

Land Tenure: *Lessons for Sustainability Through Information Sharing*

Despite so many efforts to reform aspects of property rights, to regularize land registration of rural and urban land and to modernize land registration systems, a lot still remains to be done to address the needs of marginalized groups, especially women, indigenous peoples and poor rural farmers who are denied basic rights over land. By creating systems and networks within which practical information and experiences can be shared, governments will be able to use the best regulations, options and practices available to reform aspects of property rights.

LAND POLICY ISSUES IN LATIN AMERICA AND THE CARIBBEAN (LAC)

Latin America has, on average, the most inequitable distribution of land. The magnitude of land distribution inequality measured by the Gini coefficient of land distribution goes from 0.55 to 0.94 resulting that in the 1970s and 1980s it was possible to find countries where 6% of the population controlled all the land, while 94% of the population had no access to land. At least 85% of the countries in Latin America during that period had a Gini coefficient of 0.6 or higher, meaning that 60-70% of the land was cultivated by the landowners and elite while the smallest farmers had access to only 30-40% of the land.

Land tenure patterns throughout LAC reflect that the majority of desirable lands are controlled either by national governments or the economic elite and are concentrated into large holdings known as latifundia usually land left idle or reserved for plantations, while poor rural farmers are pushed into subsistence farming or sharecropping on minifundia, small holdings often with only marginal soils.

In spite of offering a rich array of initiatives on land issues, the region may not be prepared yet to offer a radical shift in land policy. Some of the problems that have to be dealt with in order to make changes in the land tenure patterns of LAC are the following:

- High levels of tenure insecurity.
- Large numbers of informal property holders.
- Insecure property rights of women and indigenous groups.
- Complicated and obsolete land administration systems.
- Disorderly data on property and lack of adequate sources of information on land tenure for risk assessment, resource management and good governance.
- Centralization of authority.
- Absence of mechanisms to access credit using land as collateral.

- Conflicts over land and lack of adequate land dispute resolution mechanisms.
- Resistance by political and economic interest groups.
- Non-implementation of existing laws and lack of a legal framework for pursuing reforms.

Governments spend a considerable amount of time and effort managing, planning and securing property. Each of these functions is run by a myriad of separate agencies creating difficulties in registering a property. Data from the Doing Business report show that the number of days on average to register a property in LAC is 76.5 while in the OECD countries takes on average about 32 days. In Bolivia it might take up to 92 days to register a property. In Brazil, registering a property involves 15 different procedures and 47 days while in Haiti 5 procedures take about 600 days.¹



A favela in Brazil. Formalizing property titles is an important step to address the need for equitable access to land.

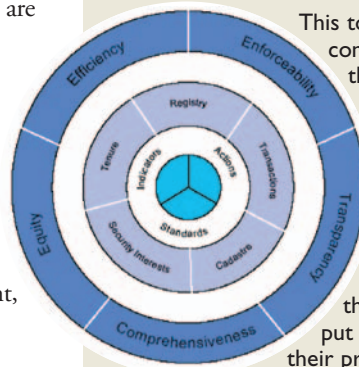
BLUEPRINT FOR STRENGTHENING REAL PROPERTY RIGHTS

The Inter-American Alliance for Real Property Rights, a group of advocates for the advancement of property rights systems in the hemisphere, designed and is in the process of implementing a Blueprint for Strengthening Real Property Rights.

The Blueprint is a tool for completing a comparative analysis of the current real property rights situation in the countries of the region by using principles, indicators, standards and actions. The Blueprint includes a guide for implementation, an evaluation and reporting system, a glossary of terms and a legal reference.

This tool is available for review and comments in the Alliance section of the LandNetAmericas portal hosted and managed by the Department of Sustainable Development of the OAS (OAS/DSD).
<http://www.landnetamericas.org/Alliance/Alliance.asp>

This tool allows countries to incorporate the relevant factors that guarantee that the solutions put in place by countries to modernize their property registration systems use the best regulations, options and practices.



1. See Registering Property, available at <http://www.doingbusiness.org/ExploreTopics/RegisteringProperty/>

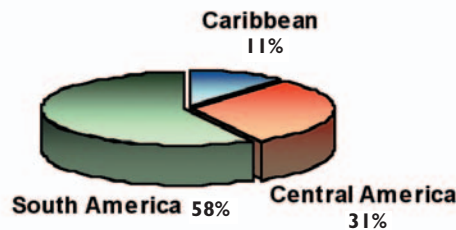
STRENGTHENING GOOD GOVERNANCE THROUGH MODERNIZATION OF PROPERTY SYSTEMS

Practitioners, professionals and policy-makers agree that land policy plays a crucial role in economic growth, poverty reduction and good governance. Multilateral institutions such as the World Bank and the Inter-American Development Bank have dramatically expanded their land-related portfolio in the past decade. Just in Latin America and the Caribbean, in an effort to regularize land registration of rural and urban land, these two agencies have implemented more than 50 projects that include land administration activities such as modernization of land registration systems among their components.

