

THE LEGAL DEVELOPMENT OF LAND TENURE IN THE UNITED STATES: HISTORY, POLITICS, AND ECONOMIC POWER

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Abstract. Land ownership in the United States is a fundamental economic, social, and legal development issue. This study examines the development of American land ownership from the colonial period to the present day, influenced by legal precedents and state policy. Through legal analysis, the impact of the Discovery Doctrine and Johnson v. M'Intosh decisions on Aboriginal land ownership is discussed, the role of the Homestead Act in the process of land democratization and its subsequent stage in the context of the mechanism of corporate land ownership. The study also analyzes the importance of the social function of land and the state's role in managing land ownership. International comparative analysis contributes to a better understanding of the features of the American land ownership model and its contemporary problems.

Keywords: legal land reforms; historical land tenure; corporate land ownership; public land policies.

INTRODUCTION

Land ownership is one of the fundamental issues in the social, economic, and political development of the United States. Its history reflects not only the formation of land ownership models, but also problematic relations between social groups, the transformation of state policy, and changes in the legal order. The process of land legal regulation has always been at the center of the intersection of international law, domestic politics, and economic processes, where legal precedents, industrial development, and issues of social justice have intersected with each other [Robertson 2005, 56-78].

The history of American land ownership can be divided into several phases: 1) Colonial land tenure – the influence of English legal traditions

and the distribution of land through royal charters [Allen 1991, 1-23]; 2) Expropriation of Aboriginal Lands – Based on *the Discovery Doctrine* and *Johnson v. M'Intosh* decisions, restrictions on the right to land ownership of Indigenous peoples under American law [Edwards 2008]; 3) The Homestead Act and the attempt to democratize land – state land subsidies and small farmer empowerment policies [Perdue and Green 2004]; 4) Land concentration and corporate dominance – the impact of the Industrial Revolution on the land tenure system, the growth of financial speculation, and the marginalization of small farmers [White 2011].

The social function of the land ownership system in the United States has historically been defined as an instrument of individual well-being and social development, although individual legal and economic changes have often violated this equality. Government policies that served the equal and fair distribution of land eventually gave way to the interests of capitalist expansion and industrial development [Hibbard 1924, 546-50].

This article examines the development of land tenure in the United States, the influence of legal precedents, and the role of the state in land governance. It discusses the historical, legal, and economic contexts that shaped the fairness of land rights, the expropriation of Aboriginal people, and the transition to democracy. On the way the road and capitalism Roots To stand up.

This study aims to explore how the social function of land in the United States has changed and how it has transformed from an instrument of equality and general welfare into a mechanism for the accumulation of economic power. The study is based on the method of legal analysis, which includes the study and evaluation of judicial precedents, legislative acts, and international legal norms. It also uses economic and historical methods that analyze the “dynamics” of land ownership in a socio-economic context. Through comparative legal analysis, international examples of the development of land ownership systems are considered, which makes it possible to better understand the uniqueness of the American model and its global context.

1. SOCIAL FUNCTION OF LAND

Understanding the social function of land is a central part of the legal and economic science of land [McDonald and Freyfogle 2007, 1107]. Land is not just an economic asset, but its use should serve the public good. As Hernando de Soto has noted in his studies, “land should not be perceived simply as an object of property, but as an instrument that ensures the sustainable development of society” [de Soto 2000, 125-200].

Thus, the social function of land is related to both individual property rights and its public purpose and according to this concept, property rights

cannot be absolute, as they are related to public interest. Accordingly, land management policy is based on taking into account the public interest, which implies long-term and environmentally sustainable use of land.

The social function of land is of particular importance for urban planning and the establishment of order in the agricultural sector [Fernandes 2007, 177]. For example, the legislative order often reflects the principle that “the right to own land includes not only the right to possess and dispose of it but also the obligation not to use it contrary to the public interest” [Crawford 2011, 1090].¹

the social function of land, as already noted, its regulation depends on the historical, social, and economic context. For example, in Western European countries, land management strategies are often based on eco-social models, while in developing countries the social function of land is mostly associated with the process of legalization of property rights [Payne 2011, 415]. The process of legalization of land ownership is determined by the historical land tenure structure, legal uncertainties, etc. Many developing countries have not had a formal land registration system for a long time, as a result of which a significant part of land plots are owned *de facto*, but not *de jure*.

