

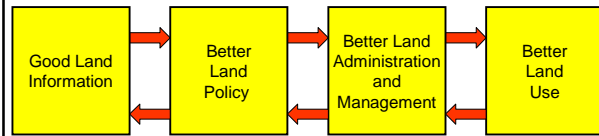
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## Land Policy and Land Management in Germany

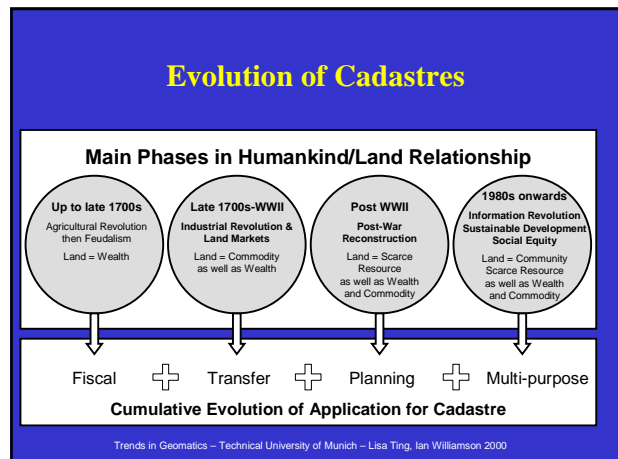
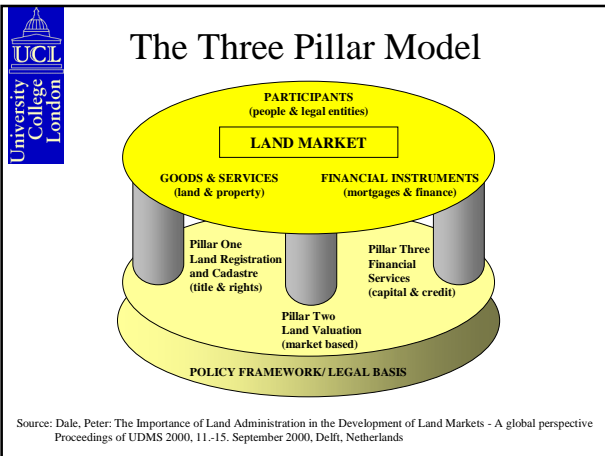
Public lecture in Melbourne, 6 February, 2003

- I. **The Land Issue – politically very sensitive but for the State of decisive importance for the future**
- II. **Germany has a complex system and a rich case law on land policy and instruments**
- III. **Land Policy and Land Management – a Challenge for Geodesists**

Sustainable development is not attainable without sound Land administration



Source: The Bathurst Declaration FIG-Publication No. 22/1999



This fact makes it impossible to leave its use to be determined by the obscure interplay of market forces and the whim of the individual. An equitable legal and social system calls instead for the public interest to play a much stronger role in the case of land than in the case of other property assets. That is why land cannot be treated as moveable goods in legal relationships

Source: German Federal Constitutional Court, 1967

**Land policy** is regarded in accordance with an Advisory Opinion of the Federal Constitutional Court in 1954 as a part of spatial planning. It comprises the totality of the activities of public authorities in relation to land.

**Land policy** is understood as conscious action to bring about an optimal use of land as well as of a socially just distribution of landownership and of income from land.

Source: Federal Constitutional Court, Baugutachten, 1954

**Land law** is defined as the sum of the rules which regulate those matters which, arising from the interests of society, require regulation in relation to land transactions, parcels of land, property relations and kinds of use.

Source: Federal Constitutional Court, Baugutachten, 1954

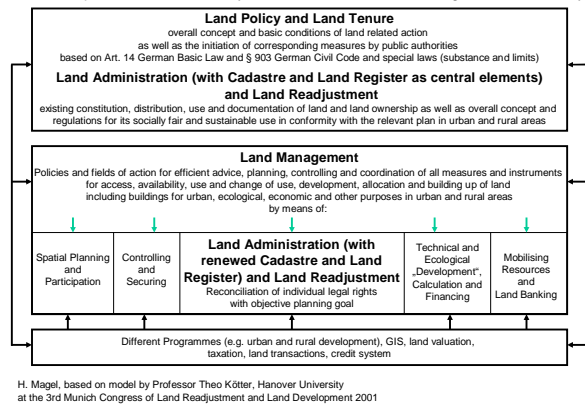
**Two fold concept of *Bodenordnung*:**

On the one hand this refers to the more **static concept** of *Bodenordnung* in the sense of land tenure. It comprises the contemporary concept of ownership of land, including its use and taxation as well as the overall concept of development aims for the future (new) land administration

On the other hand the experts speak of the **dynamic components** of *Bodenordnung*. In this sense of land readjustment it comprises all measures which serve the reconciliation of the (subjective) ownership, tenure and use of land relationships with the (objective) aims of spatial planning and the resolution of conflicts between public and private interests. I will accordingly speak of land tenure and land readjustment as appropriate.

Source: Seele (1979): Bodenpolitik für Stadt und Land

**Relationships between Land Policy, Land Tenure and Land Management in Germany**



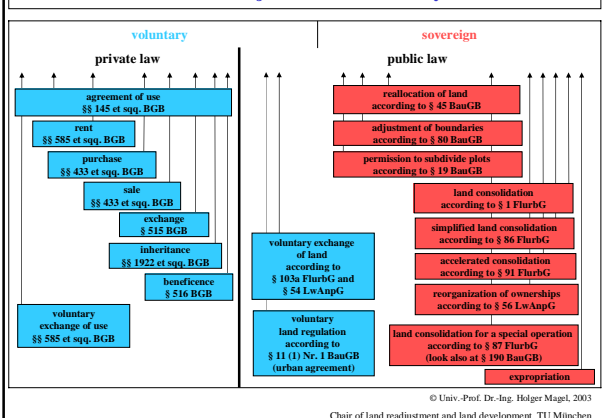
H. Magel, based on model by Professor Theo Kötter, Hanover University at the 3rd Munich Congress of Land Readjustment and Land Development 2001

**Article 14 of the Basic Law**

- (1) Property and the right of inheritance shall be guaranteed. Their content and limits shall be defined by the laws.
- (2) Property entails obligations. Its use shall also serve the public good.

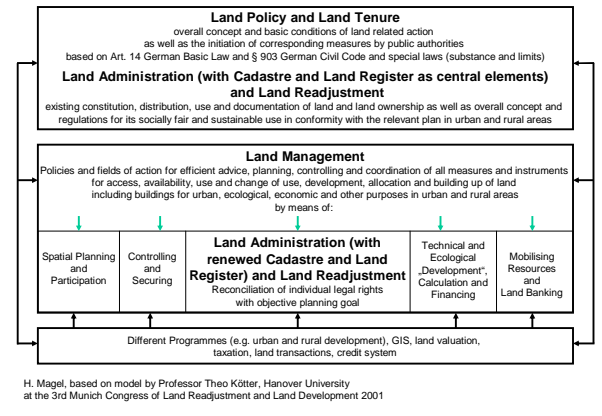
The substance of this second paragraph of Article 14 of the Basic Law is concerned with the frequently invoked **social ties on property** particularly on property in land.

**Land readjustment in Germany**



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