

The Community Land Trust: A Guide to a New Model for Land Tenure in America

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Published by the Center for Community Economic Development, Cambridge, MA, 1972.

Introduction

The story of land is older than the story of man. Land came first; no man created it. Every society, large or small, must devise ways in which its members will share this gift. This is *allocation* (1). Members of the society must also determine under what conditions the land will be passed on to the next generation. This is *continuity*. And they must decide if, when, and how it may be traded with others. This is *exchange*.

The authors have developed this study of the idea of the community land trust because they believe that in our society, if not in much of the world, unsatisfactory institutional answers have been evolved to the questions of allocations, continuity, and exchange. However, there is no claim intended that this one mechanism is a panacea. It is only one idea among many which are needed to restructure our social and economic system in order to produce a world order, not without conflict but without war; not without sorrow but without hopelessness; not without inequality but without inequity.

We are fortunate that today there is heightened awareness of the need to protect and preserve the natural resources we have inherited from the generations that have come before us. But the struggle to provide *continuity* for generations into the future – to re-establish the balance between ourselves and nature – has hardly begun.

Historical Precedents

The ideas behind the community land trust as formulated in this guide and practiced by experimental community groups today have historic roots largely ignored in conventional histories, which is why we can say the goal is to "restore" the land trust concept rather than initiate it. For example:

American Indian tradition holds that the land belongs to God. Individual ownership and personal possession of land and resources were unknown.

The Indian had a respect bordering on awe for everything he could see, hear, or touch: the earth was the mother of life, and each animal, each tree, and each living thing was locked into an interrelated web of spiritual existence of which the individual was a small part. In trying to attune his everyday life to these concepts, the Indian inevitably established a deep feeling of oneness with the world of nature. Implicit in this feeling was what we now call a stewardship approach to the use of land....

It was incomprehensible to the Indian that one person should have exclusive possession of parts of the earth. The warrior chief, Tecumseh, reacted with

astonishment to the demands of white buyers: 'Sell the country?...Why not sell the air, the clouds, the great sea?'... (2)

In New England today, what were once significant areas of community land survive in the form of park areas near the center of a town and in town-owned forests. Originally the town common was made up of large tracts open to all members of the community for animal grazing and sometimes farming. Though inheritors of the Roman tradition of private land tenure, the early European settlers in America were prompted by the severity of their new environment to modify landholding in favor of community ownership.

In Mexico, the ejido system of land use – village control over communal lands – was traditional. Villagers had use-rights to commonly owned plots of land in Indian communities. But land was increasingly appropriated by the wealthy and the Church, from the Spanish Conquest through 1910. After the Mexican Revolution, the new government made land reform a major goal. Many lands were returned to Indian villages from which they had been taken. In other cases, villages of landless peasants without traditional title received land. These villagers were given use-rights, without individual title and without the right to sell the land. This progressive land reform effort was only partially carried out, however, and exploitive landholding patterns are still evident.

In Africa, common tradition often held land to be the property of no single person or tribe. It was to be shared by all. There were territorial boundaries fixed by custom or agreement; however, within these boundaries land was communally used. Today, Julius K. Nyerere, prime minister of Tanzania, has initiated the program of Ujamaa Vijijini ("familyhood of villages") which represents a return to the traditional landholding concept.

In ancient China, during 24 centuries (from 2697 B.C. to 249 B.C.), "land was held not as private but rather as common property.... Lands were held by the government [emperor] as a trustee for the general public.... The policy of the Chinese government toward land...has always been to distribute it as widely as possible among the great mass of people...." (3) It was not until the beginning of the Ch'in Dynasty in 221 B.C. that private ownership of land was introduced.

Evolution and Effect of Land Tenure Practices

Early peoples throughout the world were alike in their common vision of land as a resource to be held in trust. Today, most of these examples have long since vanished (4). In the West, the Roman (allodial) land tenure system (prototype of the prevailing system of private ownership of land) has become dominant. Similar patterns prevail elsewhere in the non-socialist countries.