In some countries, such as Brazil, this principle is enshrined in the constitution. reflected in the German Constitution, where the property right is considered not only in the context of private use but also in the context of public purpose. The German Basic Law (*Grundgesetz*) also contains the principle that private property must serve the public good (Article 14 GG). The public function of land is also reflected in EU law in the case law of the European Convention on Human Rights (ECHR) on property rights. Thus, international legal frameworks Establish general principles of land use and distribution, which are often translated into national policies to regulate land management models.

Global experience shows that in developed countries the social function of land is strictly defined. For example, in Sweden, the state controls land use so that it does not become excessively concentrated in the private sector.² On the other hand, in the USA the land market is largely subject to market principles, which often leads to urban speculation and housing prices. Sharp growth [Harvey 2003, 939] in urbanization Tempo With growth Together, developing countries often neglect the social function of the land. A trend that leads to the marginalization of low-income groups. The role of the state is particularly important in this process, as it regulates land management and ensures the balancing of property rights with the public interest.

¹ Ibid., bk. 2, ch. 1, Civ. Code of Ga.

² *Plan and Building Act* (2010:900) (Swed.), https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/plan--och-bygglag-2010900_sfs-2010-900 [accessed: 15.02.2025].

Faces new problems. Climate change forces states to pay more attention to environmentally sustainable land use. For example, the EU's environmental policy requires that land be used by the principles of sustainability to avoid degradation³ of ecosystems. The growth of financial speculation creates the danger that land will be transformed into a commercial asset, reducing its accessibility to the wider population.

2. THE EVOLUTION OF LAND TENURE IN AMERICA: PROPERTY TRANSFORMATION AND LEGAL FOUNDATIONS

The legal and social construction of US land has historically been shaped by several fundamental processes, including the adoption of English legal traditions as well as the influence of colonialism and economic expansion [Allen 1992, 1774-815].

2.1. Colonial land ownership and the influence of English law

The settlement of North America by Europeans significantly transformed the legal and economic concepts of land ownership [Robertson 2005]. Land, which had originally been owned and managed collectively by Native American tribes, became the primary object of private property during the colonization process [Allen 1992, 1774-815]. These changes were particularly inspired by the English legal tradition and its concepts.

The English legal system was based on feudal principles, which held that land belonged to the "sovereign" (the British monarch), and that individuals were granted only temporary usufruct or conditional ownership [Nelson 1975, 1760-830]. It was on this legal model that land was distributed in North America through royal charters and grants.

Royal charters, issued by the British monarch, were a legal mechanism by which individuals or legal entities (such as the Virginia Company) were granted exclusive rights over certain territories [Andrews 1934]. This approach led to the concentration of land ownership in the hands of private interests, which later became one of the main causes of socio-economic inequality.

The settlement of new colonies and their control were of particular importance to the English government. This was the purpose of the "Headright System," which was introduced in the Virginia colony in 1618. This system provided that a colonist who financially secured the arrival of an immigrant to America would be given 50 acres of land in exchange for each migrant.⁴

³ Cong. of Local & Reg'l Auths., Right to the Environment: Proposal for a European Charter (Council of Eur. 2022).

⁴ Library of Cong., Virginia Colony, 1611-1624, <https://www.loc.gov/classroom-materials/>

This system differed markedly from the feudal property model established in Europe, as it created favorable conditions for the privatization of land and the expansion of private property. Legal entities that financed the arrival of new immigrants received large land plots, which allowed them to establish large plantations and farms.⁵

This system led to an unequal distribution of land and a clear distinction between social classes. The wealthy, who owned land, became a landed aristocracy, while the majority of immigrants, who could not find the financial resources to come to America, were forced into Indentured servitude. This system was particularly relevant in 17th-century North America, where it played an important role in shaping land ownership and the socio-economic structure, and also made possible the system of land leasing. Get involved [Galenson 1981, 446].

