundation of the study of property rights regimes
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- Buitelaar, E. & Segeren (2011)
- Webster and Lai (2003)

The characteristics of property rights regime as an institution

Havel, B. (2014) *Delineation of property rights as institutional foundations for urban land markets in transition*. Article accepted by and forthcoming in Land Use Policy

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The foundation of the study of property rights regimes

- Property rights as institution
- Coase theorem
 - Coase argued that through a 'rearrangement of legal rights through the market', under the pre-condition that 'the *operation of a pricing system is without cost*', the two farms can yield maximum outputs
- How property rights emerge?
 - Economic efficiency, Social constrains, Path dependency, Political gains, Transaction costs

The evolution of the Coase theorem		
Author	Preconditions	Consequences (cause and effect)
Coase (1960, 2, 6, 5; 1998, 97, 102, 115)	'the pricing system works smoothly (strictly this means the operation of a pricing system is without cost)' (1960, 2; 1998, 97) 'the pricing system is assumed to work smoothly (that is, costlessly)' (1960, 6; 1998, 102)	'rearrangement of legal rights through the market' will internalise externalities (1960, 15; 1998, 115) '(Original formulation: legal rights rearrangements and resource use)
Stigler (1966, 113)	perfect competition (Type 1: perfect competition)	'the composition of output will not be affected by the manner in which the law assigns liability for damage' (Type 1: legal rules and resource use)
Stigler (1987, 322)	zero transaction costs (Type 2: zero transaction cost)	'legal rules would have no influence upon the use of resources' (Type 1: legal rules and resource use)
Regan (1972, 427)	perfect competition, perfect information and zero transaction cost (Type 3: perfect competition; perfect information and zero	'resources in the economy will be efficient and will be unaffected by the legal rules regarding the initial impact of costs resulting from' externalities

Author	Preconditions	Consequences (cause and effect)
Kennedy (1981, 392)	no transaction costs (Type 2: zero transaction cost)	'efficient allocation of resources no matter how entitlements are set' (Type 2: entitlements and resource use)
Cooter (1987, 457)	'no matter from an efficiency perspective so long as they can be freely exchanged' (Type 4: freedom of exchange)	'initial allocation of legal entitlements does not matter from an efficiency perspective' (Type 1: legal rules and resources use)
Heikkila (2000, 201)	no transaction costs or wealth effects (Type 5: zero transaction cost; zero wealth effect)	'final allocation of entitlements is independent of the initial allocation' '(Type 2: (initial) entitlements and (final) entitlements)
Cheung (1990, 11)	property rights are clearly delineated and all costs of transactions are zero (Type 6: clearly defined property rights and zero transaction cost)	'resource use will be same regardless of who owns the property rights' '(Type 3: ownership of property rights and resource use)
Barzel (1997, 7)	rights are well defined and the cost of transacting is zero (Type 5: clearly defined property rights and zero transaction cost)	'resource allocation is efficient and independent of the pattern of ownership' (Type 3: ownership of property rights and resource use)
Barzel (2003, 51)	Transaction costs are zero (Type 2: zero transaction cost)	'the identity of the owner of an asset is irrelevant to the asset's use' (Type 3: owner of resource [asset] and resource [asset] use)

Author	Preconditions	Consequences (cause and effect)
Cooter and Ulen (1997, 82)	ransaction costs are zero (Type 2: zero transaction cost)	'efficient use of resources results from private bargaining, regardless of the legal assignment of property rights' (Type 3: ownership of property rights and resource use)
Cheung (1982, 35; 1987, 55)	transaction costs are zero (Type 2: zero transaction cost)	use of resources will be independent of institutional or organisational arrangements (Type 4: institutional arrangements and resource use)
Lai and Lorne (2006a, 43)	property rights are clearly defined and transaction costs are zero (Type 6: clearly defined property rights and zero transaction cost)	'resource allocation will be independent (and thus invariant irrespective) of the ways rights and liabilities are assigned' (Type 5: rights and liabilities [the law] and resource use)
Foldvary (1998, 78)	without transaction costs and property rights and boundaries are clear Type 7: clearly defined property rights, clearly defined boundaries and zero transaction cost)	'optimal solution regardless of the initial allocation of the property rights' (Type 3: ownership of property rights and resource use)

The corollary formulation

'in the real world of positive transaction costs, the choice of rights and liabilities (i.e., law, governance, institutions, contractual arrangements, coordination, the assignment of rights and liabilities, etc.) would affect the outcome and efficiency of resources' (Lai 2007)

Multidimensional nature of property rights and its complex ramifications

- **The property rights system** - a complex of a vast set of institutions – land law, urban planning law, tax law, inheritance law, contract law, company law, bankruptcy law, intellectual property rights law, and customs regarding common property, to name only the most important ones (Needham 2006)
- **The property rights regime** - an integrated system of property rights connected to land that includes civil law, public law (e.g. planning law) and other types of law (like fiscal law and contract law) that influence the property market (Geuting 2007)