A century ago, America was still largely a land of independent small farmers and homesteaders. Most lands which were not in governmental hands were individually owned by those who cultivated them. For decades the federal government had given away land at almost no cost to anyone who would settle upon it and use it. As long as there appeared to be no limit to available land, America, full of optimism and self-confidence, gained its worldwide renown as the land of opportunity and endless wealth.

Private ownership of land seemed justified as a practical response to actual historic forces. Fast accumulation of capital through private entrepreneurial exploitation of land and natural resources *was* an important factor in the quick industrialization of the United States. But whatever the original logic, current economic, political, and environmental problems indicate

the Roman system may have outlived its usefulness. As the noted planner, Edgardo Contini, comments:

The heritage of this commitment [to the sanctity of private ownership of land] stems from one of the founding principles of the United States.... Ownership of the land that one worked was an essential component of the social revolution upon which our nation was founded. But, as the United States changed from an agricultural to an industrial economy, from a rural to an urban nation, the social significance of private land ownership became, to a large degree, a cover for extracting speculative profits from the pressures of urbanization (5).

World conditions have obviously changed, and America not the least among them. The system of private ownership of land that led to high productivity and personal independence one hundred years ago has become a major source of economic and social inequity (6). Private ownership of land is increasingly translated into corporate ownership, and, despite the increase in private homeownership, ever more land is being held in relatively fewer hands (7). Middle-income families, as they attempt to purchase their homes, are forced to pay inflated prices, and the poor, as always, are almost totally excluded.

Today's poverty, unemployment, and urban misery are in no small part due to the thoughtless malappropriation of rural land which has taken place at an ever-increasing pace over the last century and a half. Profligate and ruinous landbuying and settlement practices have resulted in a monopoly-owned development pattern in the South and West that has not been altered in the last century – except to replace family ownership of many large tracts of land by corporate ownership (8).

The social effects of maldistributed land have been most manifest in the impoverishment of tenant farmers and sharecroppers in the South. Furthermore, as agriculture becomes more mechanized and comes to be dominated by those who have capital (the wealthiest family farmers and the giant corporations), those families that formerly owned and managed their own farms have largely been driven off. Many have migrated to the cities (9). Some small farmers continue to survive in poverty where they and their ancestors were raised. Some few are employed by the large conglomerate corporations or the relatively few millionaire farmers who have succeeded in gaining control of vast expanses of the best cultivable land.

Urban problems, too, can be traced to a century of thoughtless distribution of a fast-dwindling resource.

What had not been foreseen was the impact that land monopoly would eventually have on American cities. If the Southern plantations and Mexican land grants had been distributed in limited-size parcels to actual settlers as generously as it was handed out in prodigious chunks to speculators, if the reclamation law had been vigorously enforced, it is doubtful that the cities would be as overwhelmed and beset as they are today (10).

Within the densely populated urban areas the issue of land allocation is different yet is resolved no more rationally than in the countryside. Speculation for private profit and local politics often determine how land will be used. Near the core of each of our great cities lie vast acreages of dilapidated slum houses inhabited by the poor, the rejected, and the neglected members of our urban communities. While the owners of these slum properties live in comfort elsewhere, their tenants are permitted to camp within these run-down dwellings

only until the day the "progress" prophesied by urban renewal approaches fulfillment, and then they are driven elsewhere.

Is There a Way Out?

The problems that have arisen as a result of this system of land tenure are more than amply documented by today's media and need not be further elaborated here. What is strange is that although the problems are widely recognized and discussed, very few people question the system of private land tenure that lies at their roots.

In the United States, "land reform" is seldom mentioned, yet is no less needed than in the many less developed nations where it has been an evolutionary – or revolutionary – demand for ages. In most cases, land reform consists of a relatively superficial attempt to redistribute land more widely by breaking up certain very large landholdings, with small parcels granted small farmers, usually on a private ownership basis (11).