Agricultural production led to a sharp increase in the demand for labor, which was initially met [Eltis and Engerman 2000, 123] by the institution of temporary slavery of immigrants from Europe. However, from the mid-17th century, as the number of free European immigrants decreased, the colonies turned to African slave labor, which led to the rise of the slave economy in the Western Hemisphere.

New forms of land ownership also influenced the toponymic development of North America. New territories were often named after English toponyms (e.g., New York, Richmond, Jamestown), reflecting increasing British legal and political influence. The “Headright System” and the British legal tradition laid the foundation for the future development of the American land tenure system [Burrows and Wallace 1898, 147-65].

The strengthening of the large landowning class – an elite layer was formed, which later played a decisive role in shaping the political and economic structure of the United States [Morgan 1975, 145-75].

Limitation of the social function of land – land has become an object of private ownership and financial exploitation, while its public benefits have been sharply limited.

Legal precedents – Under the influence of English law, the legal concepts of fee simple and absolute ownership were formed, which are still part of American land law [Banner 2005, 89-112]. Thus, the interaction of the British legal model and the “Headright System” determined the legal, social, and economic foundation of US land ownership, which is still reflected in the country’s land ownership policy and social structure.

united-states-history-primary-source-timeline/colonial-settlement-1600-1763/virginia-colony-1611-1624/ [accessed: 15.02.2025].

⁵ Am. Hist. Cent., Headright System in Colonial America, <https://www.americanhistorycentral.com/entries/headright-system-in-colonial-america/> [accessed: 15.02.2025].

The English legal tradition on US land ownership can be described in terms of legal pluralism. Even in a context where local and colonial legal systems interacted, often in conflict. In this process, institutional Economics and law Realism contributed to the formation of a land ownership model that considered the interests of the state and the private sector, which ultimately became the basis of capitalist land ownership.

Although the Headright System was originally designed to accelerate the economic development of the colonies, it led to the concentration of land among economic elites. This process must be viewed from the perspective of legal realism, noting that legal instruments often serve the interests of specific social groups. As a result, the strengthening of the large landowning class contributed to economic inequality, which was later exacerbated by the impact of the Industrial Revolution, when land became one of the main forms of capital, not only in the United States but throughout the world.

2.2. Expropriation of Aboriginal Lands and Legal Discourse

During the colonization of North America, the expropriation of Aboriginal lands was a central issue in legal and political discourse. The concepts and norms of property rights developed within European legal traditions were fundamentally at odds with the collective land ownership model of Native American tribes.

For example, the Marshall Trilogy is a collection of three important decisions of the U.S. Supreme Court, delivered between 1823 and 1832, that determined the legal status and land rights of Native Americans. These decisions continue to have a significant impact on the formation of U.S. Native American policy and law. In *Johnson v. M'Intosh* (1823), the court ruled that Native American tribes were not entitled to sell land to private individuals because their ownership rights were not absolute. The court noted that European colonizers, under the “doctrine of discovery”, had acquired ownership rights to land, while Aboriginal people were left with only the right to use the land ⁶. *Cherokee Nation v. Georgia* (1831), in which the Cherokee tribe sued to stop the laws of the state of Georgia from being applied to their territory. The court ruled that the Cherokee tribe was not a “foreign nation” under the Constitution, but rather a “dependent Nation,” which meant they had no right to sue in federal court.⁷ *Worcester v. Georgia* (1832), in which the Court ruled that the state of Georgia did not have the right to extend its laws to Cherokee lands because these territories were recognized

⁶ *Johnson v. M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823), <https://supreme.justia.com/cases/federal/us/21/543/> [accessed: 15.02.2025].