The assignment of property rights

- **The assignment of property rights** often regards the whole bundle of property rights or, particularly in the case of land, a large part thereof. This bundle or the single attributes can be alienated or re-assigned to others' (Buitelaar and Segeren, 2011)
- The initial distribution of property rights
- The importance of land ownership
 - Open access property / State property / Common property / Private property

The delineation of property rights

- **Delineation of property rights** refers to the way the boundaries of the bundle of rights over land or an attribute from that bundle have been drawn, that is, the conditions under which the right can be exercised (Buitelaar and Segeren, 2011)
- Land-use law plays an important role in delineation of property rights
 - Public law rules (zoning plan and regulations) and private law rules (nuisance law, easement, covenants, co-ownership and legal vehicles)
 - Create, enforce and structure rights in land and in that way influences land use and development possibilities
 - Define a boundary in the fundamental rights of property

Property rights regime and urban challenges

- The better the property rights are delineated and the lower the transaction costs, the better the parties involved are capable of internalizing externalities

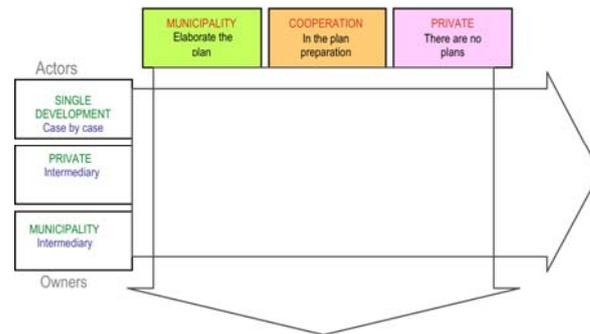
The characteristics of property rights regime as an institution in land development process

The characteristics of property rights regime as an institution	
Legal and conventional aspects of property rights	
- the definition and scope of property rights	
Legal and conventional aspects of land use and development	
1.	the position of municipality (local government) in the development process regarding the allocation and use of land vs other government levels and private landowners
2.	the balance between certainty versus flexibility in the development control
3.	the economic right in land development; distribution of the economic rewards and costs of resource-use decisions

The characteristics of property rights regime as an institution in land development process

<i>Explanatory variables</i>	<i>Operational components/ Examples of rights</i>
The position of the municipality in the development process	<ul style="list-style-type: none"> - the position of the municipality versus government representations and private landowners (the right to decide how land will be developed) - the planning rights - the right to develop versus ownership rights (the right to decide by whom and how land will be developed)
The balance between certainty and flexibility in the development control	<ul style="list-style-type: none"> - the hierarchy of planning and availability of instruments to control development (the right to decide how land will be developed and control of externalities, the power to protect the third party's interest) - the tools to achieve expressed objectives of land use policy/spatial planning system
Economic right in land development process	<ul style="list-style-type: none"> - the contribution to development costs (planning costs, the costs of the provision of infrastructure, transfer to the municipality street and public road areas) - the compensation to landowners for land use restrictions - the right to development gain

The influence of property rights regime on land development processes



Contributions on property rights regime

Buitelaar, E., Segeren, A. 2011. Urban Structures and Land. The Morphological Effects of Dealing with Property Rights. *Housing Studies*. 26 (5), 661-679.

Webster, C., Lai, L.W-C. 2003. Property rights, planning and markets. *Managing spontaneous cities*. Edward Elgar. Cheltenham, UK, p. 249.

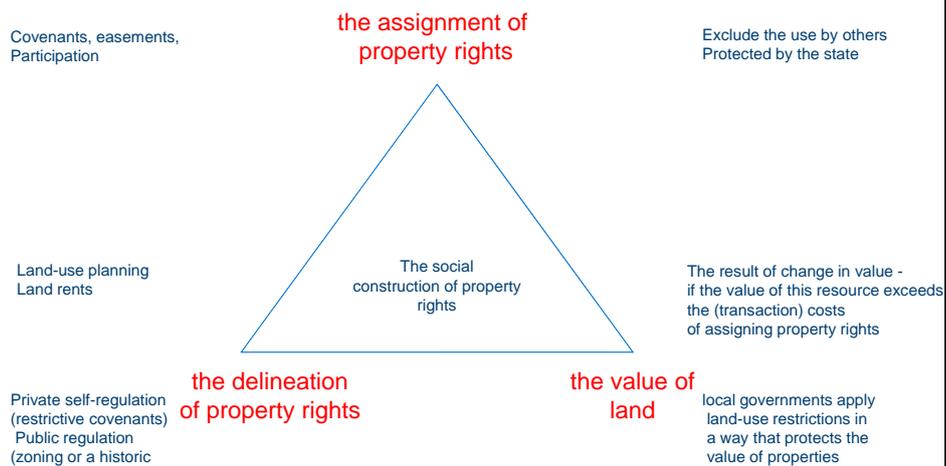
Applications, examples

Buitelaar, E. & Segeren (2011), 'Urban structures and land: the morphological effects of dealing with property rights', *Housing Studies*

How the assignment and delineation of private property rights, both before and during the development process, affect the morphological result of urban regeneration?

