

**LAND TENURE IN GUYANA:
A RAPID APPRAISAL REPORT WITH
RECOMMENDATIONS ON POLICY
FORMULATION AND REGISTRY MODERNIZATION
FOR THE A.I.D. P.L. 480 PROGRAM.**

**by
Steven E. Hendrix**

Submitted to:

**U.S. Agency for International Development
Bureau for Latin America and the Caribbean
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Rural Development Division
(LAC/DR/RD); and the USAID Trade Development Office,
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June 1993

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EXECUTIVE SUMMARY

Land policy in Guyana is relevant to several policies very important in the international community. Reports from the World Bank, the Inter-American Development Bank, the AID P.L. 480 Program, the Food and Agriculture Organization of the United Nations, and other groups, name tenure problems as a major constraint to broadly-based, sustainable economic development in Guyana. Without normalizing the access to and administration of land and resources, environmental regulation and management of fragile lands will be difficult at best. Tenure insecurity and governmental red tape discourage investment. Land markets suffer from barriers to trade, while large estates benefit from subsidies for holding onto under-utilized property. This property underutilization lowers productivity, reduces food security, and decreases Guyana's potential to participate in nontraditional agricultural exports. Finally, the poor suffer the most by the lack of tenure access and security. Development of a multipurpose land information system (MPLIS) would be a logical first step toward the rationalization of landholdings in Guyana.

Today, little or no information exists for environmental regulation, land taxation, zoning, and other purposes. As a result, various agencies of federal, state, and local government have created data systems that are duplicative and incompatible, at great cost to Guyanese taxpayers and international donors, and at the expense of efficiency.

The property registry system in Guyana is in need of major reform. This status report presents recommendations for reform, which includes the development of an MPLIS to serve a variety of users of land information. The MPLIS design would establish a long-term, automated system that is integrated and coordinated for all agencies of government that need access to such important data. The MPLIS would also provide data to the private sector to use in investment and land-use decision-making.

An MPLIS design would be a positive step toward a concrete, visible improvement in land and resource management. This in turn would set the stage for longer-term, sustainable growth in the agricultural sector.

The Ministry of Agriculture has agreed under the P.L. 480 program to initiate plans to extend leases or grant freehold interests to occupants of land. State land may be privatized at market rates. The government is also committed to raising lease payments. However, government policy makers lack the data and technical assistance to carry out such recommendations. Consequently, the Ministry should consider obtaining technical assistance and promotion of policy exchange on these and other key tenure issues.

Guyana has been making significant progress since 1988 in opening its economy. Few countries have made greater strides toward structural adjustment and democratization. In the area of property rights, however, issues of market rates and divestiture have not been addressed. In large part, this is due to the lack of institutional capacity within the country.

Financial constraints and limited staff make it difficult for the Commissioner of Lands and Survey to address the issues in hand. Nevertheless, the problems remain urgent.

A program of policy development and applied research is proposed to clarify these problems and devise more effective strategies for dealing with them, along with addressing issues of institutional capacity.

SECTION I

INTRODUCTION TO GUYANA AND GUYANESE LAND ISSUES

Guyana is located on the northern, Caribbean coast of South America. It borders Suriname, Brazil, Venezuela and the Caribbean Sea. In terms of area, Guyana covers about 83,000 square miles. The country has a multiracial population of about 750,000 of which about 180,000 live in Georgetown, the capital city. Guyana is the only English-speaking country on the continent. Culturally and historically, the nation has maintained very close relations with other English speaking countries in the Caribbean and is a member of the Caribbean Community. Descendants of East Indians compose 51% of the Guyanese population. Afro-Guyanese account for 38%, while Chinese, Portuguese, Europeans and indigenous Amerindians make up the remaining 11%.

There are four main subclassifications of indigenous Amerindian groups. These include the Arawaks, Warraus, Wapisianas and the Caribs. The Caribs are often subdivided into tribes, which include the Arecunas, Akawaios, Macusis, Patamonas and the Wai-Wais.