⁷ *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831), <https://supreme.justia.com/cases/federal/us/30/1/> [accessed: 15.02.2025].

as independent by federal treaties. This decision strengthened tribal sovereignty, although its enforcement was problematic.⁸ The main legal principle reflected in the Court's decision was that the "Discovery Doctrine" granted European nations property right, while the indigenous population retained only temporary possession of the land.

The British and later American legal systems were based on the concept that legitimate land ownership was determined only by written treaties and royal acts, while Aboriginal land tenure, which was based on traditional and oral order, was not recognized as subjects of international law [Banner 2005].

The "Discovery Doctrine" was laid Pope established the basis for *Inter Caetera* of 1493, granted European states the right to colonize newly discovered lands. The doctrine was developed in the United States as a principle of property rights that excluded international sovereignty over aboriginal territories [Wilkinson 1987].

This doctrine created a legal basis according to which: 1) Land ownership was transferred to the US federal government, which ultimately entailed the forced relocation of Aboriginal people; 2) Access to land for the local population has been severely restricted, leading to their economic marginalization; 3) The US government began a systematic seizure of Aboriginal lands, which was followed by the adoption of various legal acts that violated the rights of Indigenous peoples.

The Discovery Doctrine resulted in several fundamental political and legal changes: 1) "Indian Removal Act" (1830) – This act legalized mass deportations, including the "Trail of Tears," which resulted in the removal of tens of thousands of Native Americans from the new territories;⁹ 2) "Dawes Act" (1887) – This act divided Aboriginal lands into individual plots, which were to be transferred to them as private property, although in reality, a large part of the lands was purchased by private owners and corporations;¹⁰ 3) "Lone Wolf v. Hitchcock" (1903) – The U.S. Supreme Court ruled that Congress could unilaterally terminate treaties with Native Americans, which would have violated their property rights.¹¹

Although the "Discovery Doctrine" defined the American land ownership system for centuries, it began to be legally revised in the 20th century: 1) Indian Reorganization Act (1934) – partially restored Aboriginal

⁸ *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832), <https://supreme.justia.com/cases/federal/us/31/515/> [accessed: 15.02.2025].

⁹ U.S. Dep't of State, Off. of the Historian, *Indian Treaties and the Removal Act of 1830*, <https://history.state.gov/milestones/1830-1860/indian-treaties> [accessed: 15.02.2025].

¹⁰ Nat'l Archives, *Dawes Act (1887)*, <https://www.archives.gov/milestone-documents/dawes-act> [accessed: 15.02.2025].

¹¹ *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903), <https://supreme.justia.com/cases/federal/us/187/553/> [accessed: 15.02.2025].

land ownership and repealed the principles of *the Dawes Act* [Deloria 1985]; 2) “Native American Graves Protection and Repatriation Act” (1990) – which provides for the return of historic lands and cultural property to Aboriginal communities [Echo-Hawk 2010].

Modern litigation – Native American tribes continue to fight for lost lands, but the historical construction of the land tenure system continues to pose serious obstacles.¹² *Carpenter v. Murphy* (2019) – The U.S. Supreme Court ruled that much of Oklahoma is still in the hands of Native Americans. To the ground, it was considered because Congress never This status has been revoked. The case has even reached the US Supreme Court. Before the court, where the hearing took place in 2018, however, a decision was not made, presumably due to a tie vote among the judges, as Judge Neil Gorsuch Himself Removed the Case from the hearing, due to his previous work on the 10th Circuit Court of Appeals. As a result, the case was postponed and retired in 2019. Because *Carpenter v. Murphy* was not decided, the Supreme Court considered a similar issue in¹³ *McGirt v. Oklahoma* (2020). In this case, the court ruled that the Creeks Reservation was never Repealed by Congress, resulting in the state of Oklahoma having no jurisdiction over the territory Crimes To be judged. This decision significantly strengthens the territorial rights of American Indians.

It is noteworthy that the legal recognition of the “Discovery Doctrine” was not consistent with the principles of modern international law, such as the right to life of persons. The right to self-determination and international protection of property rights. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) already prohibits legal practices based on such doctrines. To be continued. Nevertheless, the Marshall Trilogy precedents still apply in the US legal system, which makes the legal status of Aboriginal lands problematic to this day. In addition, decisions taken in European states, such as the *Mounties case* (Portugal v. Australia, ICJ, 1995),¹⁴ have denied the legitimacy of the Discovery Doctrine in the international legal system.

