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FIG CONGRESS 2014

KUALA LUMPUR, MALAYSIA

**HOW MUCH DOES 'PRIVATIZATION OF LAND' MEAN FOR DEVELOPING A
CADASTRAL SYSTEM?**

- **DOES A CADASTRAL SYSTEM (SYSTEM OF LAND REGISTRATION) DEPEND ON THE TYPE OR SYSTEM OF OWNERSHIP OF LAND?**
- **IF YES, TO WHAT EXTENT?**
- **IF NOT, WHAT IS THE IMPLICATION OF THE SYSTEM OF LAND OWNERSHIP IN RELATION TO LAYING DOWN A CADASTRAL SYSTEM IN A PARTICULAR JURISDICTION?**

OWNERSHIP VS. CADASTRAL SYSTEM

- **ANSWERS FROM:**
- **'USE PERSPECTIVE ARGUMENT'.**
- **'CLASSIFICATION PERSPECTIVE ARGUMENT.'**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **A DETAILED ANALYSIS OF THE VARIOUS BENEFITS OF A SUSTAINABLE CADASTRE SIGNIFICANTLY SHEDS LIGHT ON THE USE PERSPECTIVE ARGUMENT.**
- **THE ARGUMENT IS THAT CADASTRAL SYSTEMS PLAY CRUCIAL ROLE IN EXTREMELY DIVERSE WAYS, NOT IN JUST ONE OR TWO ASPECTS.**
- **EVEN MORE CRUCIAL IS THE ARGUMENT THAT CADASTRAL SYSTEMS PRODUCE BENEFITS IN BOTH PRIVATE OWNERSHIP AND PUBLIC OWNERSHIP SYSTEMS.**
- **INDEED, SOME BENEFITS RESONATE TO PRIVATE OWNERSHIP, AND OTHER BENEFITS TO PUBLIC OWNERSHIP OF LAND.**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **IN FACT, PRIVATE OWNERSHIP GIVES THE MAXIMUM AMOUNT OF BENEFITS OF CADASTRE AND LAND ADMINISTRATION: TENURE SECURITY, CREDIT, INVESTMENT, AND PRODUCTIVITY, LAND AND BUILDING MARKET, WIDER POSSESSION AND ENJOYMENT OF PROPERTY.**

OWNERSHIP VS. CADASTRAL SYSTEM

- **PUBLIC OWNERSHIP OF LAND: SCOPE FOR PUBLIC DISCRETION AND POWER ABUSE AS WELL AS DISREGARD OF THE LAND RIGHTS OF THE SUBJECTS, FAILS WITH REGARD TO SECURING TENURE, ENHANCING CREDIT, LAND MARKET, AND THE LIKE.**
- **YET, A CADASTRAL SYSTEM IN SUCH A SYSTEM MAY STILL MEET OTHER CRUCIAL OBJECTIVES OF LAND ADMINISTRATION: SECURE THE TENURE WITHIN THE CONFINES OF THE REGIME OF PUBLIC OWNERSHIP, SECURE INVESTMENT LAND, TAX REVENUE, ENHANCE ITS LAND REFORM AND LAND POLICY, ENHANCE ITS ENVIRONMENTAL PROTECTION AGENDA OR CLIMATE MANAGEMENT, LAND USE PLANNING, INFRASTRUCTURAL DEVELOPMENT, ETC.**

OWNERSHIP VS. CADASTRAL SYSTEM

- **TO CONCLUDE, THE VARIOUS ADVANTAGES OUTLINED ABOVE IMPLY THAT A CADASTRAL SYSTEM WHICH, IN FACT, IS SET UP UNDER THE APPROPRIATE CONDITIONS, SIGNIFICANTLY SUPPORTS THE EFFORTS TO CREATE BROADER SUSTAINABLE DEVELOPMENT IN DIFFERENT CIRCUMSTANCES, I.E. THE CIRCUMSTANCES OF PRIVATE OWNERSHIP OR PUBLIC OWNERSHIP ALIKE.**