Guyana achieved its independence from Great Britain in 1966. In 1970, Guyana established itself as a "Co-operative Republic." The Constitution of October 6, 1980 is the supreme law for the nation. The Constitution calls for a President and a National Assembly, which together comprise Parliament. The National Assembly holds sixty-five members who are elected on a proportional representation basis. The President heads the Executive branch of government. The branch also includes a Prime Minister, Cabinet and other Ministers who are appointed by the President.

While English is the official language, Creolese is often used. Amerindians have several local dialects.

Guyana is one of the poorest countries in the Western Hemisphere. In 1990, the per capita income level was USA\$360. In that same year, agriculture accounted for about 24% of Gross Domestic Product (GDP) and about 35 to 40% of total employment. The nation's economy is built mainly on agriculture. Main crops produced are rice and sugar cane.¹ Other crops include vegetables, mangoes, citrus fruits, pineapples, cherries, guavas and bananas.

The mineral resource sector is underdeveloped. Potential of commercial extraction exists for bauxite, gold, diamonds, kaolin, glass sand and manganese. Other deposits include shell resources, copper, molybdenum, tungsten, quartz crystals, talc, oil, gas, iron, nickel and radioactive minerals.

Guyana's exports consist in large part of rice, sugar and the bauxite industries. Future expansion of trade in gold and diamonds, fishing, textiles and agro-forestry are being studied. Imports are chiefly agricultural and other machinery, spare parts and fuel.

Lack of reliable information makes resolving complex legal problems, such as those in the tenure area, very difficult. It is quite possible there is no complete, comprehensive and up-to-date collection of the Laws of Guyana anywhere in the world. Simply knowing what all the law is on any given subject is not an easy matter.

A. THE POLITICAL SETTING

From 1981 to 1990, the real GDP in agriculture declined at a rate of nearly 3% per year. The decline of agriculture contributed to the general economic decline of the entire economy. The sugar industry itself accounted for about 60% of the total fall in real GDP during the period 1983 to 1990. Government interventions, price controls, an overvalued exchange rate and other factors prompted 20,000 small farmers to abandon agriculture during the 1980's.

Guyana is broken down into three counties (Demerara, Essequibo and Berbice--each named for a major river) and 10 Regional Administrations, each with locally elected administrations on a proportional representation basis. The chief executive of each region is called the Chairman. Regional governments control most or all of agriculture, education, health, drainage and irrigation, and water. Central government is regaining control now of sea defenses. Education and health are also, in part, being centralized again.

In 1988, a new, comprehensive Economic Recovery Program (ERP) was initiated. It called for a dismantling of state controls and a return to market forces.

Since independence in 1966, Guyana has had elected governments at five year intervals. Elections are under a proportional representation system, which elects a President and a unicameral National Assembly, consisting of sixty-five members. Until recently, allegations of election fraud were common. However, on October 5, 1992, Guyana held general elections. Former U.S. President Jimmy Carter participated in the supervision of the process, which most believed to be free and fair. The current President is Mr. Cheddi Jagan, a former Marxist.

The Government has promised local municipal elections in the future. International leaders have been supportive of the democratization process, and hope these additional elections will further the cause of democracy in Guyana. The nation has not had municipal elections for twenty years, although regional elections have taken place (amid allegations of voter fraud until last year).

Issues of poverty and food security top the agenda of donor agencies active in Guyana. Most poverty is found in the rural sector. Consequently, the role of agriculture in poverty alleviation and food security is evident.

For a variety of reasons, Guyana has a much better potential for agricultural development than many its neighbors. First, it has excellent climatic conditions and adequate rain to support agriculture. Major agricultural development programs began during World War II, as the country initiated a program to achieve self-sufficiency. Most post-independence development projects have been in the agricultural sector.²

Three separate entities are responsible for land management in Guyana. The Commissioner of Lands and Survey in the Ministry of Agriculture is responsible for agricultural lands. Separate institutional arrangements exist for mining and forest concessions. This report concentrates on agricultural land.

The Guyana Forestry Commission is a semi-autonomous entity with responsibility for the administration of the permanent forest resources. The Commission grants leases and timber sales agreements with operators. These operators are granted exclusive rights for fifteen to twenty-five years. The Commission also undertakes to manage the forests sustainably and efficiently. The Guyana Geology and Mines Commission is an autonomous entity responsible for the granting of licenses to operators to engage in mining operations (except bauxite).