Historical expropriation of land ownership continues to be felt today among Native Americans. Economic conditions on reservations. Economic analysis shows that the expropriation of Aboriginal lands has created an uneven economic development structure, where property status hinders investment and financial independence. Although the Indian Reorganization Act (1934)

¹² *Carpenter v. Murphy*, 591 U.S. (2019), <https://www.oyez.org/cases/2018/17-1107> [accessed: 15.02.2025].

¹³ *McGirt v. Oklahoma*, 591 U.S. (2020), <https://www.oyez.org/cases/2019/18-9526> [accessed: 15.02.2025].

¹⁴ *East Timor (Port. v. Austl.)*, Judgment, 1995 I.C.J. 90 (June 30), <https://www.icj-cij.org/case/84> [accessed: 15.02.2025].

partially restored land ownership rights,¹⁵ restrictions on financing and property management continue to hinder economic development on reservations [Newton, Cohen, and Anderson 2012]. This process is particularly aggravated by the legislative restrictions on the market economy, which in many doesn't allow Tom to be independent Manage land and natural resources.

In the 21st century, new legal processes have emerged in the United States to reexamine the legal status of Native American lands. For example, in *McGirt v. Oklahoma* (2020), the U.S. Supreme Court recognized that lands in Oklahoma still fall under the jurisdiction of¹⁶ the Muskogee tribe. This decision sets an important precedent and demonstrates that modern courts are willing to reconsider the legacy of the Discovery Doctrine and the Marshall Trilogy.

2.3. The Homestead Act and the Process of Land Democratization

The Homestead Act of 1862 was one of the most significant changes to the land tenure system in the United States.¹⁷ It was a federal government policy aimed at democratizing land ownership and expanding the West. Settlement. This act allowed U.S. citizens, as well as those who were planning to become citizens, to receive 160 acres of federal land, completely free or at a low cost if they developed and farmed it for at least five years [Gates 1962].

The Homestead Act was based on the Republican political program, which sought to maximize the distribution of land ownership. The adoption of the Homestead Act was related to several main reasons: 1) Intensive settlement of the West – The US government wanted the western part of the country to be developed more effectively and strengthen the economy there; 2) Democratization of land ownership – Farms and middle-class families should have the opportunity to own land that was previously either owned by Aboriginal people or federally owned; 3) Reducing the influence of slaveholding in the South – Republicans wanted to make land ownership accessible to smallholders and limit the economic dominance of plantations.¹⁸

The Homestead Act established a completely new system of land ownership in the United States, one that differed from feudal inheritance and also opposed the traditional European model of land concentration [Edwards 2009, 179].

¹⁵ Indian Reorganization Act, 25 U.S.C. §§ 5101-5129 (1934), <https://www.govinfo.gov/content/pkg/USCODE-2011-title25/html/USCODE-2011-title25-chap14-subchapV.htm> [accessed: 15.02.2025].

¹⁶ *McGirt v. Oklahoma*, 591 U.S. (2020), https://www.supremecourt.gov/opinions/19pdf/18-9526_9okb.pdf [accessed: 15.02.2025].

¹⁷ See <https://scholarsjunction.msstate.edu/cgi/viewcontent.cgi?article=1640&context=fvw-pamphlets> [accessed: 15.02.2025].

¹⁸ Nat'l Archives, The Homestead Act (1862), <https://www.archives.gov/legislative/features/homestead-act> [accessed: 15.02.2025].

Under this policy, land ownership was to be based not on inheritance or large investments, but on labor and production. This defined the American agrarian economy by strengthening individual property and farms [Gate 1977].