Initial situation	Process	Outcome
A	(re-)	Direct
D	(re-)	Indirect

A triangular relationship between the assignment of property rights, the delineation of property rights and the value of resources (land)



Applications, examples

Urban economics

Webster and Lai (2003)

How rights and liabilities over shared resources are actually allocated within urban neighborhoods and how they might be allocated to maximize the wealth of the community?

In many urban situations where resources are shared, private markets are best suited to handle the problems at hand

Applications, examples

- The use of share contracts
- The formation of restrictive covenants

- Intimate, stable neighborhoods that are characterized by long-term relationships among neighbors
- Take advantage of the long-term relations by forming local organizations that address problems of noise or aesthetics
- Such organizations are likely to deal more effectively with local problems than would citywide regulations

The principles to understanding cities – NIE – Webster and Lai 2003

Theme 1: Individuals and firms agglomerate in cities in order to benefit from exchange opportunities which in modern times are organized largely via capitalist-driven market. Market based exchange is usually beneficial for direct exchange partners and is beneficial to society to the extent that the interests of third parties are accounted for in private transactions

Theme 2: Order emerges in cities as individuals seek to avoid the costs of private transaction, or more generally, the cost of voluntarily co-operating over production and consumption activities (transaction costs). Transaction costs explain the patterns that arise in market-driven cities. In particular, they explain organizational order; institutional order; proprietary (ownership) order; spatial order; and public domain order

Theme 3: Institutions emerge to reduce transaction costs. Markets are institutions that reduce the cost of organizing a multitude of individual transactions. Government edicts, policy and regulations are institutions that reduce the cost of collective transactions

Theme 4: Institutions reduce transaction costs by assigning property rights over scarce resource



The principles to understanding cities – NIE – Webster and Lai 2003

Theme 5: Institutions that protect private property are essential for market activity and economic growth. Institutions that create and protect rights of third parties (those that are affected by but not party to a private transaction) are essential for sustainable and ethical market-driven growth – markets governed by broadly accepted values

Theme 6: Resources with unclear property rights are said to be in the public domain and are subject to wasteful competitive consumption

Theme 7: When the value of a resource changes significantly, there will be a corresponding change in assignment of property rights. Depends on the organizational and political costs

Theme 8: Resources values, transaction costs, institutions, property rights and public-private domain boundaries constantly shift within cities. They are all interrelated and spontaneously co-evolve.

Theme 9: Limitations in the cognitive ability of individuals and groups and the cost of acquiring information mean that any system of co-ordination is imperfect.

Theme 10: The efficiency with which an institution allocates property rights to individuals and groups is a function of the distribution of knowledge, resources and transaction costs



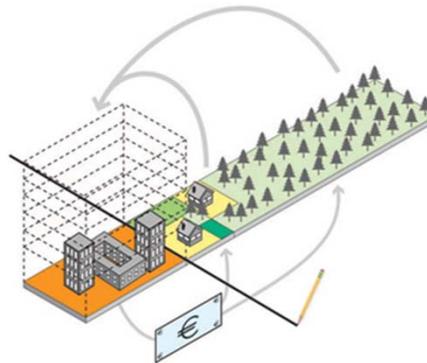
Applications, examples

Transferable development rights - separation of right to build (development right) from the ownership right

- *Ms. North*
- *a preservation zone*
- *Ms. North is not allowed to develop her land, but instead issued development coupons for 250 dwellings*
- *These development coupons can be used to override zoning restrictions in the development zone*

- *Mr. South*
- *the development zone*

- *Is zoned for dwellings, giving the right to build a total of 250 dwellings*
- *If Mr. South wants to build more, he must purchase development coupons from the North*



How should property rights be delineated and assigned to improve market efficiency?

- Policy-makers have to determine the criteria by which a particular land market, and feasible alternatives to that existing market, are to be evaluated and they have to operationalise those criteria in practical terms (Buitelaar, 2007a)
- Examples of such criteria are: transaction costs, efficiency of production on land and distributional effects (Needham, 2006)

In 2000 the ideas of Coase have come once again into light as arguments for less public land-use planning

- According to the planning literature, the impact of new-institutional economics started to be evident at the beginning of 2000 (writings enumerated in Lai, 2005)
- Buitelaar (2002) - only few scholars have explored the implications of the new institutional economic approach for planning and development issues - Alexander, Fischel, Heikkila, Lai, Pennington, Poulton, Sorensen and Webster
- Webster and Lai (2003) Property rights, planning and markets
- Needham, B. (2006) *Planning, Law and Economics., The rules we make for using land*, London, Routledge, ISBN 0-415-34374-7
- The journal *Town Planning Review* (2007) dedicated a special issue to the property rights approach in land use planning
- Hartmann, T., Needham, B. (2012) *Planning by Law and Property Rights*. Ashgate

- not the dominant trend in the urban research agenda