The new Administration in Guyana has promised not to nationalize foreign businesses or properties. But it has been criticized for not stating affirmatively its investment or privatization policies.³

Land management policy is a very controversial subject in Guyana.⁴ There is no broad consensus for privatization of all state lands, or even for extending lease terms. As Guyana strengthens democracy, it will become increasingly necessary to seek consensus on land management issues. Making the approach to decision-making based on technical data, rather than politics, should go a long way toward de-politicizing land management. Unfortunately, such technical data is nearly nonexistent. Consequently, this report will recommend improvement of the registry system into a broader land information management system, which will allow the government to manage its extensive resource base scientifically and transparently. Technical assistance based on experience from other countries will also enable Guyana to formulate land policy less subjectively.

B. THE PURPOSE OF THIS REPORT

This report was requested by the U.S. Agency for International Development (USAID) Mission in Barbados with regional responsibility for Guyana. The USAID/Barbados statement of work was to review briefly the status of land policy in Guyana and the current land registries in particular, with previous reports that had been prepared by others on the topic. This report includes recommendations for further action by the Government of Guyana. The document is based on my visit to Georgetown, Anna Regina and New Amsterdam, June 1-10, 1993.

USAID has limited resources available to devote to tenure policy and registry reform. Therefore, the Government of Guyana should seek funding from a variety of donors. Combining efforts with other funding agencies is critical if such reform is to take place.

SECTION II POLICIES RELATED TO LAND ISSUES

Few issues are more relevant to the goals and objectives of international donor agencies than land policy. In Guyana, relevant objectives involve food security, the historically disadvantaged (indigenous peoples, the poor, and women), environment, constraints on investment, inoperable markets, administration of justice (including the rule of law, and participation in the benefits of democratic society), and government administration.

Despite being a land-abundant country, Guyana's least-fortunate population often suffers from lack of land access. This population is characterized by a high degree of informality (for example, untitled property, unlicensed businesses, and so on) and little access to wealth. Women in particular traditionally may have been excluded from property ownership among even the disadvantaged. The problems for the disadvantaged have been accentuated with the recent return of refugees from Venezuela.

A successful environmental policy requires policy makers to have control of the access to land and water resources. Until Guyana can supervise its land resources, it will be crippled at any attempt to develop a natural resource policy that is sustainable and achievable. In this era of concern over deforestation, Guyana must not fail to address this underlying cause.

An ineffective dysfunctional property registry system continues to be a restraint toward long-term investment. An efficient registry system is a prerequisite to promote foreign and domestic investment. Guyana needs to promote foreign investment and avoid capital flight to encourage broadly-based and sustainable economic growth.

The Enterprise for the Americas Initiative, the North American Free Trade Agreement, and the General Agreements on Tariffs and Trade all point toward the freeing of markets. Despite these policies, markets in land are constrained by institutional barriers (such as lack of adequate registries and lack of a "cadastre" or property maps) and market barriers (such as lack of access to credit and ability to assume risk). This report provides an analysis of the current situation. It offers suggestions for a plan of action that could lead to greater understanding of land markets in Guyana, while helping access to land through a modernized land information system.

Democratization and administration of justice concerning land issues are problematic in Guyana. Without an adequate legal and registry infrastructure, opportunities for fraud and abuse exist. Landholders, especially those without title, have no official recognition or support. Formal titleholders, however, are exposed to the risk of land invasions as the poor lack access to alternate resources.⁵ Perhaps most important, Government policy-makers lack information for prioritizing and evaluating policy options. This is leading to less than optimal utilization of national and donor funding.

SECTION III

LAND PROBLEMS AND ISSUES IN GUYANA

A. NATURAL RESOURCE CONSERVATION

Natural resource conservation is intrinsically related to land-tenure patterns. In a predominantly agrarian society such as Guyana, the lack of accurate land use records and maps has been a major constraint to sustainable use of the natural resource base. As sea wall defenses deteriorate and population density along the coast rises, it will become increasingly necessary to relocate the population inland. Yet the Government lacks data on soil quality, irrigation potential and other factors that would insure an environmentally-friendly land use pattern.