As a result of this policy, from 1862 to 1934, millions of Americans requested and received land grants: 1) Expansion of land ownership – Approximately 270 million acres of land were transferred to private individuals, representing almost 10% of the total area of the United States;¹⁹ 2) Social empowerment – middle-class farmers were allowed to purchase land, which contributed to agrarian economic stability.²⁰

Although the Homestead Act was officially considered a model of democratic land ownership, its enforcement often involved racial and gender discrimination: 1) Restrictions on the rights of African Americans – The Civil War was already underway in the United States, but blacks still did not have equal access to land: a) the advantage of white Southern farmers – Under *Jim Crow* laws, Homestead Act land was often given to white farmers, while African Americans were excluded [Schlissel 1992] from this process; b) the Exodus Movement and Black Farmers – In the 1879-1880s, African-Americans began migrating to Kansas, where they were granted land under the Homestead Act but were often subjected to legal and violent oppression [Weare 1996]; 2) Women's Land Ownership Problems – Although the Homestead Act did not explicitly contain gender restrictions, it was more difficult for women to obtain land and maintain property rights: a) married women could not own land – according to the legal system at the time, married women could not own land separately from their husbands; b) women as secondary beneficiaries – widows or single women – could receive land, although legal and economic barriers made this process difficult [Edwards 2009, 179].

The Homestead Act left a significant mark on US land ownership policy: 1) Strengthening Farming Culture – the Homestead Act contributed to the development of agrarian America and the individual model of land ownership; 2) An attempt to prevent economic inequality – although the law served to widely distribute land, it did not become a mechanism for universal justice; 3) Establishing a Land Ownership Model – the Homestead Act laid the foundation for America's free land policy, which was reflected [Gates 1968] in the New Deal, the GI Bill,²¹ and other land ownership reforms in the 20th century.

¹⁹ Ibid.

²⁰ Khan Acad., The Homestead Act and the Exodusters, <https://www.khanacademy.org/humanities/us-history/the-gilded-age/american-west/a/the-homestead-act-and-the-exodusters> [accessed: 15.02.2025].

²¹ Nat'l Archives, The Servicemen's Readjustment Act (GI Bill) of 1944, <https://www.archives.gov/milestone-documents/servicemens-readjustment-act> [accessed: 15.02.2025].

The Homestead Act played a major role in the democratization of the U.S. land system and the economic development of the West, but this process was accompanied by significant social and racial inequalities. Although individual land ownership expanded, it remained inaccessible to limited groups, especially women and African Americans.

Today, the Homestead Act is considered one of the most successful, albeit discriminatory, land reforms, creating the basic structure of the American agrarian economy, but at the same time failing to address gender, racial, and socioeconomic inequalities.

The Homestead Act opposed the feudal landownership of Europe and implied that land ownership should be transferred to the population only [Locke 1689] for labor and development, which was based on the Lockean Labor Theory of Property. Thus, the Homestead Act set a legal precedent according to which public lands could be transferred to private individuals in exchange for active labor to own the land. This legal approach was later reflected in the New Deal, the GI Bill, and other modernized land ownership laws. In policies.

Although the Homestead Act was officially viewed as a democratic reform that made land available to all citizens, legal and administrative barriers prevented its implementation. Strengthening land ownership for women and racial minorities. Jim Crow laws in the Southern states African-Americans were practically denied the right to own land because state administrative processes pursued discriminatory policies against them.²² The Homestead Act can be compared to the Canadian land tenure system, which was also based on a policy of state land privatization, but had stricter regulations on land transfers.²³ In Australia, the Crown Land Grants system of land distribution also created a model of agrarian land tenure, although it was assumed from the beginning that the land distribution would not lead to the complete economic marginalization of Aboriginal people.²⁴ A comparison of the Homestead Act with these legal models reveals that, despite its progressive goals, its practical implementation served the interests of the white population more than the democratization of universal land ownership.

Economic analysis of the long-term effects of the Homestead Act shows that, despite the expansion of individual land ownership, land concentration continued to shift to private legal entities in the 20th century. This was

²² Nat'l Park Serv., Jim Crow Laws, Martin Luther King, Jr. Nat'l Hist. Park, https://www.nps.gov/malu/learn/education/jim_crow_laws.htm [accessed: 15.02.2025].