Private landownership – and its concomitant problems – is accepted as inevitable by most Americans, perhaps because it has stood for so long as a pillar of our ideology, as Contini has noted. Another reason is that there are so few examples of alternatives in the United States (and, for that matter, in the world); those that do exist are not widely known, nor is their significance recognized. Only recently has there been much desire to experiment with alternatives.

We feel that barriers to such experimentation are more psychological than economic or political. Even though government programs and private investment institutions favor private development, there are at this point no tangible legal or economic barriers to the trusteeship approach to land tenure. The community land trust represents a means by which a legitimate alternative institutional expression of landownership may be found, thereby contributing to the much-needed social and economic reconstruction of America.

Notes

(1) Problems of land allocation fall into two broad categories: the allocation of land among individuals, and the allocation of land among its multiple possible uses. Inequitable allocation of the first type is a major source of injustice among men; inequitable allocation of the second type produces injustice not only among men, but also between all men and nature.

(2) Stewart L. Udall (Secretary of the Interior during the Kennedy and Johnson administrations), "The Indians: First Americans, First Ecologists," *The American Way*, May 1971.

(3) Han Liang Huang, "The Land Tax in China," *Studies in History, Economics, and Public Law*, Vol. LXXX, No. 3, ed., Columbia University, Faculty of Political Science (New York: Longmans, Green & Co., 1918).

(4) "Historically, it was the dispute over the use and ownership of land that caused the white-skinned immigrants to ignore and cast aside the lessons of Indian ecology. The Western

European immigrants were land-hungry. They came from feudal societies where the governing classes owned land outright, fenced it off, and gloried in its exclusive possession. We perceive now that feudal land laws were a serious flaw of Western culture." Udall, "The Indians: First Americans, First Ecologists."

(5) Edgardo Contini, "The American City – A Forecast," *The Futurist* 4:1, February 1972.

(6) In the American South, where the plantation system and slavery reigned for 300 years, there never did exist the "freedom and justice for all" upon which the highest ideals of America were based. In fact, the Southern plantation system was in many ways a forerunner of the modern corporate factory farm.

(7) We are not aware of any comprehensive census of land ownership in the United States. It is in most localities extremely difficult to find out precisely who owns what and how much. On a national scale it is even more difficult. With our cultural mania for statistics, perhaps this phenomenon is to be viewed simply as an oversight.

(8) Unchecked – and even encouraged – by Congress, the issuance over the years of vast tracts of land to speculators drove up land prices, discouraged settlement by the poor, and resulted in monopoly ownership of America's farmlands. The Homestead Act of 1862, a provident measure adopted by Congress, attempted, albeit feebly, to encourage settlement by poorer families. Under its provisions a family could acquire up to 160 acres if it occupied and improved the land for five years. But by the time it was enacted, a substantial portion of the best land in America was already taken. Even the Federal Reclamation Act of 1902 did nothing to break up massive landholdings even in providing a 160-acre limitation (and residency requirement) for those lands receiving federal water. Land monopoly stayed entrenched in the West through continuing violations. See Peter Barnes, "The Great American Land Grab," *New Republic*, June 5, 1971.

(9) The policies of the U.S. Department of Agriculture which favor the "successful" farmer to the relative detriment of the small farmer have accelerated this migration. Over the past decade, an average of 1,670 small farms per *week* have been lost, according to the *Wall Street Journal*, 11 May 1972.

(10) Peter Barnes, "The Great American Land Grab."

(11) Such redistribution is, however, more often discussed than implemented. Even where redistribution is implemented on a private ownership basis, the beneficial effect is short-lived. Economic pressures, and lack of credit and know-how continue to exert their pressure on the small farmer, often leading him eventually to mortgage or sell his land outright, with land ownership often returning to something like the original pattern.

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