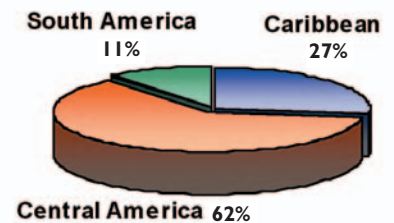
Between 1994 and 2004 more than \$2.7 billion has been invested in projects that seek to establish reliable systems of land records, implement mechanisms to secure land tenure and create cadastral techniques for mapping and land registration.

REGIONAL DISTRIBUTION OF LAND ADMINISTRATION PROJECTS AGAINST REGIONAL GDP

AMOUNT OF LOAN BY REGION (US\$)

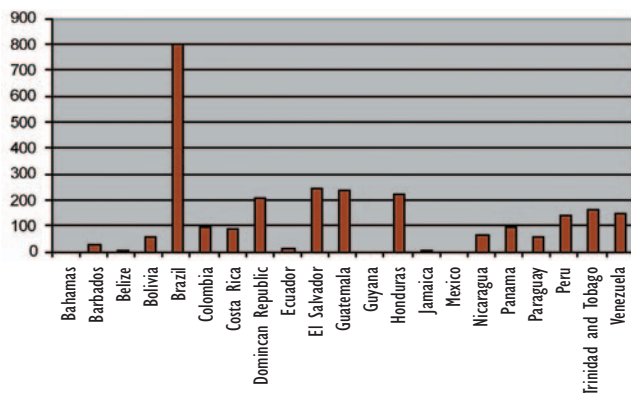


AMOUNT OF LOANS/GDP



the establishment of a cadastral-based land registry, the creation of a land fund and the development of land conflict resolution mechanisms. The combination of conservative forces in rural areas and prolonged civil conflict help explain why in 1979 Guatemala registered a Gini coefficient of land distribution of 0.8 meaning that 2.5% percent of Guatemala's farmers controlled over 65% of agricultural land, while over 88% of rural farmers were concentrated in a mere 16% of agricultural land.³

LAND ADMINISTRATION LENDING 1994-2004 (US\$ MILLIONS)²



Land administration reform corrects inefficient systems that constitute a major bottleneck to sustainable development. The next two figures show that land tenure regularization projects are largest in size in South America particularly in Brazil but more commonly found in Central America than in any other region, where more than US\$800 million has been invested.

Despite the fact that the 1996 Peace Accords ended the civil war in Central America, secure land tenure remains unattainable for many. Several circumstances help explain the difficulties: resistance by political and economic elite; land related conflicts and lack of adequate dispute resolution techniques and ignorance or violation of existing laws.

In contemporary Guatemala, the importance of land issues is so evident that the Peace Accords included commitments relating to

ACCESS TO LAND ON THE OAS AGENDA

Multilateral institutions, donors and civil society throughout the Hemisphere have been key in promoting equitable access to land and its efficient and sustainable use through policy advice and technical assistance. The Second Summit of the Americas, held in Santiago, Chile, in April 1998, instructed the Organization of American States (OAS), to streamline and decentralize property registration procedures. During the Third Summit of the Americas in Quebec, 2001, the Heads of State and Government of the Americas agreed to continue their efforts to regularize informal property rights, while emphasizing the importance of agriculture and rural life for poverty reduction and sustainable development for the peoples of the Americas.

In response to the mandates from the Summit of the Americas, the OAS in partnership with the United States Agency for International Development (USAID) created the Inter-Summit Property Systems Initiative (IPSI) to support a variety of activities – including the www.landnetamericas.org portal – that encourages consensus-building and coordination across donors, governments and civil society in order to enable improved approaches and greater progress toward the property registration mandates from the Summit of the Americas.