²³ Library & Archives Can., Land Grants of Western Canada, 1870-1930, <https://www.bac-lac.gc.ca/eng/discover/land/land-grants-western-canada-1870-1930/Pages/land-grants-western-canada.aspx> [accessed: 15.02.2025].

²⁴ Nat'l Park Serv., Native Americans and the Homestead Act, <https://www.nps.gov/home/learn/native-americans-and-the-homestead-act.htm> [accessed: 15.02.2025].

partly due to the increasing financial obligations of farmers and the strict mortgage policies of banks, which ultimately led to economic pressure on small farmers and the loss of land. In addition, the industrialization of agriculture and the intervention of large capital, for example through the creation of partial cooperative models (agribusiness model), contributed to the fact that by the 1930s much of the land acquired under the Homestead Act was again in the hands of a small elite of landowners [Gates 1973, 50].

2.4. Land ownership concentration and corporate dominance

As mentioned, 19th-century land tenure policies were initially aimed at empowering small farmers and liberalizing land ownership, but the Industrial Revolution and capitalist expansion significantly altered the structure of land ownership. As noted, state-wide land distribution programs, such as the Homestead Act (1862) discussed above, and now the aforementioned initial railroad subsidy laws ultimately created an environment where land ownership gradually became concentrated in the hands of large corporations, industrial magnates, and railroad companies [Hibbard 2024].

This process changed the social function of land – land, originally considered a primary economic resource for individual farmers, became a financial instrument used to grow capital and generate investment profits [Goodwyn 1978].

One of the most important phenomena in 19th-century U.S. land policy was the expansion of land ownership by railroad companies. The U.S. government saw the expansion of transportation networks as a key factor in the country's industrial development, and millions of acres of land were transferred to private companies.

Primary Railway Grants: a) railroad companies were given huge tracts of land by the government to finance construction; b) for example, under the Pacific Railway Act (1862), companies such as the Union Pacific and the Central Pacific were granted substantial land grants. Specifically, each company was granted 10 alternate sections (each section being 640 acres) per mile of construction, 10 miles on either side of the railroad. This meant that the companies received 6,400 acres of land per mile. In addition, they were granted federal loans per mile of construction. A significant portion of this land was ultimately not used for infrastructure but was sold to private investors, setting a precedent for land monopolization.²⁵

The influence of railway companies on land prices: a) as a result of land grants, railroad companies were able to artificially inflate the price of land, making it more difficult for small farmers to purchase land; b) for example,

²⁵ Pacific Railway Acts, Encyclopedia Britannica, <https://www.britannica.com/money/Pacific-Railway-Acts> [accessed: 15.02.2025].

land prices in the northwestern regions increased by 100-200% as railroad companies sold this land to speculators and large landowners.²⁶

The monopolization of land and the effects of industrial expansion led to the agrarian crisis of the late 19th century, particularly the economic decline of small farmers. Farmers who received land under the Homestead Act or other programs often found themselves in financial distress as land prices and taxes rose. By the 1880s, the average American farmer was forced to take out loans from banks to finance his land development, which ultimately led to increased debt and land loss. Financial institutions and industrial magnates bought up land masses from bankrupt farmers, which had the opposite effect of state land ownership policies. By 1890, more than 20% of all agricultural land in the United States was already in the hands of large corporations. The transformation of land tenure policy in the 19th century shows that land in the United States did not remain merely a lever of a democratic economy, but also became a mechanism for the concentration of capital [Allen 2019, 251].

Effects of land concentration and corporate dominance can be discussed in terms of institutional economics theory [North 1990] and Karl Polanyi's model of economic transformation [Polanyi 1944]. According to Polanyi's model of economic transformation, the transformation of land ownership was an organic process of capitalist development, transforming land from an economic asset into a financial instrument. According to Polanyi, the transformation of land into a market economy often leads to social crises, because property rights and market forces contribute to the concentration of economic power in a small elite. This process occurred in the United States as a result of the transformation of land ownership policies in the 19th century, when the interests of small farmers were sacrificed in favor of strengthening industrial capital and railroad magnates.