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CLASSIFICATION PERSPECTIVE ARGUMENT

- **CADASTRAL COUNTRIES AND NON-CADASTRAL COUNTRIES**
- **SYSTEMS THAT HANDLE CADASTRE AND LAND REGISTRATION SYSTEMS BY SEPARATE ORGANISATIONS, AND THOSE WHICH HANDLE THEM BY A SINGLE ORGANIZATION**
- **CADASTRAL SYSTEMS THAT OPERATE UNDER LEGAL SYSTEMS THAT RECOGNIZE ONLY PUBLIC OWNERSHIP AND CUSTOMARY OWNERSHIP OF LAND AND THOSE WHICH PRACTICE IT UNDER A PRIVATE OWNERSHIP LEGAL SYSTEM**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **COUNTRIES THAT HANDLE THEIR CADASTRAL SYSTEM AS SEPARATE FOR URBAN AND RURAL LANDS, AND THOSE WHICH HANDLE THEM UNDER SIMILAR ORGANISATION.**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **A CRITICAL LOOK AT THIS TYPOLOGY OR CLASSIFICATION MAY PROVIDE US WITH A WIDER VIEW OF THE DIFFERENT CIRCUMSTANCES IN WHICH CADASTRAL SYSTEMS OPERATE.**
- **THE ISSUE OF OWNERSHIP IS JUST A DROP OF WATER IN THE OCEAN OF THE MULTIPLE THINGS WE NEED TO CONSIDER IN THE BROADER SPECTRUM OF LAND ADMINISTRATION AND LAND MANAGEMENT.**
- **IN PARTICULAR, PRIVATE OWNERSHIP IS NOT A PANACEA TO ALL PROBLEMS THAT ARISE FROM LACK OF A CADASTRAL SYSTEM.**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **FROM THE PERSPECTIVE OF ESTABLISHING AN EFFICIENT LAND ADMINISTRATION SYSTEM IN A CERTAIN JURISDICTION, WHAT MATTERS MOST IS NOT THE TYPE OF OWNERSHIP BUT ESTABLISHING A SUSTAINABLE CADASTRAL SYSTEM THAT FITS INTO THE OVERALL CIRCUMSTANCES PREVAILING IN THAT JURISDICTION.**
- **NO DOUBT, UNDER THE NORMAL CIRCUMSTANCES, A CADASTRAL SYSTEM UNDER THE REGIME OF THE PRIVATE OWNERSHIP PROVIDES FOR A GREATER DEGREE OF ADVANTAGES THAN THE ONE IN THE PUBLIC OWNERSHIP REGIME.**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **BUT GIVEN THE FAR WIDE SCOPE OF SIGNIFICANCE WHICH LAND ADMINISTRATION PROVIDES, AND GIVEN THAT CADASTER IS THE ONLY EFFICIENT MECHANISM OF LAND ADMINISTRATION, IT IS HIGHLY COMMENDABLE TO APPLY IT UNDER VARIOUS REGIMES OF OWNERSHIP.**
- **OF COURSE, A CADASTRAL SYSTEM UNDER A PUBLIC REGIME OF OWNERSHIP MAY EASILY BE ADAPTED INTO ONE UNDER A DIFFERENT REGIME WHEN THE NEED ARISES.**

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OWNERSHIP VS. CADASTRAL SYSTEM

- **INSTEAD OF TENDERING AN UNNECESSARY DEGREE OF IMPORTANCE TO THE OWNERSHIP ISSUE ALONE, IT IS ESSENTIAL TO GIVE APPROPRIATE ATTENTION TO ANY OTHER ESSENTIAL PRECONDITIONS NEEDED FOR A SUCCESSFUL CADASTRAL SYSTEM- CERTAINLY HAVING A REGIME OF PRIVATE OWNERSHIP NOT ONE AMONG THEM.**

THANKS.