Governments are aware of the importance of information such as who owns or has access rights to land in order to protect the rights of marginalized groups, as well as to create policies that will reduce the vulnerability of communities to future natural disasters (earthquakes, floods, landslides, hurricanes, avalanches, droughts and tsunamis). That is why LAC countries are creating national land-use and investment codes and land-tenure legislation, while at the same time developing institutions to formulate integrated plans and policies in collaboration with land users. Since 1994, the nine countries participating in the Amazon Cooperation Treaty have been working on a program to strengthen and harmonize environmental zoning in the Amazon. (See *Amazon River Basin*, available at http://www.oas.org/dsd/Events/english/Documents/OSDE_8Amazon.pdf)

2. For a detailed list of land administration projects and their activities, see Table of Projects 1994-2004, available in the LandNetAmericas portal at <http://www.landnetamericas.org/docs/Projectos%201994%202004%20Exls>
 3. See The Continuing Need for Land Reform: making the case for civil society, available at <http://www.landcoalition.org/docs/odaomn2guate.htm>

INDIGENOUS PEOPLES AND LAND TENURE

The number of indigenous peoples of Latin America is 43 million accounting for 10% of the overall population of Central and South America (see next table). According to the Economic Commission for Latin America and the Caribbean (ECLAC), approximately 90% of all indigenous peoples in Latin America depend on land and natural resources to sustain their livelihoods.

INDIGENOUS POPULATION OF CENTRAL AND SOUTH AMERICA BY COUNTRY

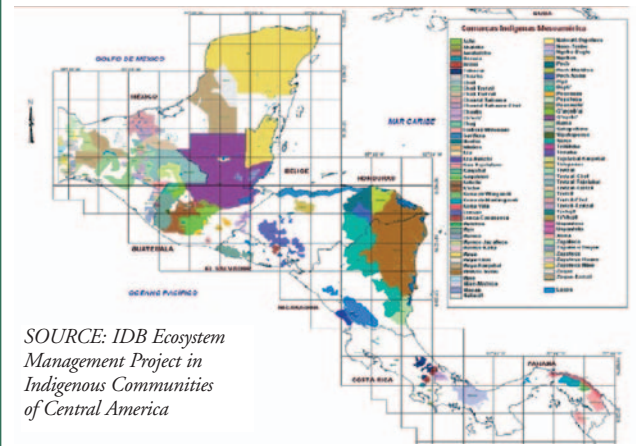
Country	Total ethnic groups	Estimated indigenous populations	Estimated percentage (%) of total country's population	Year
Argentina	22	800,000	2%	2002
Belize	4	37,000	15%	2003
Bolivia	35	5,800,000	55-70%	2001
Brazil	218	734,000	0.43%	2000
Chile	16	1,700,000	7-13%	2000
Colombia	83	701,860	2%	1997
Costa Rica	8	63,876	1.7%	2000
Ecuador	14	4,200,000	35%	2000
El Salvador	3	732,000	12%	1999
Guatemala	23	4,945,000	48%	1994
Guyana	9	49,293	6.8%	1991
Honduras	7	500,000	12.8%	1999
Mexico	62	12,700,000	13%	2000
Nicaragua	6	414,757	9.5%	1999
Panama	7	285,231	10%	2000
Paraguay	17	85,674	2%	2001
Peru	70	9,300,000	47%	2000
Suriname	6	25,000	6%	1999
Venezuela	28	534,000	2%	2001
TOTAL	638	43,220,691	10%	

SOURCE: Inter-American Development Bank and World Development Indicators 2000

Many indigenous people's territories are located in forests, either within or adjacent to protected areas. In many cases, the establishment of these protected areas has affected the rights, traditions and livelihoods of the indigenous peoples. To avoid such conflicts, prior to the establishment of protected areas in their lands, affected communities should be consulted, thereby recognizing their legitimate rights to the ownership and control of their natural resources. Unless property rights of indigenous peoples are respected, it is unlikely that sustainable conservation of the protected areas will endure.

The strengthening of local communities has given way to a growing capacity for indigenous peoples to carry out their own demarcation and titling programs. The process of delimiting, demarcating and titling indigenous territories

DISTRIBUTION OF INDIGENOUS COMMUNITIES IN CENTRAL AMERICA



SOURCE: IDB Ecosystem Management Project in Indigenous Communities of Central America

can be very complex. These communities have to develop expertise in mapping and learn geographic information system (GIS) technology while facing absence of legislation, resistance by landowners, lack of funds to cover the cost of titling indigenous lands, and complex bureaucratic procedures. Only small portions of indigenous territories have been demarcated. In Brazil, where more than 600 indigenous territories have been identified, 50% of those territories have been or are in the process of being demarcated.

INTER-SUMMIT PROPERTY SYSTEMS INITIATIVE (IPSI)

During the Second Summit of the Americas in Santiago, Chile in 1998, the Heads of State and Government acknowledged that property rights are fundamental to promoting inclusive economic growth in the hemisphere.

The governments recognized the need for multilateral and bilateral cooperation institutions, such as the Inter-American Development Bank (IDB) and the World Bank (WB), in order to strengthen their financial and technical assistance programs to support simplified property registration procedures.