The processes of land concentration that took place in the United States in the 19th century are similar to the Latin American land tenure system, where the "latifundia" model also promoted the concentration of land in a small elite. Concentration [Frank 1972, 3] in groups. However, unlike South American countries, where the unequal distribution of land is a result of feudal inheritance as a result, the monopolization of land in the United States developed based on industrial capitalism and state intervention. In contrast, in some European countries (for example, in France after the Revolution of 1789 and in Germany during the land reforms of the 19th century), there was a movement towards the democratization of land. Directed state policies sought to reduce corporate dominance and increase the role of individual property [Mendell 1980, 342]. A discussion of these

²⁶ Digital Hist., Pacific Railway Act, https://www.digitalhistory.uh.edu/disp_textbook.cfm?psid=4004&smtID=3 [accessed: 15.02.2025].

international examples makes it clear that the transformation of US land tenure policy served the goals of capitalist growth more than social equality.

Corporate concentration of land has been strengthened by court decisions and legislative changes, which have legally justified the accumulation of property in the corporate sector. *Santa Clara County v. Southern Pacific Railroad* (1886) In this case, although the Court's decision did not directly address the constitutional rights of corporations, the headnote to the decision noted that corporations are considered "persons" under the 14th Amendment, which grants them constitutional protection. This precedent was later used to expand the rights of corporations.²⁷ This was followed by the Sherman Antitrust Act (1890), which aimed to prevent monopolies and anticompetitive practices. However, in its early stages, legal interpretations and enforcement difficulties hindered the ability to challenge corporate land ownership. Effective measures. Only later, as a result of additional legislative acts and court decisions, was it strengthened Antitrust regulations.²⁸ Legal analysis reveals that the US judicial system has historically protected corporate interests more than the property rights of small farmers.

CONCLUSION

In the United States reflects the dynamic interplay of legal doctrines, economic interests, and public policy. Interaction. Legal precedents such as the Discovery Doctrine and *Johnson v. M'Intosh* established the legal basis for the expropriation of Aboriginal land, while laws such as the Homestead Act initially aimed to democratize land but ultimately contributed to its concentration in the hands of private corporations.

The transformation of land ownership shows how state policy can initially be seen as an instrument for ensuring equality and prosperity, but over time it can turn into a mechanism for the concentration of economic power. In the 19th century, most land resources were concentrated in the hands of railway companies and large industrial groups, which led to the marginalization of small farmers and the decline of the social function of land.

Contemporary legal and economic challenges continue to be linked to issues of land use, ownership, and distribution. Given international parallels, as the examples of Canada, Australia, and the United Kingdom demonstrate, problems related to equitable land tenure are still relevant. In Canada, for example, legal reforms are aimed at restoring Aboriginal land rights, while

²⁷ *Santa Clara County v. S. Pac. R.R. Co.*, 118 U.S. 394 (1886), <https://supreme.justia.com/cases/federal/us/118/394/> [accessed: 15.02.2025].

²⁸ Sherman Antitrust Act, 15 U.S.C. §§ 1-7 (1890), <https://www.britannica.com/event/Sherman-Antitrust-Act> [accessed: 15.02.2025].

in Australia *Mabo v. Queensland's* (1992) decision fundamentally changed the concept of *terra nullius*, which meant recognizing Aboriginal land ownership. At the same time, land reforms in Great Britain served to reduce feudal land tenure and ensure a more balanced distribution of property.

Globalization and economic liberalization, land tenure policy faces new challenges, including financial speculation, urbanization, and the growing impact and consequences of climate change. States need new legal strategies that adapt to changing economic realities and at the same time, they will uphold the principles of social justice and ecological sustainability.

Therefore, it is necessary to regularly review land tenure legal policies to ensure not only the protection of private property, but also the consideration of the principles of social justice, ecological sustainability, and economic inclusion.

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