Guyanese forestry has great potential for expansion and employment generation. The country maintains about fourteen million hectares of commercially-viable forests which to date have been largely untouched. As the country approaches a strategy for the sustainable use of these lands, a great deal will hinge on who has actual ownership and access to the forest reserves, and on what basis. These fundamental tenure questions, along with scientific issues of forest management, are crucial to the design of a sustainable agro-forestry system.⁶

B. INVESTMENT CONSTRAINTS AND LAND MARKETS

Guyana has two basic land markets. One market consists of "freehold" estates. The other market involves the leasing of state-owned lands. The Guyanese Government owns about 90% of the national territory. However, with the population concentrated on the coast, this figure is very misleading. In the populated areas, roughly a half of farms are freehold estates. The remaining half is located on government-held property.

In the freehold market, a purchaser buys land outright from a seller. The transaction, called a "transport of property," is recorded at the Registry of Deeds. Transactions in the freehold market are very much like real estate transactions in developed countries for fee simple properties. The tenure structure is a result of the colonial period. Then, both the size and number of plots that could be owned by former indentured workers and former slaves was limited by law. More recently, government policy has been to promote smaller plots in the allocation of government lands. Therefore, there are many smaller farms in Guyana.

The Lands and Survey Office oversees transactions involving state lands. The office is under the direction of the Agriculture Ministry and was created in 1903. Under the State Lands Act, the executive is authorized to make absolute or provisional grants of any state lands. Alternatively, the president may authorize the lease of land. In either case, the executive can establish the terms and conditions of any such authorization, provided only that the terms do not contradict the Forest Act or other legislation. Similarly, the president may

grant licenses to use land for agricultural or agro-forestry purposes.⁷ Special legislation, the Mining Act, regulates mining.

Provisions exist for competitive bidding for state land at auction.⁸ Still, the president is never under an obligation to grant, sell or dispose of any State land.⁹ Further, existing land grants can be taken "and used for public purposes, on payment of such compensation as, having regard to all the circumstances of the case (the president) deems reasonable."¹⁰

Applications for state land should contain a description of the land requested. If a survey is not on file, the applicant may be responsible for paying for a survey.¹¹ Since commonly the surveys are not on file, the government has been issuing "temporary" lease contracts.¹² At the option of the Commissioner, there may be a requirement to publish notice of the application in the state Gazette. This would allow anyone who wanted to oppose the grant an opportunity to be heard.¹³

Under the past government, state-held property was leased to individuals on a one-year term basis. Many felt this policy discouraged long term investment in property. Consequently, the government changed the policy to extend lease terms up to twenty-five years. Nearly everyone interviewed stated leases are automatically renewed provided lessors make lease payments and use the land for agricultural production. If the lessor does not use leased land for production, the government can take it away. However, the State Lands Regulations note that an application for a renewal of a lease is dealt with as if it were an original application. The Commissioner of Lands may renew or extend leases, but does not appear obligated to do so.¹⁴

Contrary to many recent reports, lessors can use leased land legally for mortgage lending. An active sublease market thrives in Guyana. This has the benefit of providing access to the land for those without property while avoiding the risk of losing the property for non-use. The lease interest may also be inherited legally. Here, the lease descends to the heirs and assigns of the holder for the unexpired term.¹⁵

The President can set the rate of any lease at the executive's discretion. This can be done in individual agreements, on a case-by-case basis. It can also be done via publication of a new rate in the Gazette. In any case, however, the regulations suggest the fee be "For each acre up to one hundred acres at twenty cents per acre per annum with a minimum charge of one dollar per annum."¹⁶ Higher fees are involved for larger leasehold estates. The current annual lease fees average less than 5 US cents per hectare and are usually not collected, as collection costs outweigh the income. In any case, however, clearly the lease payments in no way reflect the actual value of the land leased. In 1990, the total revenue collected nationally from all lease arrangements was about USA\$17,000.¹⁷

The law provides special benefits to Amerindians in some cases. For example, Amerindians have special use and access rights to certain properties, even if given out to others through a lease or concession. Landholders are responsible for any damage done by their cattle to Amerindian cultivation, housing or villages. Leases can revert to the state if future legislation creates a new Amerindian reserve.¹⁸