The Government of the United States through United States Agency for International Development (USAID), the Government of El Salvador through the National Center for Registries (CNR, acronym in Spanish), and the Summits of the Americas Department of the OAS, were directly involved in the implementation of the Santiago Action Plan on Property Registration.

USAID launched the Inter-Summit Property Systems Initiative (IPSI) as the mechanism through which to implement the property registration mandate. The OAS/DSD created www.landnetamericas.org as the "virtual office" of the Inter-Summit Property Systems Initiative (IPSI). This portal was developed to support to the numerous on-going efforts to reform property rights systems throughout Latin America and the Caribbean. This virtual office is a tool for continual dialogue, sharing experiences and accessing information on property rights and land tenure.

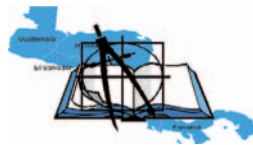
THE BENEFITS OF SHARING LAND TENURE DATA

Collecting, standardizing, maintaining and disseminating land tenure data in the region is a difficult but necessary task. Often, the data created by one organization can be used by other organizations with similar needs, so sharing can yield considerable advantages. The Department of Sustainable Development of the OAS (OAS/DSD) supports the Inter-Summit Property Systems Initiative (IPSI) and its portal www.landnetamericas.org. This remains a tremendous information resource where practitioners, government representatives, researchers, civil society and the private sector can provide and retrieve information related to various aspects of land tenure. The portal offers information on all projects on land administration being implemented in the region. In the indigenous peoples' section topics include property rights, access to land and communal lands. The portal also offers an extensive list of links to institutions' websites in the field and information about other organizations and forums in Latin America, including the focal points in the region such as:

Inter-American Alliance for Real Property Rights An initiative supported by USAID to support countries in their individual and collective efforts to advance property rights systems in the region.



Council of Property Registrars for Central America and Panama (Consejo Registral Inmobiliario de Centroamérica y Panamá CRICAP) Meets every year to coordinate issues such as registry and cadastre, training and capacity building and sharing of lessons learned and best practices.



Central American Network for Training in Land Administration (Red Centroamericana de Capacitación en Administración de Tierras – RECCAT) Offers academic training in land administration as well as a depository of documents on economic, social and legal aspects of land administration in Central America.



Recording and analyzing land tenure data in a consistent manner can be very complex due to the variability of land tenure. Nonetheless, access to good quality land tenure data is important for land surveyors when they get involved in post-natural disaster operations. Among the main findings and recommendations that can be found in post-disaster operations reports are:

- Including in post-disaster plans measures to deal early with land ownership issues.
- Ensuring that land is not seized or that fraudulent claims are not honored.
- Incorporating joint ownership of the property in land titles.

THE WAY FORWARD

The role of the Department of Sustainable Development of the OAS since its creation has been to assist member states on key environmental and sustainable development issues through project execution and policy recommendations. One focus of the work is to create systems and networks within which practical information and experiences can be shared, as the demand to share information on land tenure issues is continuously growing. Information and communication technologies (ICTs) such as the www.landnetamericas.org portal are key in providing best practices and lessons learned. Among the many lessons that can be extracted from the landnet's database are the following:

- There is universal agreement that land tenure and property rights are indispensable not only in supporting economic development and poverty alleviation, but also in supporting a range of other critical priorities – from natural disaster risk reduction to environmental protection to private sector partnerships in rural development.
- Property rights systems need to do a better job of addressing the rights of indigenous communities, women, small farmers and other marginalized groups by finding new entry points to ensure real social inclusion, transparency and meaningful participation in any proposed reform.

Access to land, and the conditions and security of that access, critically affect the livelihoods of many of the rural poor and landless. Therefore, it is crucial to develop strong local institutions that can focus on capacity development giving communities whose livelihoods are directly affected by land and resource policies the opportunity to participate in policy formulation and decision-making processes, and partnerships at both the local and regional levels.

For further information please contact Mariana Herrera (mherrera@oas.org 202-458-3539) in the OAS/DSD. This Policy Brief series available also at <http://www.oas.org/dsd/> provides a forum for discussion on issues pertaining to sustainable development to help transfer good practices and lessons learned from project design and implementation. This Policy Brief is the tenth in a series that includes:

- Biodiversity Conservation
- Transboundary Aquifers
- Watershed Management
- Renewable Energy
- Natural Hazards Mitigation
- Trade and Environment
- The Economics of Disaster Mitigation
- Sustainable Development in the Caribbean Small Island Developing States
- Water Management and Climate Change



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